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

In the Matter of the Accusation Against:	)	
Sanjeev Sharma, M.D.	)	Case No. 800-2015-018083
Physician's and Surgeon's Certificate No. A 75773	)	
Respondent	)	

DECISION

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

This Decision shall become effective at 5:00 p.m. on March 5, 2020.

IT IS SO ORDERED: February 4, 2020.

MEDICAL BOARD OF CALIFORNIA

Kristina D. Lawson, J.D., Chair
Panel B

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Attorneys for Complainant

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

In the Matter of the Accusation Against: **SANJEEV SHARMA, M.D.** **3231 Waring Court, Suite P** **Oceanside, California 92056** **Physician's and Surgeon's Certificate No. A75773,** Respondent.	Case No. 800-2015-018083 OAH No. 2019050257 **STIPULATED SETTLEMENT AND DISCIPLINARY ORDER**

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

PARTIES

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

[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.

ADDITIONAL PROVISIONS

12. This Stipulated Settlement 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.

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

14. 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:

DISCIPLINARY ORDER

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

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

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

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

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

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

A professionalism program 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 program would have been approved by the Board or its designee had the program 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.

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

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

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

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

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

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

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

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

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

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

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

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

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

14. GENERAL PROBATION REQUIREMENTS.

Compliance with Probation Unit

Respondent shall comply with the Board's probation unit.

Address Changes

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

Place of Practice

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

License Renewal

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

Travel or Residence Outside California

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

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

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

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

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

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

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

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

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

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

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

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

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

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Doc.No.82223857

Exhibit A

Accusation No. 800-2015-018083

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Attorneys for Complainant

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO Dec. 3 2018
BY [illegible] ANALYST

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

In the Matter of the Accusation Against: **SANJEEV SHARMA, M.D.** **3231 Waring Court, Suite P** **Oceanside, California 92056** **Physician's and Surgeon's Certificate No. A75773,** Respondent.	Case No. 800-2015-018083 **ACCUSATION**

Complainant alleges:

PARTIES

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

2. On or about July 1, 2001, the Medical 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 and allegations brought 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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7. Section 2242 of the Code states:

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

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

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

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

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

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

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

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

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8. 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."

9. Section 725 of the Code states:

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

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

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

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

10. Section 4022 of the Code states:

"'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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"(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.

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

(d) From on or about January 1, 2013, through on or about December 31, 2013, Respondent prescribed Ativan[3] to Patient A for the treatment of anxiety and to control her seizure disorder.[4] During this timeframe, Respondent, notwithstanding full knowledge of the high dosages and complex combination of opioids and benzodiazepines being taken by this patient, consistently prescribed high dosages of Ativan to Patient A.

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

[3] Ativan (lorazepam), a benzodiazepine, is a centrally acting hypnotic-sedative that is a Schedule IV controlled substance pursuant to Health and Safety Code section 11057, subdivision (d), and a dangerous drug pursuant to Business and Professions Code section 4022. When 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.)

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

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

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

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

(h) In 2013, Respondent prescribed Phenergan[5] to Patient A to control nausea. During this timeframe, Respondent issued numerous prescriptions of Phenergan and also provided for multiple refills of each prescription; however, the patient's chart is incomplete and certain prescription data is missing. Furthermore, Respondent, with full knowledge of Patient A's aberrant drug behaviors and polypharmacy use, (i.e., opioids, benzodiazepines, muscle relaxers, and anticonvulsants) did not document his rationale for the concomitant use of Phenergan with Ativan and the other controlled pain medication that she was taking. Significantly, Respondent prescribed Phenergan to Patient A in sufficient

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[5] Phenergan (promethazine) is a first-generation antihistamine. It is indicated for the treatment of nausea and vomiting. It is not recommended for long-term use. It causes respiratory and central nervous system suppression. It potentiates the euphoric effect of opioid and 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.

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

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

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

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

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

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

14. **Patient B**

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

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

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including, but not limited to, methadone[6], Dilaudid[7], and Soma[8]. In addition, CURES reported during that same timeframe that Patient B had been filling prescriptions from other medical care providers for controlled substances including, but not limited to, benzodiazepines.[9] In fact, Respondent was unaware that Patient B had filled her prescriptions at as many as seven (7) different pharmacies during this timeframe.

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[6] Methadone, a synthetic opioid, is a Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision (c), and a dangerous drug pursuant to Business and Professions Code section 4022. When properly prescribed and indicated, it is used for the treatment of moderate to severe pain. The DEA has identified methadone as a drug of abuse. (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.

[7] Dilaudid (Hydromorphone HCL), an opioid analgesic, 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, it is used for the treatment of moderate to severe pain. The DEA has identified 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.

[8] Soma (carisoprodol) is a Schedule IV controlled substance pursuant to Health and Safety Code section 11057, subdivision (d), and a dangerous drug pursuant to Business and Professions Code section 4022. When properly prescribed and indicated, it is used for the short-term treatment of acute and painful musculoskeletal conditions. Soma is commonly used by those who abuse opioids to potentiate the euphoric effect of opioids, to create a better "high." According to 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."

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

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

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

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

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

[10] Methadone is a potent long-acting synthetic opioid which has a slow onset of action and a long duration of action. Methadone is one of the most dangerous opioid agents to prescribe because of its pharmacokinetics. While it is rapidly orally absorbed, it is both highly lipid soluble and avidly protein bound. It may therefore begin to have an analgesic effect within 30 minutes of oral administration, but the peak opioid effect is often not attained for 3-5 days. At the same time, paradoxically, its analgesic action is only 4 to 8 hours, after which time its analgesic effect begins to wane. However, its toxic effects, particularly respiratory suppression often take many 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.

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

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

(a) On or about January 18, 2014, Respondent excessively prescribed, furnished, dispensed, and/or administered methadone to Patient B;

(b) Respondent repeatedly and clearly excessively prescribed, furnished, dispensed, and/or administered Dilaudid to Patient B;

(c) Respondent repeatedly and clearly excessively prescribed, furnished, dispensed, and/or administered Soma to Patient B;

(d) Respondent failed to obtain and document informed consent from Patient B for long-term treatment with opioid medication;

(e) Respondent failed to adequately manage Patient B's polypharmacy with her other medical care providers including, believing that she had been receiving prescriptions from Kaiser Permanente for Soma, Provigil, tizanidine, and other muscle relaxers;

(f) Respondent failed to know that Patient B had been consistently filling Kaiser prescriptions for benzodiazepines while still treating with him;

(g) Respondent improperly issued a prescription for Provigil to Patient B; 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 HCL[12] (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.)

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

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

(a) Respondent failed to obtain and document informed consent from Patient C for long-term treatment with opioid medication;

(b) Respondent failed to obtain an initial toxicological screen to confirm that Patient C was taking Oxycodone HCL;

(c) Respondent failed to review any outside medical records or pharmacy records regarding Patient C's prior drug prescription history;

(d) Respondent failed to form a treatment plan for Patient C with measurable benchmarks; and

(e) Respondent failed to prescribe Patient C a tapering dose of Oxycodone HCL and/or other medications to ease her potential withdrawal symptoms, or refer her to a drug detoxification program.

18. **Patient D**

(a) On or about January 26, 2012, Patient D, a then-43-year-old male, was first seen by Respondent at his clinic where he continued to treat him through in or around December 2015. Respondent treated Patient D for "pain management" issues including, chronic low back pain without neurological signs or symptoms. Respondent prescribed controlled pain medications to Patient D including, but not limited to, Oxycodone HCL and Flexeril[13]. Patient D paid in cash for each of the visits to Respondent's clinic.

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

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

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

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

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

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

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

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

(a) Respondent improperly issued approximately forty-three (43) prescriptions of Oxycodone HCL to Patient D wherein the majority of those prescriptions significantly overdosed Patient D;

(b) Respondent improperly issued prescriptions for Flexeril to Patient D;

(c) Respondent failed to respond effectively to evidence of aberrant drug behavior when a pharmacist alerted him that Patient D was receiving multiple prescriptions;

(d) Respondent failed to respond effectively to the incident involving Patient D filling a prescription for OxyContin (80 mg) (#90) from another physician;

(e) Respondent failed to appropriately follow up on Patient D's toxicology drug screen indicating the unauthorized presence of methadone and opiates;

(f) Respondent failed to obtain a follow up toxicology drug screen after Patient D's drug screen indicated the presence of methadone and opiates; and

(g) Respondent failed to provide appropriate treatment to Patient D in that he, among other things, repeatedly prescribed addictive pain medication to Patient D over an extended period of time, while failing to respond to multiple objective signs of aberrant drug behavior.

20. **Patient E**

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

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

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

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

(a) Respondent improperly issued approximately forty-nine (49) prescriptions of Oxycodone HCL to Patient E, wherein those prescriptions significantly overdosed this patient; and

(b) Respondent failed to document what precautions were taken to prevent fatally suppressing Patient E's nocturnal respiration, due to the high dose opioid drug therapy she was taking and her known medical conditions.

SECOND CAUSE FOR DISCIPLINE

(Repeated Negligent Acts)

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

Patient A

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

Patient B

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

Patient C

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

Patient D

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

Patient E

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

THIRD CAUSE FOR DISCIPLINE

(Incompetence)

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

Patient B

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

Patient E

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

CURES

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

FOURTH CAUSE FOR DISCIPLINE

(Prescribing Dangerous Drugs Without an Appropriate Prior Examination and/or Medical Indication)

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

Patient A

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

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Patient B

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

Patient C

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

Patient D

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

Patient E

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

FIFTH CAUSE FOR DISCIPLINE

(Repeated Acts of Clearly Excessive Prescribing)

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

Patient A

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

Patient B

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

Patient D

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

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Patient E

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

SIXTH CAUSE FOR DISCIPLINE

(Failure to Maintain Adequate and Accurate Medical Records)

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

Patient A

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

Patient B

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

Patient C

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

Patient D

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

Patient E

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

SEVENTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct)

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

engaged in 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, as more particularly alleged in paragraphs 11 through 26, above, which are hereby incorporated by reference and realleged 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 Medical Board of California issue a decision:

1. Revoking or suspending Physician's and Surgeon's Certificate No. A75773, issued to Respondent Sanjeev Sharma, M.D.;

2. Revoking, suspending or denying approval of Respondent Sanjeev Sharma, M.D.'s, authority to supervise physician assistants pursuant to section 3527 of the Code, and advanced practice nurses;

3. Ordering Respondent Sanjeev Sharma, M.D., to pay the Medical Board of California the costs of probation monitoring, if placed on probation; and

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

DATED: December 3, 2018

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

SD2018702014
Doc.No.71667333