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8 *Attorneys for Complainant*

9
10 **BEFORE THE**
11 **MEDICAL BOARD OF CALIFORNIA**
12 **DEPARTMENT OF CONSUMER AFFAIRS**
13 **STATE OF CALIFORNIA**

14 In the Matter of the Accusation Against:

Case No. 800-2015-018083

15 **SANJEEV SHARMA, M.D.**
16 **3231 Waring Court, Suite P**
Oceanside, California 92056

OAH No. 2019050257

17 **Physician's and Surgeon's Certificate**
18 **No. A75773,**

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

19 Respondent.

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

22 **PARTIES**

23 1. Christine J. Lally (Complainant) is the Interim Executive Director of the Medical
24 Board of California (Board). This action was brought by then Complainant Kimberly
25 Kirchmeyer,¹ solely in her official capacity. Complainant is represented in this matter by Xavier
26 Becerra, Attorney General of the State of California, and by Joseph F. McKenna III, Deputy
27 Attorney General.

28 ¹ Ms. Kirchmeyer became the Director of the Department of Consumer Affairs on October 28, 2019.

2. Respondent Sanjeev Sharma, M.D. (Respondent) is representing himself in this proceeding and has chosen not to exercise his right to be represented by counsel.

3. On or about July 1, 2001, the Board issued Physician's and Surgeon's Certificate No. A75773 to Sanjeev Sharma, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2015-018083, and will expire on June 30, 2021, unless renewed.

JURISDICTION

4. On December 3, 2018, Accusation No. 800-2015-018083 was filed before the Board, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on December 3, 2018. Respondent timely filed his Notice of Defense contesting the Accusation. A true and correct copy of Accusation No. 800-2015-018083 is attached as Exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read and fully understands the charges and allegations contained in Accusation No. 800-2015-018083. Respondent has also carefully read, and fully understands the effects of this Stipulated Settlement and Disciplinary Order.

6. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations contained in Accusation No. 800-2015-018083; 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.

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

CULPABILITY

8. Respondent admits the truth of each and every charge and allegation in Accusation No. 800-2015-018083.

9. Respondent agrees that if he ever petitions for early termination or modification of probation, or if an accusation and/or petition to revoke probation is filed against him before the Board, all of the charges and allegations contained in Accusation No. 800-2015-018083 shall be deemed true, correct and fully admitted by Respondent for purposes of any such proceeding, or any other licensing proceeding involving Respondent in the State of California.

CONTINGENCY

10. This Stipulated Settlement and Disciplinary Order shall be subject to approval of the Board. The parties agree that this Stipulated Settlement 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 Settlement 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.

11. The parties agree that this Stipulated Settlement 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 Settlement 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 Settlement 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 Settlement 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 Settlement and Disciplinary Order or of any matter or matters related hereto.

1 **ADDITIONAL PROVISIONS**

2 12. This Stipulated Settlement and Disciplinary Order is intended by the parties herein
3 to be an integrated writing representing the complete, final and exclusive embodiment of the
4 agreements of the parties in the above-entitled matter.

5 13. The parties agree that copies of this Stipulated Settlement and Disciplinary Order,
6 including copies of the signatures of the parties, may be used in lieu of original documents and
7 signatures and, further, that such copies shall have the same force and effect as originals.

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

11 **DISCIPLINARY ORDER**

12 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A75773 issued
13 to Respondent Sanjeev Sharma, M.D., is revoked. However, the revocation is stayed and
14 Respondent is placed on probation for four (4) years from the effective date of the Decision on
15 the following terms and conditions:

16 1. **CONTROLLED SUBSTANCES – SURRENDER OF DEA PERMIT.**

17 Respondent shall immediately surrender his current Drug Enforcement Administration (DEA)
18 permit to the DEA for cancellation and may reapply for a new DEA permit limited to those
19 Schedules not restricted by this Disciplinary Order. Respondent is prohibited from practicing
20 medicine until Respondent submits documentary proof to the Board or its designee that he has
21 surrendered his DEA permit to the DEA for cancellation. Within fifteen (15) calendar days after
22 the effective date of issuance of a new DEA permit limited to those Schedules not restricted by
23 this Disciplinary Order, Respondent shall submit to the Board or its designee a true copy of the
24 new DEA permit. If Respondent fails to submit to the Board or its designee a true copy of the
25 new DEA permit within the time prescribed, Respondent will be prohibited from practicing
26 medicine until a true copy of the new DEA permit has been submitted to the Board or its
27 designee.

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1 2. CONTROLLED SUBSTANCES – PARTIAL RESTRICTION. Respondent shall not
2 order, prescribe, dispense, administer, furnish, or possess any controlled substances as defined by
3 the California Uniform Controlled Substances Act, except for those drugs listed in Schedules IV
4 and V of the Act.

5 Respondent shall not issue an oral or written recommendation or approval to a patient or a
6 patient's primary caregiver for the possession or cultivation of marijuana for the personal medical
7 purposes of the patient within the meaning of Health and Safety Code section 11362.5. If
8 Respondent forms the medical opinion, after an appropriate prior examination and medical
9 indication, that a patient's medical condition may benefit from the use of marijuana, Respondent
10 shall so inform the patient and shall refer the patient to another physician who, following an
11 appropriate prior examination and medical indication, may independently issue a medically
12 appropriate recommendation or approval for the possession or cultivation of marijuana for the
13 personal medical purposes of the patient within the meaning of Health and Safety Code section
14 11362.5. In addition, Respondent shall inform the patient or the patient's primary caregiver that
15 Respondent is prohibited from issuing a recommendation or approval for the possession or
16 cultivation of marijuana for the personal medical purposes of the patient and that the patient or
17 the patient's primary caregiver may not rely on Respondent's statements to legally possess or
18 cultivate marijuana for the personal medical purposes of the patient. Respondent shall fully
19 document in the patient's chart that the patient or the patient's primary caregiver was so
20 informed. Nothing in this condition prohibits Respondent from providing the patient or the
21 patient's primary caregiver information about the possible medical benefits resulting from the use
22 of marijuana.

23 3. CONTROLLED SUBSTANCES – MAINTAIN RECORDS AND ACCESS TO
24 RECORDS AND INVENTORIES. Respondent shall maintain a record of all controlled
25 substances ordered, prescribed, dispensed, administered, or possessed by Respondent, during
26 probation, showing all of the following: 1) the name and address of the patient; 2) the date; 3) the
27 character and quantity of controlled substances involved; and 4) the indications and diagnosis for
28 which the controlled substances were furnished.

Respondent shall keep these records in a separate file or ledger, in chronological order. All records and any inventories of controlled substances shall be available for immediate inspection and copying on the premises by the Board or its designee at all times during business hours and shall be retained for the entire term of probation.

4. EDUCATION COURSE. Within sixty (60) calendar days of the effective date of this Decision, and on an annual basis thereafter, Respondent shall submit to the Board or its designee for its prior approval educational program(s) or course(s) which shall not be less than sixty (60) hours per year, for each year of probation. The educational program(s) or course(s) shall be aimed at correcting any areas of deficient practice or knowledge and shall be Category I certified. The educational program(s) or course(s) shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure. Following the completion of each course, the Board or its designee may administer an examination to test Respondent's knowledge of the course. Respondent shall provide proof of attendance for sixty-five (65) hours of CME of which forty (40) hours were in satisfaction of this condition.

5. PRESCRIBING PRACTICES COURSE. Within sixty (60) calendar days of the effective date of this Decision, Respondent shall enroll in a course in prescribing practices approved in advance by the Board or its designee. Respondent shall provide the approved course provider with any information and documents that the approved course provider may deem pertinent. Respondent shall participate in and successfully complete the classroom component of the course not later than twelve (12) months after Respondent's initial enrollment. Respondent shall successfully complete any other component of the course within one (1) year of enrollment. The prescribing practices course shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

A prescribing practices course taken after the acts that gave rise to the charges contained in Accusation No. 800-2015-018083, but prior to the effective date of the Decision may, in the sole discretion of the Board or its designee, be accepted towards the fulfillment of this condition if the course would have been approved by the Board or its designee had the course been taken after the effective date of this Decision.

Respondent shall submit a certification of successful completion to the Board or its designee not later than fifteen (15) calendar days after successfully completing the course, or not later than fifteen (15) calendar days after the effective date of the Decision, whichever is later.

6. MEDICAL RECORD KEEPING COURSE. Within sixty (60) calendar days of the effective date of this Decision, Respondent shall enroll in a course in medical record keeping approved in advance by the Board or its designee. Respondent shall provide the approved course provider with any information and documents that the approved course provider may deem pertinent. Respondent shall participate in and successfully complete the classroom component of the course not later than twelve (12) months after Respondent's initial enrollment. Respondent shall successfully complete any other component of the course within one (1) year of enrollment. The medical record keeping course shall be at Respondent's expense and shall be in addition to the CME requirements for renewal of licensure.

A medical record keeping course taken after the acts that gave rise to the charges contained in Accusation No. 800-2015-018083, but prior to the effective date of the Decision may, in the sole discretion of the Board or its designee, be accepted towards the fulfillment of this condition if the course would have been approved by the Board or its designee had the course been taken after the effective date of this Decision.

Respondent shall submit a certification of successful completion to the Board or its designee not later than fifteen (15) calendar days after successfully completing the course, or not later than fifteen (15) calendar days after the effective date of the Decision, whichever is later.

7. PROFESSIONALISM PROGRAM (ETHICS COURSE). Within sixty (60) calendar days of the effective date of this Decision, Respondent shall enroll in a professionalism program, that meets the requirements of Title 16, California Code of Regulations (CCR) section 1358.1. Respondent shall participate in and successfully complete that program. Respondent shall provide any information and documents that the program may deem pertinent. Respondent shall successfully complete the classroom component of the program not later than twelve (12) months after Respondent's initial enrollment, and the longitudinal component of the program not later than the time specified by the program, but no later than one (1) year after attending the

1 classroom component. The professionalism program shall be at Respondent's expense and shall
2 be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

3 A professionalism program taken after the acts that gave rise to the charges contained in
4 Accusation No. 800-2015-018083, but prior to the effective date of the Decision may, in the sole
5 discretion of the Board or its designee, be accepted towards the fulfillment of this condition if the
6 program would have been approved by the Board or its designee had the program been taken after
7 the effective date of this Decision.

8 Respondent shall submit a certification of successful completion to the Board or its
9 designee not later than fifteen (15) calendar days after successfully completing the course, or not
10 later than fifteen (15) calendar days after the effective date of the Decision, whichever is later.

11 8. MONITORING – PRACTICE. Within thirty (30) calendar days of the effective date
12 of this Decision, Respondent shall submit to the Board or its designee for prior approval as a
13 practice monitor, the name and qualifications of one or more licensed physicians and surgeons
14 whose licenses are valid and in good standing, and who are preferably American Board of
15 Medical Specialties (ABMS) certified. A monitor shall have no prior or current business or
16 personal relationship with Respondent, or other relationship that could reasonably be expected to
17 compromise the ability of the monitor to render fair and unbiased reports to the Board, including
18 but not limited to any form of bartering, shall be in Respondent's field of practice, and must agree
19 to serve as Respondent's monitor. Respondent shall pay all monitoring costs.

20 The Board or its designee shall provide the approved monitor with copies of the Decision
21 and Disciplinary Order and Accusation No. 800-2015-018083, and a proposed monitoring plan.
22 Within fifteen (15) calendar days of receipt of the Decision and Disciplinary Order, Accusation
23 No. 800-2015-018083, and proposed monitoring plan, the monitor shall submit a signed
24 statement that the monitor has read the Decision and Disciplinary Order and Accusation No. 800-
25 2015-018083, fully understands the role of a monitor, and agrees or disagrees with the proposed
26 monitoring plan. If the monitor disagrees with the proposed monitoring plan, the monitor shall
27 submit a revised monitoring plan with the signed statement for approval by the Board or its
28 designee.

1 Within sixty (60) calendar days of the effective date of this Decision, and continuing
2 throughout probation, Respondent's practice shall be monitored by the approved monitor.
3 Respondent shall make all records available for immediate inspection and copying on the
4 premises by the monitor at all times during business hours and shall retain the records for the
5 entire term of probation.

6 If Respondent fails to obtain approval of a monitor within sixty (60) calendar days of the
7 effective date of this Decision, Respondent shall receive a notification from the Board or its
8 designee to cease the practice of medicine within three (3) calendar days after being so notified.
9 Respondent shall cease the practice of medicine until a monitor is approved to provide monitoring
10 responsibility.

11 The monitor shall submit a quarterly written report to the Board or its designee which
12 includes an evaluation of Respondent's performance, indicating whether Respondent's practices
13 are within the standards of practice of medicine and whether Respondent is practicing medicine
14 safely. It shall be the sole responsibility of Respondent to ensure that the monitor submits the
15 quarterly written reports to the Board or its designee within ten (10) calendar days after the end of
16 the preceding quarter.

17 If the monitor resigns or is no longer available, Respondent shall, within five (5) calendar
18 days of such resignation or unavailability, submit to the Board or its designee, for prior approval,
19 the name and qualifications of a replacement monitor who will be assuming that responsibility
20 within fifteen (15) calendar days. If Respondent fails to obtain approval of a replacement monitor
21 within sixty (60) calendar days of the resignation or unavailability of the monitor, Respondent
22 shall receive a notification from the Board or its designee to cease the practice of medicine within
23 three (3) calendar days after being so notified. Respondent shall cease the practice of medicine
24 until a replacement monitor is approved and assumes monitoring responsibility.

25 In lieu of a monitor, Respondent may participate in a professional enhancement program
26 approved in advance by the Board or its designee that includes, at minimum, quarterly chart
27 review, semi-annual practice assessment, and semi-annual review of professional growth and

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1 education. Respondent shall participate in the professional enhancement program at
2 Respondent's expense during the term of probation.

3 9. PROHIBITED PRACTICE. During probation, Respondent is prohibited from
4 practicing, performing, or treating any patients in the area of pain management, which shall be
5 defined as utilizing pharmacological approaches to prevent, reduce, or eliminate pain of a
6 recurrent or chronic nature. After the effective date of this Decision, all patients being treated by
7 the Respondent shall be notified that the Respondent is prohibited from practicing, performing, or
8 treating any patients in the area of pain management, which shall be defined as utilizing
9 pharmacological approaches to prevent, reduce, or eliminate pain of a recurrent or chronic nature.
10 Any new patients must be provided this notification at the time of their initial appointment.

11 10. NOTIFICATION. Within seven (7) days of the effective date of this Decision, the
12 Respondent shall provide a true copy of this Decision and Disciplinary Order and Accusation No.
13 800-2015-018083 to the Chief of Staff or the Chief Executive Officer at every hospital where
14 privileges or membership are extended to Respondent, at any other facility where Respondent
15 engages in the practice of medicine, including all physician and locum tenens registries or other
16 similar agencies, and to the Chief Executive Officer at every insurance carrier which extends
17 malpractice insurance coverage to Respondent. Respondent shall submit proof of compliance to
18 the Board or its designee within fifteen (15) calendar days.

19 11. SUPERVISION OF PHYSICIAN ASSISTANTS AND ADVANCED PRACTICE
20 NURSES. During probation, Respondent is prohibited from supervising physician assistants and
21 advanced practice nurses.

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

25 13. QUARTERLY DECLARATIONS. Respondent shall submit quarterly declarations
26 under penalty of perjury on forms provided by the Board, stating whether there has been
27 compliance with all the conditions of probation. Respondent shall submit quarterly declarations
28 not later than ten (10) calendar days after the end of the preceding quarter.

1 14. GENERAL PROBATION REQUIREMENTS.

2 Compliance with Probation Unit

3 Respondent shall comply with the Board's probation unit.

4 Address Changes

5 Respondent shall, at all times, keep the Board informed of Respondent's business and
6 residence addresses, email address (if available), and telephone number. Changes of such
7 addresses shall be immediately communicated in writing to the Board or its designee. Under no
8 circumstances shall a post office box serve as an address of record, except as allowed by Business
9 and Professions Code section 2021(b).

10 Place of Practice

11 Respondent shall not engage in the practice of medicine in Respondent's residence.

12 License Renewal

13 Respondent shall maintain a current and renewed California physician's and surgeon's
14 license.

15 Travel or Residence Outside California

16 Respondent shall immediately inform the Board or its designee, in writing, of travel to any
17 areas outside the jurisdiction of California which lasts, or is contemplated to last, more than thirty
18 (30) calendar days.

19 In the event Respondent should leave the State of California to reside or to practice,
20 Respondent shall notify the Board or its designee in writing thirty (30) calendar days prior to the
21 dates of departure and return.

22 15. INTERVIEW WITH THE BOARD OR ITS DESIGNEE. Respondent shall be
23 available in person upon request for interviews either at Respondent's place of business or at the
24 probation unit office, with or without prior notice throughout the term of probation.

25 16. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or
26 its designee in writing within fifteen (15) calendar days of any periods of non-practice lasting
27 more than thirty (30) calendar days and within fifteen (15) calendar days of Respondent's return
28 to practice. Non-practice is defined as any period of time Respondent is not practicing medicine

1 as defined in Business and Professions Code sections 2051 and 2052 for at least forty (40) hours
2 in a calendar month in direct patient care, clinical activity or teaching, or other activity as
3 approved by the Board. If Respondent resides in California and is considered to be in non-
4 practice, Respondent shall comply with all terms and conditions of probation. All time spent in
5 an intensive training program which has been approved by the Board or its designee shall not be
6 considered non-practice and does not relieve Respondent from complying with all the terms and
7 conditions of probation. Practicing medicine in another state of the United States or Federal
8 jurisdiction while on probation with the medical licensing authority of that state or jurisdiction
9 shall not be considered non-practice. A Board-ordered suspension of practice shall not be
10 considered as a period of non-practice.

11 In the event Respondent's period of non-practice while on probation exceeds 18 calendar
12 months, Respondent shall successfully complete the Federation of State Medical Boards' Special
13 Purpose Examination, or, at the Board's discretion, a clinical competence assessment program
14 that meets the criteria of Condition 18 of the current version of the Board's "Manual of Model
15 Disciplinary Orders and Disciplinary Guidelines" prior to resuming the practice of medicine.

16 Respondent's period of non-practice while on probation shall not exceed two (2) years.

17 Periods of non-practice will not apply to the reduction of the probationary term.

18 Periods of non-practice for a Respondent residing outside of California will relieve
19 Respondent of the responsibility to comply with the probationary terms and conditions with the
20 exception of this condition and the following terms and conditions of probation: Obey All Laws;
21 General Probation Requirements; Quarterly Declarations; Abstain from the Use of Alcohol and/or
22 Controlled Substances; and Biological Fluid Testing.

23 17. COMPLETION OF PROBATION. Respondent shall comply with all financial
24 obligations (e.g., restitution, probation costs) not later than one hundred twenty (120) calendar
25 days prior to the completion of probation. Upon successful completion of probation,
26 Respondent's certificate shall be fully restored.

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1 18. VIOLATION OF PROBATION. Failure to fully comply with any term or condition
2 of probation is a violation of probation. If Respondent violates probation in any respect, the
3 Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and
4 carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke
5 Probation, or an Interim Suspension Order is filed against Respondent during probation, the
6 Board shall have continuing jurisdiction until the matter is final, and the period of probation shall
7 be extended until the matter is final.

8 19. LICENSE SURRENDER. Following the effective date of this Decision, if
9 Respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy
10 the terms and conditions of probation, Respondent may request to surrender her license. The
11 Board reserves the right to evaluate Respondent's request and to exercise its discretion in
12 determining whether or not to grant the request, or to take any other action deemed appropriate
13 and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent
14 shall within fifteen (15) calendar days deliver Respondent's wallet and wall certificate to the
15 Board or its designee and Respondent shall no longer practice medicine. Respondent will no
16 longer be subject to the terms and conditions of probation. If Respondent re-applies for a
17 medical license, the application shall be treated as a petition for reinstatement of a revoked
18 certificate.

19 20. PROBATION MONITORING COSTS. Respondent shall pay the costs associated
20 with probation monitoring each and every year of probation, as designated by the Board, which
21 may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of
22 California and delivered to the Board or its designee no later than January 31 of each calendar
23 year.

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ACCEPTANCE

I have carefully read the Stipulated Settlement and Disciplinary Order. I fully understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate No. A75773. I am representing myself in this proceeding and have chosen not to exercise my right to be represented by counsel. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Disciplinary Order of the Medical Board of California.

DATED:

11/12/19
SANJEEV SHARMA, M.D.
*Respondent*ENDORSEMENT

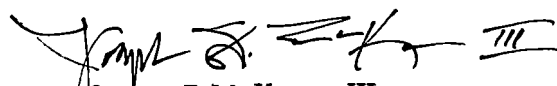
The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Medical Board of California.

DATED:

NOVEMBER 12, 2019

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
ALEXANDRA M. ALVAREZ
Supervising Deputy Attorney General


JOSEPH F. MCKENNA III
Deputy Attorney General
Attorneys for Complainant

SD2018702014
Doc.No.82223857

Exhibit A

Accusation No. 800-2015-018083

1 XAVIER BECERRA
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8 *Attorneys for Complainant*

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO DEC. 3 20 18
BY 2012/12/30 ANALYST

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

14 In the Matter of the Accusation Against:

Case No. 800-2015-018083

15 SANJEEV SHARMA, M.D.
16 3231 Waring Court, Suite P
Oceanside, California 92056

ACCUSATION

17 Physician's and Surgeon's Certificate
18 No. A75773,

Respondent.

20 Complainant alleges:

21 PARTIES

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

25 2. On or about July 1, 2001, the Medical Board issued Physician's and Surgeon's
26 Certificate No. A75773 to Sanjeev Sharma, M.D. (Respondent). The Physician's and Surgeon's
27 Certificate was in full force and effect at all times relevant to the charges and allegations brought
28 herein and will expire on June 30, 2019, unless renewed.

JURISDICTION

3. This Accusation is brought before the Medical Board of California (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 2227 of the Code provides that a licensee who is found guilty under the Medical Practice Act may have his or her license revoked, suspended for a period not to exceed one year, placed on probation and required to pay the costs of probation monitoring, be publicly reprimanded which may include a requirement that the licensee complete relevant educational courses, or have such other action taken in relation to discipline as the Board deems proper.

5. Section 2234 of the Code states, in relevant part:

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

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

"(b) Gross negligence.

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

"(d) Incompetence.

"..."

6. Unprofessional conduct under section 2234 of the Code 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. (*Shea v. Board of Medical Examiners* (1978) 81 Cal.App.3d 564, 575.).

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1 7. Section 2242 of the Code states:

2 "(a) Prescribing, dispensing, or furnishing dangerous drugs as defined in
3 Section 4022 without an appropriate prior examination and a medical indication,
4 constitutes unprofessional conduct.

5 "(b) No licensee shall be found to have committed unprofessional conduct
6 within the meaning of this section if, at the time the drugs were prescribed,
7 dispensed, or furnished, any of the following applies:

8 "(1) The licensee was a designated physician and surgeon or podiatrist serving
9 in the absence of the patient's physician and surgeon or podiatrist, as the case may
10 be, and if the drugs were prescribed, dispensed, or furnished only as necessary to
11 maintain the patient until the return of his or her practitioner, but in any case no
12 longer than 72 hours.

13 "(2) The licensee transmitted the order for the drugs to a registered nurse or to
14 a licensed vocational nurse in an inpatient facility, and if both of the following
15 conditions exist:

16 "(A) The practitioner had consulted with the registered nurse or licensed
17 vocational nurse who had reviewed the patient's records.

18 "(B) The practitioner was designated as the practitioner to serve in the absence
19 of the patient's physician and surgeon or podiatrist, as the case may be.

20 "(3) The licensee was a designated practitioner serving in the absence of the
21 patient's physician and surgeon or podiatrist, as the case may be, and was in
22 possession of or had utilized the patient's records and ordered the renewal of a
23 medically indicated prescription for an amount not exceeding the original
24 prescription in strength or amount or for more than one refill.

25 "(4) The licensee was acting in accordance with Section 120582 of the Health
26 and Safety Code."

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1 8. Section 2266 of the Code states:

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

5 9. Section 725 of the Code states:

6 "(a) Repeated acts of clearly excessive prescribing, furnishing, dispensing, or
7 administering of drugs or treatment, repeated acts of clearly excessive use of
8 diagnostic procedures, or repeated acts of clearly excessive use of diagnostic or
9 treatment facilities as determined by the standard of the community of licensees is
10 unprofessional conduct for a physician and surgeon, dentist, podiatrist,
11 psychologist, physical therapist, chiropractor, optometrist, speech-language
12 pathologist, or audiologist.

13 "(b) Any person who engages in repeated acts of clearly excessive prescribing
14 or administering of drugs or treatment is guilty of a misdemeanor and shall be
15 punished by a fine of not less than one hundred dollars (\$100) nor more than six
16 hundred dollars (\$600), or by imprisonment for a term of not less than 60 days nor
17 more than 180 days, or by both that fine and imprisonment.

18 "(c) A practitioner who has a medical basis for prescribing, furnishing,
19 dispensing, or administering dangerous drugs or prescription controlled substances
20 shall not be subject to disciplinary action or prosecution under this section.

21 "(d) No physician and surgeon shall be subject to disciplinary action pursuant
22 to this section for treating intractable pain in compliance with Section 2241.5."

23 10. Section 4022 of the Code states:

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

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

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“(b) Any device that bears the statement: ‘Caution: federal law restricts this device to sale by or on the order of a _____,’ ‘Rx only,’ or words of similar import, the blank to be filled in with the designation of the practitioner licensed to use or order use of the device.

“(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.”

FIRST CAUSE FOR DISCIPLINE

(Gross Negligence)

11. Respondent has subjected his Physician's and Surgeon's Certificate No. A75773 to disciplinary action under sections 2227 and 2234, as defined in section 2234, subdivision (b), of the Code, in that Respondent committed gross negligence in his care and treatment of Patients A, B, C, D, and E, as more particularly alleged hereinafter:

12. **Patient A**

(a) In 2013, Patient A, a then-49-year-old female, was treated by Respondent at his clinic and she paid in cash for each of the visits to the clinic. Patient A suffered from multiple medical conditions including, but not limited to, seizure disorder and chronic pain.

(b) In 2013, Patient A also treated at a different medical clinic with Dr. N.P., who was a specialist in pain management.¹ Dr. N.P. prescribed controlled medication to this patient including, but not limited to, opioids, muscle relaxants, and anti-seizure medication. Significantly, Respondent was fully aware of the complex combination of controlled pain medication Dr. N.P. had been prescribing to Patient A.

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¹ In 2012, Respondent referred Patient A to Dr. N.P. for specialized treatment of complex pain issues. Conduct occurring more than seven (7) years from the filing date of this Accusation is for informational purposes only and is not alleged as a basis for disciplinary action.

1 (c) Dr. N.P. thoroughly documented in Patient A's chart notes ongoing
2 discussion with this patient about issues related to her aberrant drug behavior
3 including, but not limited to, early prescription refills and use of multiple drug
4 prescribers as reported by the Controlled Substance Utilization Review and
5 Evaluation System (CURES).² Significantly, Respondent was fully aware of the
6 issues involving Patient A's ongoing aberrant drug behavior because he had
7 maintained direct communication with Dr. N.P. regarding the pain management
8 care and treatment this patient had been receiving. In fact, Patient A filled
9 Respondent's prescriptions in as many as seven (7) different pharmacies.

10 (d) From on or about January 1, 2013, through on or about December 31,
11 2013, Respondent prescribed Ativan³ to Patient A for the treatment of anxiety and
12 to control her seizure disorder.⁴ During this timeframe, Respondent,
13 notwithstanding full knowledge of the high dosages and complex combination of
14 opioids and benzodiazepines being taken by this patient, consistently prescribed
15 high dosages of Ativan to Patient A.

16
17 ² The Controlled Substance Utilization Review and Evaluation System (CURES) is a
18 program operated by the California Department of Justice (DOJ) to assist health care practitioners
19 in their efforts to ensure appropriate prescribing of controlled substances, and law enforcement
20 and regulatory agencies in their efforts to control diversion and abuse of controlled substances.
21 (Health & Saf. Code, § 11165.) California law requires dispensing pharmacies to report to the
22 DOJ the dispensing of Schedule II, III, and IV controlled substances as soon as reasonably
possible after the prescriptions are filled. (Health & Saf. Code, § 11165, subd. (d).) It is
important to note that the history of controlled substances dispensed to a specific patient based on
the data contained in CURES is available to a physician who is treating that patient. (Health &
Saf. Code, § 11165.1, subd. (a).) Significantly, this data has been available to physicians, private
or not, since 2009.

23 ³ Ativan (lorazepam), a benzodiazepine, is a centrally acting hypnotic-sedative that is a
24 Schedule IV controlled substance pursuant to Health and Safety Code section 11057, subdivision
25 (d), and a dangerous drug pursuant to Business and Professions Code section 4022. When
26 properly prescribed and indicated, it is used for the management of anxiety disorders or for the
short term relief of anxiety or anxiety associated with depressive symptoms. Concomitant use of
Ativan with opioids "may result in profound sedation, respiratory depression, coma, and death."
The Drug Enforcement Administration (DEA) has identified benzodiazepines, such as Ativan, as
a drug of abuse. (Drugs of Abuse, DEA Resource Guide (2011 Edition), at p. 53.)

27 ⁴ There is no documentation in Patient A's medical record of the opinion of a neurologist
28 regarding the use of Ativan in addition to Keppra to control epilepsy.

1 (e) On or about January 10, 2013, Respondent "doubled" Patient A's daily
2 dosage of Ativan, from 2 mg to 4 mg, based solely upon this patient's subjective
3 statement that she "feels like having seizures" if her dosage was not immediately
4 increased. No additional documentation was noted in the patient's chart to
5 objectively justify and/or explain the immediate increase in dosage.

6 (f) From in or around March 2013, through in or around December 2013,
7 CURES data indicated that Respondent had significantly over-prescribed Ativan to
8 Patient A. During this timeframe, Patient A had access to approximately
9 seventeen and a half (17 ½) tablets every day. Furthermore, these prescriptions
10 were picked up at multiple pharmacies.

11 (g) Respondent, notwithstanding multiple "red flags" of aberrant drug
12 behavior including, but not limited to, use of multiple pharmacies and early
13 prescription refills, allowed Patient A access to large quantities of Ativan.

14 (h) In 2013, Respondent prescribed Phenergan⁵ to Patient A to control
15 nausea. During this timeframe, Respondent issued numerous prescriptions of
16 Phenergan and also provided for multiple refills of each prescription; however, the
17 patient's chart is incomplete and certain prescription data is missing. Furthermore,
18 Respondent, with full knowledge of Patient A's aberrant drug behaviors and
19 polypharmacy use, (i.e., opioids, benzodiazepines, muscle relaxers, and
20 anticonvulsants) did not document his rationale for the concomitant use of
21 Phenergan with Ativan and the other controlled pain medication that she was
22 taking. Significantly, Respondent prescribed Phenergan to Patient A in sufficient

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25 ⁵ Phenergan (promethazine) is a first-generation antihistamine. It is indicated for the
26 treatment of nausea and vomiting. It is not recommended for long-term use. It causes respiratory
27 and central nervous system suppression. It potentiates the euphoric effect of opioid and
28 benzodiazepine medication. It is subject to a Food and Drug Administration (FDA) Black Box
Warning regarding respiratory depression: "Use with caution at lowest effective dose. Avoid
combination with other respiratory depressant drugs." It is often abused with opioids and has a
high black market value.

1 quantity and refills for each prescription, which allowed this patient to have access to an
2 over-dose amount of up to ten (10) tablets per day.

3 13. Respondent committed gross negligence in his care and treatment of Patient A
4 including, but not limited to, the following:

5 (a) Respondent repeatedly and clearly excessively prescribed, furnished,
6 dispensed, and/or administered Ativan to Patient A;

7 (b) On or about January 10, 2013, Respondent improperly "doubled"
8 Patient A's daily dosage of Ativan, from 2 mg to 4 mg, based solely
9 upon the patient's subjective statement that she "feels like having
10 seizures" if her dosage was not immediately increased;

11 (c) Respondent failed to provide appropriate treatment to Patient A in that
12 he, among other things, repeatedly prescribed Ativan to Patient A over
13 an extended period of time, while failing to respond to objective signs of
14 aberrant drug behavior; and

15 (d) Respondent repeatedly and clearly excessively prescribed Phenergan to
16 Patient A.

17 14. **Patient B**

18 (a) In or around November 2012, Patient B, a then-35-year-old female, was
19 first seen by Respondent at his clinic where she continued to treat with him
20 through in or around mid-2014. Although Respondent treated Patient B primarily
21 for "pain management" issues, he did not obtain informed consent for long-term
22 treatment with opioid medication nor did he obtain a pain management contract.
23 In addition, Respondent, acting as a pain management specialist, never required
24 Patient B to submit to a urine drug screen during this timeframe. Patient B paid in
25 cash for each of the visits to Respondent's clinic.

26 (b) Respondent prescribed multiple controlled pain medications to Patient B

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1 including, but not limited to, methadone⁶, Dilaudid⁷, and Soma⁸. In addition,
2 CURES reported during that same timeframe that Patient B had been filling
3 prescriptions from other medical care providers for controlled substances
4 including, but not limited to, benzodiazepines.⁹ In fact, Respondent was unaware
5 that Patient B had filled her prescriptions at as many as seven (7) different
6 pharmacies during this timeframe.

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10 ⁶ Methadone, a synthetic opioid, is a Schedule II controlled substance pursuant to Health
11 and Safety Code section 11055, subdivision (c), and a dangerous drug pursuant to Business and
12 Professions Code section 4022. When properly prescribed and indicated, it is used for the
13 treatment of moderate to severe pain. The DEA has identified methadone as a drug of abuse.
14 (Drugs of Abuse, DEA Resource Guide (2011 Edition), at p. 38.) The FDA has issued Black Box
Warnings for methadone which warn about, among other things, addiction, abuse and misuse, and
the possibility of life-threatening respiratory distress. The warnings also caution about the risks
associated with concomitant use of methadone with benzodiazepines or other central nervous
system (CNS) depressants. Methadone is in high demand on the black market.

15 ⁷ Dilaudid (Hydromorphone HCL), an opioid analgesic, is a Schedule II controlled
16 substance pursuant to Health and Safety Code section 11055, subdivision (b), and a dangerous
17 drug pursuant to Business and Professions Code section 4022. When properly prescribed and
18 indicated, it is used for the treatment of moderate to severe pain. The DEA has identified
19 Hydromorphone HCL, such as Dilaudid, as a drug of abuse. (Drugs of Abuse, DEA Resource
Guide (2011 Edition), at p. 37.) The FDA has issued Black Box Warnings for Dilaudid which
warn about, among other things, addiction, abuse and misuse, and the possibility of life-
threatening respiratory distress. The warnings also caution about the risks associated with
concomitant use of Dilaudid with benzodiazepines or other CNS depressants.

20 ⁸ Soma (carisoprodol) is a Schedule IV controlled substance pursuant to Health and Safety
21 Code section 11057, subdivision (d), and a dangerous drug pursuant to Business and Professions
22 Code section 4022. When properly prescribed and indicated, it is used for the short-term
23 treatment of acute and painful musculoskeletal conditions. Soma is commonly used by those who
24 abuse opioids to potentiate the euphoric effect of opioids, to create a better "high." According to
25 the DEA, Office of Diversion Control, "[c]arisoprodol abuse has escalated in the last decade in
the United States. According to Diversion Drug Trends, published by the DEA on the trends in
diversion of controlled and noncontrolled pharmaceuticals, carisoprodol continues to be one of
the most commonly diverted drugs. Diversion and abuse of carisoprodol is prevalent throughout
the country. As of March 2011, street prices for Soma ranged from \$1 to \$5 per tablet. Diversion
methods include doctor shopping for the purposes of obtaining multiple prescriptions and forging
prescriptions."

26 ⁹ Medical records indicate that Patient B had been receiving primary and specialty care
27 from physicians at Kaiser Permanente during the same timeframe that she had been treated by
28 Respondent.

1 (c) Significantly, Respondent did not attempt to coordinate Patient B's care
2 and treatment with other medical care providers during this same timeframe,
3 including her regimen of controlled pain medications, despite knowing that she
4 had been treating with and was receiving additional drug prescriptions from other
5 providers.

6 (d) On or about January 18, 2014, Respondent prescribed methadone to
7 Patient B with instructions to take two (2) 10 mg tablets, three (3) times daily "as
8 needed for pain."¹⁰ With this prescription, Respondent prescribed enough
9 methadone for Patient B to take one hundred fifty-four percent (154%) of the
10 nominal daily amount of the drug.

11 (e) Between in or around 2013, through in or around 2014, Respondent
12 issued multiple prescriptions for Dilaudid that were in sufficient quantities to
13 overdose Patient B including, but not limited to, on or about January 18, 2014,
14 wherein he prescribed an overdose of two hundred thirty-one percent (231%) of
15 the nominal daily amount of the drug.

16 (f) Between, in or around 2013, through in or around 2014, Respondent
17 issued multiple prescriptions for Soma that were in sufficient quantities to
18 overdose Patient B including, but not limited to, on or about April 16, 2014,
19 wherein he prescribed an overdose of three hundred thirty-three percent (333%) of
20 the nominal daily amount of the drug.

21 ¹⁰ Methadone is a potent long-acting synthetic opioid which has a slow onset of action and
22 a long duration of action. Methadone is one of the most dangerous opioid agents to prescribe
23 because of its pharmacokinetics. While it is rapidly orally absorbed, it is both highly lipid soluble
24 and avidly protein bound. It may therefore begin to have an analgesic effect within 30 minutes of
25 oral administration, but the peak opioid effect is often not attained for 3-5 days. At the same
26 time, paradoxically, its analgesic action is only 4 to 8 hours, after which time its analgesic effect
27 begins to wane. However, its toxic effects, particularly respiratory suppression often take many
28 hours or even days to reach a peak. So a patient using methadone on anything other than a rigid
schedule may be tempted to self-administer repeat doses to keep increasing analgesic effect,
failing to realize that as analgesic effect reaches its peak, respiratory suppression is only
beginning to take effect. "Stacking" doses of methadone can and often does lead to sudden death
while sleeping. Methadone is never to be prescribed with a variable or flexible dose regimen. It
is only to be prescribed with a fixed dosing schedule, only under close supervision, and only after
careful patient instruction regarding the potentially lethal consequences of self-adjustment of
dosage.

1 (g) On August 16, 2018, Respondent was interviewed at the Health Quality
2 Investigation Unit (HQIU) San Diego field office regarding the care and treatment
3 he had provided to Patient B. During the subject interview, Respondent stated that
4 Patient B had been receiving prescriptions from Kaiser Permanente for Soma,
5 Provigil, tizanidine, and other muscle relaxers. In fact, Patient B had not been
6 receiving prescriptions for any of those drugs; but, per CURES reports, she had
7 been consistently filling Kaiser prescriptions for benzodiazepines while still
8 treating with Respondent. Significantly, Respondent admitted that he did not
9 know that Soma was a very highly desired street drug with opioids or that he had
10 access to review CURES reports prior to 2016.

11 15. Respondent committed gross negligence in his care and treatment of Patient B
12 including, but not limited to, the following:

- 13 (a) On or about January 18, 2014, Respondent excessively prescribed,
14 furnished, dispensed, and/or administered methadone to Patient B;
15 (b) Respondent repeatedly and clearly excessively prescribed, furnished,
16 dispensed, and/or administered Dilaudid to Patient B;
17 (c) Respondent repeatedly and clearly excessively prescribed, furnished,
18 dispensed, and/or administered Soma to Patient B;
19 (d) Respondent failed to obtain and document informed consent from
20 Patient B for long-term treatment with opioid medication;
21 (e) Respondent failed to adequately manage Patient B's polypharmacy with
22 her other medical care providers including, believing that she had been
23 receiving prescriptions from Kaiser Permanente for Soma, Provigil,
24 tizanidine, and other muscle relaxers;
25 (f) Respondent failed to know that Patient B had been consistently filling
26 Kaiser prescriptions for benzodiazepines while still treating with him;
27 (g) Respondent improperly issued a prescription for Provigil to Patient B;
28 and

(h) Respondent failed to provide appropriate treatment to Patient B in that he, among other things, repeatedly prescribed controlled pain medications to Patient B over an extended period of time, while failing to respond to objective signs of aberrant drug behavior.

16. Patient C

(a) In 2013, Patient C, a then-41-year-old female, was treated by Respondent at his clinic on three (3) separate visits and she paid in cash for each visit to the clinic.¹¹ Patient C suffered from multiple medical conditions including, chronic low back pain. Respondent prescribed Oxycodone HCL¹² (30 mg) (#300) to Patient C at each visit.

(b) Prior to beginning Patient C on high-dose opioid therapy, Respondent did not perform a number of standard procedures including, he did not obtain informed consent for long-term treatment with opioid medication; he did not obtain a pain management contract; he did not obtain an initial urine drug screen; he did not review any outside medical records regarding prior care and treatment history; he did not review any outside medical records or pharmacy records regarding prior drug prescription history; he did not review CURES; he did not obtain a detailed substance abuse history; he did not document a detailed assessment of pain; and he did not form a treatment plan for Patient C with measurable benchmarks.

(c) After Patient C abruptly stopped seeing Respondent for pain management, her monthly prescription of Oxycodone HCL (30 mg) (#300) was no longer issued by Respondent. Significantly, Respondent, despite having

¹¹ After her third visit, Patient C called Respondent's clinic to cancel her next visit because she could no longer afford to pay for her visits.

¹² Oxycodone HCL is a Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision (b), and a dangerous drug pursuant to Business and Professions Code section 4022. When properly prescribed and indicated, Oxycodone HCL is used for the management of pain severe enough to require daily, around-the-clock, long term opioid treatment for which alternative treatment options are inadequate. The DEA has identified oxycodone, as a drug of abuse. (Drugs of Abuse, A DEA Resource Guide (2011 Edition), at p. 41.)

1 prescribed high-dose opioid therapy for three (3) consecutive months to Patient C,
2 did not prescribe her a tapering dose of Oxycodone HCL and/or other medications
3 to ease her potential withdrawal symptoms, or refer her to a drug detoxification
4 program.

5 17. Respondent committed gross negligence in his care and treatment of Patient C
6 including, but not limited to, the following:

- 7 (a) Respondent failed to obtain and document informed consent from
8 Patient C for long-term treatment with opioid medication;
- 9 (b) Respondent failed to obtain an initial toxicological screen to confirm
10 that Patient C was taking Oxycodone HCL;
- 11 (c) Respondent failed to review any outside medical records or pharmacy
12 records regarding Patient C's prior drug prescription history;
- 13 (d) Respondent failed to form a treatment plan for Patient C with
14 measurable benchmarks; and
- 15 (e) Respondent failed to prescribe Patient C a tapering dose of Oxycodone
16 HCL and/or other medications to ease her potential withdrawal
17 symptoms, or refer her to a drug detoxification program.

18 18. **Patient D**

19 (a) On or about January 26, 2012, Patient D, a then-43-year-old male, was
20 first seen by Respondent at his clinic where he continued to treat him through in or
21 around December 2015. Respondent treated Patient D for "pain management"
22 issues including, chronic low back pain without neurological signs or symptoms.
23 Respondent prescribed controlled pain medications to Patient D including, but not
24 limited to, Oxycodone HCL and Flexeril¹³. Patient D paid in cash for each of the
25 visits to Respondent's clinic.

26
27 ¹³ Flexeril (cyclobenzaprine) is a muscle relaxant and it has similar potentiating effects
28 with opioids and benzodiazepines as does Soma, and is subject to the same patterns of abuse and
misuse.

1 (b) Between in or around 2012, through in or around 2015, Respondent
2 issued approximately forty-three (43) prescriptions to Patient D for Oxycodone
3 HCL. Significantly, the majority of those prescriptions were for massive amounts
4 and they overdosed this patient an approximate one hundred nineteen percent
5 (119%). Patient D was also receiving prescriptions for unknown amounts of
6 Flexeril during this timeframe.

7 (c) On or about March 30, 2012, a pharmacist called Respondent and
8 notified him that Patient D had been receiving multiple prescriptions.

9 (d) On or about March 28, 2013, Patient D reported that he had "lost" a
10 recent prescription for a large amount of Oxycodone HCL (30 mg) (#330).
11 Respondent issued a replacement prescription to Patient D for the "lost"
12 medication.

13 (e) On or about April 24, 2013, Patient D filled a prescription for
14 OxyContin (80 mg) (#90) from another physician. Respondent documented his
15 knowledge of this incident in the patient's chart; however, he took no other action
16 and continued prescribing massive amounts of Oxycodone HCL to Patient D.

17 (f) On or about August 13, 2013, Respondent reviewed a toxicology drug
18 screen indicating the presence of methadone and opiates in Patient D, which were
19 drugs that Respondent had not prescribed for this patient. Respondent erroneously
20 documented in the chart note that Patient D had been prescribed methadone during
21 a recent hospital stay. However, there was no explanation regarding the presence
22 of opiates in this patient's drug screen. Respondent documented that he had
23 admonished Patient D not to use unauthorized pain medications but no other action
24 was taken by Respondent. Significantly, Respondent never again required Patient
25 D to submit to a toxicology drug screen.

26 (g) CURES reports indicate that Patient D had filled prescriptions at as
27 many as four (4) different pharmacies.

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1 19. Respondent committed gross negligence in his care and treatment of Patient D
2 including, but not limited to, the following:

- 3 (a) Respondent improperly issued approximately forty-three (43)
4 prescriptions of Oxycodone HCL to Patient D wherein the majority of
5 those prescriptions significantly overdosed Patient D;
6 (b) Respondent improperly issued prescriptions for Flexeril to Patient D;
7 (c) Respondent failed to respond effectively to evidence of aberrant drug
8 behavior when a pharmacist alerted him that Patient D was receiving
9 multiple prescriptions;
10 (d) Respondent failed to respond effectively to the incident involving
11 Patient D filling a prescription for OxyContin (80 mg) (#90) from
12 another physician;
13 (e) Respondent failed to appropriately follow up on Patient D's toxicology
14 drug screen indicating the unauthorized presence of methadone and opiates;
15 (f) Respondent failed to obtain a follow up toxicology drug screen after
16 Patient D's drug screen indicated the presence of methadone and opiates;
17 and
18 (g) Respondent failed to provide appropriate treatment to Patient D in that
19 he, among other things, repeatedly prescribed addictive pain medication
20 to Patient D over an extended period of time, while failing to respond to
21 multiple objective signs of aberrant drug behavior.

22 20. Patient E

23 (a) On or about January 31, 2012, Patient E, a then-63-year-old female, was
24 first seen by Respondent at his clinic where he continued to treat her through in or
25 around December 2015. Patient E had multiple medical conditions including, but
26 not limited to, type 2 diabetes, morbid obesity, and degenerative joint disease.
27 Respondent prescribed controlled pain medications to Patient E including, but not
28 limited to, Oxycodone HCL.

1 (b) Between in or around 2012, through in or around 2015, Respondent
2 issued approximately fifty-three (53) prescriptions to Patient E for Oxycodone
3 HCL. Significantly, approximately forty-nine (49) of those prescriptions were for
4 massive amounts and they overdosed this patient an approximate one hundred
5 twelve percent (112%) over a period of approximately four years.

6 (c) On August 16, 2018, Respondent was interviewed at the HQIU San
7 Diego field office regarding the care and treatment he had provided to Patient E.
8 During the subject interview, Respondent was questioned about the issue of
9 aberrant drug behavior and Patient E. Respondent stated that he had refused to
10 even consider the possible diagnosis of aberrant drug behavior with this patient.
11 Respondent added that he knew Patient E was not diverting her controlled
12 medication because he had asked her and she said she had not. Respondent then
13 explained his reasoning for not requiring a pain management agreement with
14 Patient E. It had to do with an overall belief that outlining any terms and
15 conditions of receiving controlled medication made "some people feel
16 uncomfortable." Respondent further explained that he did not order toxicological
17 screening for Patient E because, "the reason I don't is it does make some folks
18 offended, and she was one who I did not suspect that she would be diverting or
19 taking ... multiple pain medications ... [because] she was very compliant coming
20 in regular scheduled visits."

21 21. Respondent committed gross negligence in his care and treatment of Patient E
22 including, but not limited to, the following:

- 23 (a) Respondent improperly issued approximately forty-nine (49)
24 prescriptions of Oxycodone HCL to Patient E, wherein those
25 prescriptions significantly overdosed this patient; and
26 (b) Respondent failed to document what precautions were taken to prevent
27 fatally suppressing Patient E's nocturnal respiration, due to the high dose
28 opioid drug therapy she was taking and her known medical conditions.

1 **SECOND CAUSE FOR DISCIPLINE**

2 **(Repeated Negligent Acts)**

3 22. Respondent has further subjected his Physician's and Surgeon's Certificate
4 No. A75773 to disciplinary action under sections 2227 and 2234, as defined in section 2234,
5 subdivision (c), of the Code, in that Respondent committed repeated negligent acts in his care
6 and treatment of Patients A, B, C, D, and E, as more particularly alleged hereinafter:

7 **Patient A**

8 (a) Paragraphs 12 and 13, above, are hereby incorporated by reference
9 and realleged as if fully set forth herein.

10 **Patient B**

11 (b) Paragraphs 14 and 15, above, are hereby incorporated by reference
12 and realleged as if fully set forth herein.

13 **Patient C**

14 (c) Paragraphs 16 and 17, above, are hereby incorporated by reference
15 and realleged as if fully set forth herein.

16 **Patient D**

17 (d) Paragraphs 18 and 19, above, are hereby incorporated by reference
18 and realleged as if fully set forth herein.

19 **Patient E**

20 (e) Paragraphs 20 and 21, above, are hereby incorporated by reference
21 and realleged as if fully set forth herein.

22 **THIRD CAUSE FOR DISCIPLINE**

23 **(Incompetence)**

24 23. Respondent has further subjected his Physician's and Surgeon's Certificate
25 No. A75773 to disciplinary action under sections 2227 and 2234, as defined in section 2234,
26 subdivision (d), of the Code, in that Respondent demonstrated incompetence in his care and
27 treatment of Patients B and E, as well as his knowledge regarding CURES, as more particularly
28 alleged hereinafter:

1 **Patient B**

2 (a) Paragraph 14, subsection (g), above, is hereby incorporated by reference
3 and realleged as if fully set forth herein

4 **Patient E**

5 (b) Paragraph 20, subsection (c), above, is hereby incorporated by reference
6 and realleged as if fully set forth herein.

7 **CURES**

8 (c) On August 16, 2018, Respondent was interviewed at the HQIU San
9 Diego field office regarding his care and treatment of multiple patients which also
10 involved his knowledge of the use of CURES as a physician administering
11 controlled pain medications to chronic pain patients. During the subject interview,
12 Respondent at one point stated, "... was there a reason why private doctors like
13 myself were not given access until 2016? I could have ... been checking it."
14 CURES, as part of the California Department of Justice's Prescription Drug
15 Monitoring Program, became available to physicians, private or not, in 2009. By
16 2013, it was widely known to be available.

17 **FOURTH CAUSE FOR DISCIPLINE**

18 **(Prescribing Dangerous Drugs Without an**

19 **Appropriate Prior Examination and/or Medical Indication)**

20 24. Respondent has further subjected his Physician's and Surgeon's Certificate
21 No. A75773 to disciplinary action under sections 2227 and 2234, as defined in sections 2242 and
22 4022, of the Code, in that Respondent prescribed, dispensed, or furnished dangerous drugs
23 without an appropriate prior examination and/or medical indication to Patients A, B, C, D, and E,
24 as more particularly alleged hereinafter:

25 **Patient A**

26 (a) Paragraphs 12 and 13, above, are hereby incorporated by reference
27 and realleged as if fully set forth herein.

28 ////

1 **Patient B**

2 (b) Paragraphs 14 and 15, above, are hereby incorporated by reference
3 and realleged as if fully set forth herein.

4 **Patient C**

5 (c) Paragraphs 16 and 17, above, are hereby incorporated by reference
6 and realleged as if fully set forth herein.

7 **Patient D**

8 (d) Paragraphs 18 and 19, above, are hereby incorporated by reference
9 and realleged as if fully set forth herein.

10 **Patient E**

11 (e) Paragraphs 20 and 21, above, are hereby incorporated by reference
12 and realleged as if fully set forth herein.

13 **FIFTH CAUSE FOR DISCIPLINE**

14 **(Repeated Acts of Clearly Excessive Prescribing)**

15 25. Respondent has further subjected his Physician's and Surgeon's Certificate
16 No. A75773 to disciplinary action under sections 2227 and 2234, as defined in section 725, of the
17 Code, in that Respondent has committed repeated acts of clearly excessive prescribing drugs or
18 treatment to Patients A, B, D, and E, as more particularly alleged hereinafter:

19 **Patient A**

20 (a) Paragraphs 12 and 13, above, are hereby incorporated by reference
21 and realleged as if fully set forth herein.

22 **Patient B**

23 (b) Paragraphs 14 and 15, above, are hereby incorporated by reference
24 and realleged as if fully set forth herein.

25 **Patient D**

26 (c) Paragraphs 18 and 19, above, are hereby incorporated by reference
27 and realleged as if fully set forth herein.

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1 **Patient E**

2 (d) Paragraphs 20 and 21, above, are hereby incorporated by reference
3 and realleged as if fully set forth herein.

4 **SIXTH CAUSE FOR DISCIPLINE**

5 **(Failure to Maintain Adequate and Accurate Medical Records)**

6 26. Respondent has further subjected his Physician's and Surgeon's Certificate
7 No. A75773 to disciplinary action under sections 2227 and 2234, as defined in section 2266, of
8 the Code, in that Respondent failed to maintain adequate and accurate records in connection with
9 his care and treatment of Patients A, B, C, D, and E, as more particularly alleged hereinafter:

10 **Patient A**

11 (a) Paragraphs 12 and 13, above, are hereby incorporated by reference
12 and realleged as if fully set forth herein.

13 **Patient B**

14 (b) Paragraphs 14 and 15, above, are hereby incorporated by reference
15 and realleged as if fully set forth herein.

16 **Patient C**

17 (c) Paragraphs 16 and 17, above, are hereby incorporated by reference
18 and realleged as if fully set forth herein.

19 **Patient D**

20 (d) Paragraphs 18 and 19, above, are hereby incorporated by reference
21 and realleged as if fully set forth herein.

22 **Patient E**

23 (e) Paragraphs 20 and 21, above, are hereby incorporated by reference
24 and realleged as if fully set forth herein.

25 **SEVENTH CAUSE FOR DISCIPLINE**

26 **(Unprofessional Conduct)**

27 27. Respondent has further subjected his Physician's and Surgeon's Certificate No.
28 A75773 to disciplinary action under sections 2227 and 2234 of the Code, in that Respondent has

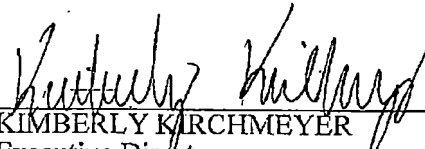
1 engaged in conduct which breaches the rules or ethical code of the medical profession, or conduct
2 which is unbecoming to a member in good standing of the medical profession, and which
3 demonstrates an unfitness to practice medicine, as more particularly alleged in paragraphs 11
4 through 26, above, which are hereby incorporated by reference and realleged as if fully set forth
5 herein.

6 **PRAYER**

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

- 9 1. Revoking or suspending Physician's and Surgeon's Certificate No. A75773, issued to
10 Respondent Sanjeev Sharma, M.D.;
- 11 2. Revoking, suspending or denying approval of Respondent Sanjeev Sharma, M.D.'s,
12 authority to supervise physician assistants pursuant to section 3527 of the Code, and advanced
13 practice nurses;
- 14 3. Ordering Respondent Sanjeev Sharma, M.D., to pay the Medical Board of California
15 the costs of probation monitoring, if placed on probation; and
- 16 4. Taking such other and further action as deemed necessary and proper.

17
18 DATED: December 3, 2018


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

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