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

In the Matter of the Accusation Against: Kulwinder Singh, M.D. Physician's and Surgeon's Certificate No. A 70440 Respondent.	Case No. 800-2018-044399

DECISION

The attached Proposed Decision 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 December 23, 2021.

IT IS SO ORDERED November 23, 2021.

MEDICAL BOARD OF CALIFORNIA

Richard E. Thorp, M.D., Chair
Panel B

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

In the Matter of the Accusation Against:

KULWINDER SINGH, M.D., Respondent.

Physician's and Surgeon's Certificate No. A 70440

Agency Case No. 800-2018-044399

OAH No. 2021040409

PROPOSED DECISION

Presiding Administrative Law Judge Jill Schlichtmann, State of California, Office of Administrative Hearings, heard this matter on October 14, 2021, by videoconference.

Carolyne Evans, Deputy Attorney General, represented complainant William Prasifka, Executive Director of the Medical Board of California, Department of Consumer Affairs.

Benjamin J. Fenton, Attorney at Law, represented respondent Kulwinder Singh, M.D., who was present for the hearing.

The matter was submitted for decision on October 14, 2021.

FACTUAL FINDINGS

1. Complainant William Prasifka brought the Accusation in his official capacity as the Executive Director of the Medical Board of California, Department of Consumer Affairs (Board).

2. On December 3, 1999, the Board issued Physician's and Surgeon's Certificate No. A 70440 (Certificate) to respondent Kulwinder Singh, M.D. The Certificate was in full force and effect at all times relevant here, and will expire on July 31, 2023, unless renewed.

Summary of Case

3. The Accusation alleges that respondent is subject to discipline for violating Business and Professions Code sections 2234 (unprofessional conduct) and 2236 (criminal conviction), and/or California Code of Regulations, title 16, section 1360 (criminal conviction) in that he was convicted on July 30, 2020, of spousal battery, a misdemeanor. Respondent admits the conviction, but asserts that discipline is unwarranted.

Criminal Conviction

4. On May 1, 2018, officers with the San Ramon Police Department were dispatched to respondent's home regarding a report of domestic violence. Respondent's wife had called 911 and reported that respondent had pushed her down a flight of stairs. When officers arrived, they observed respondent's wife standing outside of the home crying, and noted abrasions to her shins.

Respondent's wife advised officers that she and her husband had argued about her desire to leave urgently for Japan with the couple's 20-month-old child to visit her mother who was ill. Respondent had objected to her taking the child to Japan. Respondent's wife told officers that the argument escalated and as she was at the top of the stairs holding her suitcases, respondent pushed her on the shoulder causing her to fall down approximately 15 carpeted stairs. When questioned by officers as to whether this had occurred previously, she stated respondent had assaulted her twice before, but she had not previously contacted law enforcement.

When officers questioned respondent, he initially denied touching his wife during the argument and stated that while they argued at the top of the stairs, his wife was in an agitated state and slipped and fell while descending with the suitcases. Respondent later admitted to officers that he had tapped her on the shoulder and told her to leave, but asserted that he did not intend for her to fall down the stairs and he did not believe his tap had caused her to fall down the stairs. Respondent's wife stated that she did not want her husband arrested; however, because his statements to the officers were inconsistent, the officers decided to arrest respondent for domestic violence.

5. On January 7, 2019, respondent was charged with violating Penal Code section 273.5, subdivision (a) (willful infliction of a corporal injury on a spouse), a felony. On May 16, 2019, respondent pled no contest to violating Penal Code section 243, subdivision (e)(1) (battery on a spouse), a misdemeanor. On July 30, 2020, imposition of sentence was suspended and respondent was placed on court probation for a period of three years on terms that included serving 25 days in the Sheriff's Work Alternative Program, performing 20 hours of volunteer work, attending a 52-week anger management course, and paying various fines and fees.

6. Respondent was interviewed by a Board investigator on January 6, 2021. During the interview, respondent admitted that he touched his wife on the shoulder and told her to "get out" but that he did not believe he caused her to fall down the stairs and did not intend to push or hurt her.

Respondent's Evidence

7. Respondent and his wife continue to live together and are working on improving their relationship. They have recently attended two sessions of a four-week couples counseling class through their insurer.

8. Respondent continues to contend that although he lightly pushed his wife, he did not cause her to fall, or intend for her to fall down the stairs, or to hurt her. Respondent believes that in her agitated state while carrying the suitcases his wife slipped on the stairs. Respondent acknowledges that initially he told officers that he had not touched his wife; he reports he was under stress and thought they were accusing him of pushing her down the stairs. Respondent accepts responsibility for his wife's fall because he touched her, and because he escalated the situation by angrily telling her to "get out," instead of trying to calm the situation. Respondent acknowledges previous arguments with his wife, but denies any previous physical violence. Respondent claims that his wife was misunderstood by the officers because of her limited English.

9. Respondent has complied with his criminal probation requirements. He completed the 52-week anger management course, which he describes as the "gold standard" in handling issues of domestic violence. Respondent received lots of feedback and became aware of things he had not thought of before; he wishes he had taken the course earlier. The facilitator rated respondent as "excellent" in the

categories of demonstrating an awareness of using abusive behavior, accepting responsibility and accountability for abusive behavior, showing a commitment to constructive personal change, demonstrating empathy for victims, demonstrating an awareness of the effects of violence on children and others, demonstrating constructive change in beliefs, and developing strategies to prevent reoccurrence of violent and abusive behavior. He received a rating of "good" in the category of participating appropriately in group sessions and showing respect for facilitators and group members.

10. At hearing, respondent accepted responsibility for losing patience with his wife. He now believes he is better able to de-escalate difficult situations. Respondent has learned tools to implement when he and his wife argue, including using a time out, and trying to calmly discuss a compromise. Respondent will avoid forcing his opinion on others, and instead respects his partner's values and opinions. He is committed to a calm and safe relationship based in equality and non-violence, both verbally and physically. Respondent tries to implement active, non-judgmental listening and has found new ways to communicate, including discussing the "pros and cons" of issues. Respondent values his relationship with his wife and has become better at showing his feelings for her by placing Post-It notes expressing his appreciation at various places in the home. He now makes a point of spending more time with his family and is home for dinner nightly. Respondent reports their relationship has improved and they are happier. Respondent promises that he has taken this lesson to heart and will do everything he can to avoid a similar incident.

11. Respondent completed the 20 hours of community service with Habitat for Humanity, which he found very rewarding. Respondent plans to continue volunteering with Habitat for Humanity when the pandemic ends. Respondent has

paid the fines and fees and completed the Sheriff's Work Alternative Program hours. Respondent remains on informal probation until July 19, 2023.

12. Respondent acknowledges that when he returned home from work on the night of the incident, he was under stress at work. Because he has learned that stress can trigger impatience, he has cut back his work hours and attended a stress management class offered by his insurer. The course occurred over four two-hour sessions in September 2021. Respondent also now practices mindfulness and has found the "Calm" phone application to be helpful.

13. Respondent is board-certified in geriatric psychiatry. He completed a residency in psychiatry at St. Elizabeth's Hospital in Washington, D.C., in 1998, and a fellowship in geriatric psychiatry at Columbia University and New York Presbyterian Hospital in 1999.

Respondent has been employed as a staff psychiatrist with the California Department of Corrections and Rehabilitation (CDCR) since November 2005. Between November 2005 and November 2014, respondent was assigned to Napa State Hospital; since November 2014, he has been assigned to the California Health Care Facility (CHCF) in Stockton, California. He works four 10-hour days at CHCF, seeing inmates who have been placed in the CDCR's Psychiatric Inpatient Program.

Respondent also has a private practice in geriatric psychiatry, seeing patients two days per week.

14. Shelly D. Minor, Ph.D., the Executive Director of CHCF, wrote a letter of recommendation for respondent dated September 23, 2021. Dr. Minor reports that respondent's clinical skills are exemplary and his interactions with patients and colleagues is professional. Dr. Minor also reported that she, CHCF's Chief Executive

Officer and Chief Psychiatrist, are aware of the details of respondent's arrest and conviction. She reports that respondent remains in good standing with CHCF and maintains unrestricted hospital privileges.

15. Respondent's performance evaluations at CDCR from November 2006 through November 2020 demonstrate that respondent's work is highly valued. He has been rated as meeting or exceeding expectations in all categories throughout the years. In the November 2020 evaluation, the quality of respondent's work, quantity of work, work habits, relationships with people, and ability to meet work commitments were rated as "exceeding expectations." He met expectations in the categories of taking independent action and analyzing situations and materials. His supervisor noted on the evaluation that she was aware and informed of respondent's misdemeanor conviction.

On June 3, 2021, the Chief Executive Officer of CHCF in Stockton evaluated respondent in a re-credential review and verified his credentials as an approved provider.

16. Respondent completed the two-day PBI Medical Ethics and Professionalism Course on October 1, 2021. Respondent also completed a two-hour PBI Medical Chaperone Training Program on October 5, 2021. Respondent reports that the courses were valuable and he gained new insights from them.

LEGAL CONCLUSIONS

1. It is complainant's burden to demonstrate the truth of the allegations by "clear and convincing evidence to a reasonable certainty," and that the allegations

constitute cause for discipline of respondent's Certificate. (*Ettinger v. Board of Medical Quality Assurance* (1982) 135 Cal.App.3d 853, 856.)

2. Business and Professions Code section 2234 authorizes the Board to take disciplinary action against licensees who have been found to have committed unprofessional conduct.

Business and Professions Code section 2236 and California Code of Regulations, title 16, section 1360, authorize the Board to take disciplinary action against a licensee who has been convicted of an offense that is substantially related to the qualifications, functions or duties of a licensed physician.

Respondent contends that his conviction and the underlying factual circumstances were personal in nature and that there is no nexus to his profession, and therefore no cause for discipline. Committing a battery upon one's spouse and providing inconsistent statements concerning one's culpability for the offense constitute unprofessional conduct. A physician is required to "do no harm" and must be counted on to provide honest information in the care of patients, as well as to accept responsibility for errors in judgment. Indeed, the lives of patients depend on a physician's honesty and good character. Respondent's conviction and the underlying misconduct are substantially related to the qualifications, functions and duties of a physician. Respondent's argument to the contrary is rejected. Cause for discipline exists as set forth in Factual Findings 4 and 5. (Bus. & Prof. Code, §§ 2234, 2236, Cal. Code Regs., tit. 16, § 1360.)

Disciplinary Determination

3. As cause for discipline has been established, the appropriate level of discipline must be determined. At the outset, it is noted that in exercising its

disciplinary functions, protection of the public is the Board's paramount concern. (Bus. and Prof. Code, § 2229, subd. (a).) "Administrative proceedings to revoke, suspend, or impose discipline on a professional license are noncriminal and nonpenal; they are not intended to punish the licensee, but rather to protect the public." (*Griffiths v. Superior Court* (2002) 96 Cal.App.4th 757, 768, citing *Hughes v. Board of Architectural Examiners* (1998) 17 Cal.4th763, 785–786.) In exercising its disciplinary authority, the Board seeks to take action that is calculated to aid in the rehabilitation of the licensee. (Bus. and Prof. Code, § 2229, subd. (b).)

The Board's Manual of Disciplinary Orders and Disciplinary Guidelines (Disciplinary Guidelines) (12th ed., 2016) recommend, at a minimum, stayed revocation and five years' probation, subject to appropriate terms and conditions, for misconduct under Business and Professions Code sections 2234 and 2236. The maximum discipline for each of these violations is revocation of his Certificate.

Complainant argues that respondent's inconsistent statements and failure to accept full responsibility for the misconduct support imposing a stayed revocation with a five-year probation term including conditions requiring a psychiatric evaluation, psychotherapy, community service, and completion of various courses in anger management and ethics.

It is troubling that respondent provided inconsistent reports of whether he touched his wife. Moreover, his description of the incident tends to minimize his misconduct. On the other hand, he has taken rapid and robust steps to ensure against a recurrence of his misconduct. He has successfully completed the 52-week anger management course, attended a stress management class, couples counseling and a two-day Medical Ethics course. While respondent does not believe his touching caused his wife to fall, he does accept responsibility for fueling the argument, which ultimately

resulted in her fall. Respondent and his wife continue to work on their relationship, which respondent reports has improved in the three and one-half years following his misconduct. This is respondent's only conviction and he has complied fully with the terms of his probation.

Importantly, respondent was able to articulate strategies for responding to arguments calmly, and has taken steps to avoid arguments by implementing respectful and active listening, reducing his workload and stress level, and taking time outs. Respondent's work evaluations are excellent and his supervisor is aware of his misconduct and nevertheless is very supportive of his continued employment. There is no evidence of misconduct at work. The evidence does not indicate a need for monitoring of respondent's practice by the Board. Under these circumstances, a deviation from the Disciplinary Guidelines is warranted. A public reprimand, pursuant to Business and Professions Code sections 495 and 2227, subdivision (a)(4), will provide a measured response to respondent's misconduct and conviction while informing and protecting the public.

ORDER

Kulwinder Singh, M.D., holder of Physician's and Surgeon's Certificate No. A 70440, is hereby publicly reproved pursuant to Business and Professions Code sections 495 and 2227, subdivision (a)(4).

DATE: 10/26/2021

Jill Schlichtmann

JILL SCHLICHTMANN
Presiding Administrative Law Judge
Office of Administrative Hearings

XAVIER BECERRA
Attorney General of California
MARY CAIN-SIMON
Supervising Deputy Attorney General
CAROLYNE EVANS
Deputy Attorney General
State Bar No. 289206
455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102-7004
Telephone: (415) 510-3448
Facsimile: (415) 703-5480
Attorneys for Complainant

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

In the Matter of the Accusation Against: **Kulwinder Singh, M.D.** **PMB 432** **4101 Dublin Blvd. Ste. F** **Dublin, CA 94568** **Physician's and Surgeon's Certificate No. A 70440,** Respondent.	Case No. 800-2018-044399 **A C C U S A T I O N**

PARTIES

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

2. On or about December 3, 1999, the Medical Board issued Physician's and Surgeon's Certificate Number A 70440 to Kulwinder Singh, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought herein and will expire on July 31, 2021, unless renewed.

JURISDICTION

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

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, or such other action taken in relation to discipline as the Board deems proper.

5. Section 490 of the Code, states in part:

"(a) In addition to any other action that a board is permitted to take against a licensee, a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued . . .

"(c) A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. An action that a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code."

6. Section 2234 of the Code, states in 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 . . .

"(f) Any action or conduct that would have warranted the denial of a certificate."

7. Section 2236 of the Code states:

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

"(d) A plea or verdict of guilty or a conviction after a plea of nolo contendere is deemed to be a conviction within the meaning of this section and Section 2236.1. The record of conviction shall be conclusive evidence of the fact that the conviction occurred."

8. California Code of Regulations, Title 16, section 1360, states:

"For the purposes of denial, suspension or revocation of a license, certificate or permit pursuant to Division 1.5 (commencing with Section 475) of the code, a crime or act shall be considered to be substantially related to the qualifications, functions or duties of a person holding a license, certificate or permit under the Medical Practice Act if to a substantial degree it evidences present or potential unfitness of a person holding a license, certificate or permit to perform the functions authorized by the license, certificate or permit in a manner consistent with the public health, safety or welfare. Such crimes or acts shall include but not be limited to the following: Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate any provision of the Medical Practice Act."

CAUSE FOR DISCIPLINE

(Unprofessional Conduct and/or Criminal Conviction)

9. Respondent Kulwinder Singh, M.D. is subject to disciplinary action under code section 2234 (unprofessional conduct), and/or section 2236 (criminal conviction), and/or California Code of Regulations, Title 16, section 1360 (criminal conviction), in that on or about July 30, 2020, in a criminal proceeding entitled *The People of the State of California v. Kulwinder Singh*, in the Contra Costa County Superior Court, Case Number 01-188-443-6, Respondent was convicted for the misdemeanor crime of violating California Penal Code section 243(e)(1). Penal Code Section 243(e)(1) provides in relevant part that: "When a battery is committed against a spouse, a person with whom the defendant is cohabiting, the battery is punishable by a fine not

exceeding two thousand dollars ($2000), or by imprisonment in a county jail for a period of not more than one year, or by both that fine and imprisonment." The circumstances are as follows:

May 1, 2018 Domestic Violence Event:

10. On May 1, 2018, at approximately 8:53 p.m., in San Ramon, California, officers with the San Ramon Police Department were dispatched to Respondent's residence regarding a domestic violence report. Respondent's wife, Victim A,[1] had called 911 and reported that Respondent had pushed her down a flight of stairs. When the police officers arrived at Respondent's residence, they observed Victim A crying and they noted injuries to her shins. Victim A had two small abrasions to her right shin and a red mark about eight inches in length on her left shin. The injuries appeared to have recently occurred as the victim had fresh dried blood on the affected areas.

11. Police interviewed Respondent and he told police he was arguing with his wife about their baby and that he told Victim A to get out of the house. Initially, Respondent told police that while the victim was trying to leave the house she fell down the stairs because she "was moving very fast." Respondent told police that he did not touch Victim A and did not push her down the stairs.

12. After interviewing Respondent, Police officers interviewed Victim A. Victim A stated that Respondent put his hand on her shoulder when she was at the top of the stairs and that he pushed her down the stairs. Victim A explained that while Respondent was holding their 20-month-old baby in his hands, he put his hand on the victim's left shoulder and she felt a hard push on her shoulder. As Respondent pushed Victim A, Respondent told the victim to "get out." Victim A fell approximately 15 steps and she scraped her shins during the fall. Victim A reported that Respondent had assaulted her two times in the past, the most recent time when she was pregnant with their baby.

13. When the police officers re-interviewed Respondent and confronted him with Victim A's account of what happened, Respondent changed his original story and explained that he did

[1] Names and initials will not be used in order to protect the victim's identity. Respondent is aware of the victim's identity.

in fact push Victim A while she was at the top of the stairs while he was yelling "get out." However, Respondent told police that his push was not the cause of Victim A falling down the flight of stairs. Respondent then changed his story again and stated that he actually pushed a suitcase that Victim A was holding and not the victim's shoulder.

14. Due to Respondent's inconsistent statements about what happened, given Victim A's account of domestic violence and her shin injuries, the officers arrested Respondent for domestic violence. After the officers read Respondent his Miranda Rights, Respondent stated that he "did push [Victim A] but the push did not cause her to fall."

Criminal Case Filing, Plea Agreement, and Sentencing:

15. On January 7, 2019, the Contra Costa County District Attorney's Office filed a criminal complaint against Respondent in the Superior Court of California, Contra Costa County in the matter entitled: *The People of the State of California v. Kulwinder Singh*, Case No. 01-188-443-6. The Respondent was charged with the crime of Corporal Injury to a Spouse/Cohabitant/Child's Parent in violation of Penal Code section 273.5(a). Section 273.5(a) states in pertinent part that any person who willfully inflicts a corporal injury resulting in a traumatic condition upon a [spouse] is guilty of a felony and upon conviction shall be imprisoned for two, three of four years or by a fine of up to $6000 dollars, or by a fine and imprisonment.

16. On or about May 16, 2019, Respondent pled "no contest" to a lesser charge of violating Penal Code section 243(e)(1) (battery on a spouse).

17. On or about July 30, 2020, Respondent was sentenced by the Contra Costa Superior Court to the following terms and conditions:

a. Three years of probation;

b. 12 days of an alternative work program in lieu of 25 days in County Jail;

c. 20 hours community service;

d. 52 weeks of anger management;

e. Domestic violence fee in the amount of $500.00 dollars;

f. Victim restitution to Victim A in the amount of $150.00 dollars;

g. Do not annoy, threaten, or contact Victim A;

h. Do not possess any dangerous or deadly weapons; and

i. Pay other various fees and fines.

18. On January 6, 2021, Respondent was interviewed by the Board. Respondent told the Board investigator that Victim A fell down the stairs because she was in a "hyper state." Respondent omitted the fact that he put his hand on the victim's shoulder when she was at the top of the stairs and pushed her down the stairs. When the Board investigator confronted Respondent with the San Ramon Police report, Respondent admitted that he did touch Victim A when she was at the top of the stairs but that she did not fall because of his touch but rather fell because of the "height ... of her anxiety ... emotions."

19. Respondent is subject to disciplinary action under 2234, and/or 2236, and/or California Code of Regulations, title 16, section 1360, in that Respondent was convicted of a crime as alleged in paragraphs 9 through 18.

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 Number A 70440, issued to Kulwinder Singh, M.D.;

2. Revoking, suspending or denying approval of Kulwinder Singh, M.D.'s authority to supervise physician assistants and advanced practice nurses;

3. Ordering Kulwinder Singh, M.D., if placed on probation, to pay the Board the costs of probation monitoring; and

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

DATED: MAR 0 1 2021

WILLIAM PRASIFKA
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant