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

In the Matter of the First Amended Accusation Against: **Jennifer Dore, M.D.** **2995 Woodside Road, Suite 300** **Woodside, CA 94062-2447** **Physician's and Surgeon's Certificate No. A 117017,** Respondent.	Case No. 800-2020-069197 **FIRST AMENDED ACCUSATION**

PARTIES

1. Reji Varghese (Complainant) brings this First Amended Accusation solely in his official capacity as the Interim Executive Director of the Medical Board of California, Department of Consumer Affairs (Board).

2. On May 20, 2011, the Board issued Physician's and Surgeon's Certificate Number A 117017 to Jennifer Dore, 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 February 28, 2025, unless renewed.

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JURISDICTION

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

4. Section 2227 (a) of the Code provides in pertinent part that a licensee whose matter has been heard by an administrative law judge . . . who is found guilty . . . may, in accordance with the provisions of this chapter:

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

5. Section 2234 of the Code, states in pertinent 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.
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> (b) Gross negligence.
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> (c) Repeated negligent acts.
>
> (d) Incompetence.

6. 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.

7. Section 2238 of the Code states: "A violation of any federal statute or federal regulation or any of the statutes or regulations in this state regulating dangerous drugs or controlled substances constitutes unprofessional conduct."

8. Code of Federal Regulations Title 21 (Drug Enforcement Administration) section 1306.04 (b) states: "A prescription [for a controlled substance] may not be issued in order for an individual practitioner to obtain controlled substances for supplying the individual practitioner for the purpose of general dispensing to patients."

ETHICAL PRINCIPLES

9. Beginning in 1973, with periodic revisions, the American Psychiatric Association has promulgated *The Principles of Medical Ethics with Annotations Especially Applicable to Psychiatry* (Principles with Annotations). As explained in the Foreword to the 2013 Edition:

All physicians should practice in accordance with the medical code of ethics set forth in the *Principles of Medical Ethics* of the American Medical Association . . . However, these general guidelines have been difficult to interpret for psychiatry, so further annotations to the basic principles are offered in this document. While psychiatrists have the same goals as all physicians, there are special ethical problems in psychiatric practice that differ in coloring and degree from ethical problems in other branches of medical practice, even though the basic principles are the same.

10. The *Principles with Annotations*, provide:

Section 1

A physician shall be dedicated to providing competent medical care with compassion and respect for human dignity and rights.[1]

(1) A psychiatrist shall not gratify his or her own needs by exploiting the patient. The psychiatrist shall be ever vigilant about the impact that his or her conduct has upon the boundaries of the doctor-patient relationship, and thus upon the well-being of the patient. These requirements become particularly important because of the essentially private, highly personal, and sometimes intensely emotional nature of the relationship established with the psychiatrist.

[1] Statements in italics are taken directly from the American Medical Association's Principles of Medical Ethics.

Section 2

A physician shall uphold the standards of professionalism, be honest in all interactions and strive to report physicians deficient in character, or competence, or engaging in fraud or deception to appropriate entities.

Section 3

A physician shall respect the law and also recognize a responsibility to seek changes in those requirements, which are contrary to the best interests of the patient.

Section 4

A physician shall respect the rights of patients . . . and shall safeguard patient confidences and privacy within the constraints of the law.

(2) Psychiatric records including even the identification of a person as a patient must be protected with extreme care. Confidentiality is essential to psychiatric treatment.

Section 8

A physician shall, while caring for a patient, regard responsibility to the patient as paramount.

(3) When the psychiatrist's outside relationships conflict with the clinical needs of the patient, the psychiatrist must always consider the impact of such relationships and strive to resolve the conflicts in a manner that the psychiatrist believes is likely to be beneficial to the patient.

(4) When significant relationships exist that may conflict with patient's clinical needs, it is especially important to inform the patient or decision maker about these relationships and potential conflicts with clinical needs.

COST RECOVERY

11. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case, with failure of the licensee to comply subjecting the license to not being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be included in a stipulated settlement.

12. At all times relevant to these allegations, Respondent was working as a psychiatrist at a solo practice clinic.

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FIRST CAUSE FOR DISCIPLINE

(Unprofessional Conduct/Gross Negligence/Repeated Negligence/Incompetence/ Violation of Statute Regulating Drugs)

Patient A

13. Respondent treated Patient A[2] from October 27, 2015 through approximately November 2019. Patient A was a high-risk patient, who had multiple mental health issues, including severe post-traumatic stress disorder[3] and suffered from an eating disorder. Respondent noted that Patient A likely had borderline personality disorder.[4] Respondent was concerned that Patient A was an acute danger to herself or others, such that she documented at various times during Patient A's treatment that Patient A did not meet the criteria for involuntary hold. Respondent also documented that Patient A was "not functional" at times and had suicidal ideation and that a former supervisor of Patient A had assaulted Patient A.

14. In 2016, Respondent began dispensing sublingual ketamine[5] troches[6] for Patient A to take home and self-administer.

15. On March 23, 2017, Respondent provided ketamine intramuscularly (IM) to Patient A at her clinic, even though she had not seen the patient in over 5 months. Patient A had cancelled prior appointments (11/30/2016, 12/7/2016, 12/16/16, and 12/30/2016). While Respondent was prescribing controlled substances to Patient A, the patient was also receiving controlled substances, including benzodiazepines,[7] from other physicians.

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[2] The first patient in this document is designated as Patient A to protect her privacy. The second patient is designated as Patient B to protect his privacy. Respondent knows the names of the patients and witnesses and can confirm their identities through the discovery process.

[3] Post-traumatic stress disorder is a mental health condition that is triggered by a terrifying event.

[4] Borderline personality disorder is a mental illness that severely impacts a person's ability to regulate their emotions.

[5] Ketamine is a controlled substance (Schedule III), which is commonly used as anesthesia. Ketamine can produce hallucinations, similar to other drugs such as LSD and PCP.

[6] Sublingual troches are lozenges that easily dissolve in the mouth.

[7] A Benzodiazepine is a depressant used for the management of anxiety disorders. It is a Schedule IV controlled substance as defined by section 11507, subdivision (d) of the Health and Safety Code and is a dangerous drug as defined by section 4022 of the Code.

16. In 2017, Respondent regularly provided ketamine to Patient A at her clinic intramuscularly via injection. Respondent did not document whether she conducted ongoing assessments of Patient A's level of consciousness, nor did Respondent document any assessment of Patient A's respiratory status during or after these treatments.

17. Respondent stated that she obtained the supply of injectable ketamine she used in her clinic for patient treatments from a "distributor," and also stated that two physicians prescribed the ketamine to Respondent as their patient, and then Respondent in turn dispensed that ketamine to her own patients, including Patient A. Because Respondent did not directly prescribe the IM ketamine to Patient A, it did not appear on Patient A's CURES report. Additionally, Respondent did not maintain controlled substance logs for the ketamine she provided to her patients, because she asserts that she did not "dispense" or "administer" controlled substances.

18. Respondent provided Patient A with some ketamine management sessions, including a 90-minute session (July 9, 2019) and 60-minute session (August 6, 2019). Respondent stated that she "talked about it with [the patient's] therapist." Additionally, Patient A's therapist (a psychologist) was involved in the patient's ketamine management sessions and Patient A was often laying down in her therapist's lap during those sessions.

19. In January 2018, Respondent refilled Patient A's ketamine without a medical consultation. Respondent provided ketamine to Patient A for the patient to self-dose at home, without any medical supervision. Respondent did not assess the benefits of Patient A's ketamine use and the potential adverse reactions to the ketamine. Respondent also did not coordinate with Patient A's other prescribers of controlled substances and did not develop and document a comprehensive treatment plan.

20. On January 17, 2019, Respondent documented that Patient A had a "fear of abandonment... recent issues with therapist."

21. Beginning in April of 2019, Respondent hired Patient A to be a full time medical office manager at her clinic under her direct supervision. Patient A had full access to confidential patient charts. On at least one occasion, Patient A attended an offsite work training event hosted

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by Respondent where everyone stayed overnight in the same building. According to Respondent, Patient A may have gone into Respondent's bedroom at that event.

22. On May 1, 2019, Respondent prescribed sublingual ketamine to Patient A. Respondent, however, did not document this prescription in Patient A's chart until May 21, 2019.

23. On June 18, 2019, Respondent prescribed ketamine for Patient A.

24. On September 24, 2019, Respondent documented in Patient A's chart: "remind pt of our conversation after her email end of Aug re: thyroid that she should not access her chart or any pts chart- had also noted that she emailed me about a patients chart JD whom she had no direct task in which she said she accessed her chart w/o my permission to obtain an email address for her personal use." Although Respondent documented that she spoke with Patient A about Patient A's inappropriate access to patients' confidential medical records, it is unclear if Respondent notified the patient about the privacy breach and/or what safeguards were put in place to prevent another breach.

25. On November 20, 2019, Respondent noted in Patient A's chart: "a lot of emotional dysregulation impromptu [sic] conversations + seeking my help and attention outside of sessions- have tried to support her as best I could. . . Enc patient to find another doctor."

26. Respondent failed to maintain adequate and accurate medical records in that she signed many of her notes for Patient A months to years after the dates of service.

27. Respondent is subject to disciplinary action under section 2234 (unprofessional conduct) and/or 2234(b) (gross negligence) and/or 2234 (c) (repeated negligent acts) and/or 2234(d) (incompetence) and/or section 2238 (violation of statute regulating drugs) of the Code and/or Code of Federal Regulations Title 21 (Drug Enforcement Administration) section 1306.04 (b) and/or violation of ethical standards, in that:

A. Respondent provided Ketamine to Patient A in a dangerous and inappropriate manner by dispensing sublingual ketamine troches for the patient to take at home to self-dose without any medical supervision;

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B. Respondent dispensed ketamine to Patient A without conducting an appropriate medical examination or assessment, without documenting a legitimate medical indication, and without seeing the patient on a regular basis;

C. Respondent administered ketamine injections to Patient A at her clinic at "medical management sessions" while the patient's psychologist was present and while Patient A lay in the psychologist's lap.

D. Respondent obtained ketamine through prescriptions written personally to her by other physicians and then she improperly dispensed and administered that ketamine to Patient A;

E. Respondent violated ethical principles and professional boundaries by hiring Patient A as an employee at her psychiatry clinic;

F. Respondent violated ethical principles and committed boundary violations by treating Patient A, who was also her patient, for various mental health conditions and while prescribing controlled substances to the patient;

G. Respondent violated ethical principles and professional boundaries by inviting the patient to an overnight work trip;

H. Respondent allowed Patient A, her employee at her psychiatry clinic, access to other patients' confidential psychiatric medical records for non-treatment purposes, and which led to a privacy breach, which Respondent then did not address.

SECOND CAUSE FOR DISCIPLINE

(Unprofessional Conduct/Gross Negligence)

Patient B

28. Respondent treated an immediate family member from 2014 through 2020. Between September 4, 2019 through September 4, 2020, Respondent prescribed seven unique controlled substance prescriptions to her family member. Two of these were for clonazepam[8] and the rest

[8] Clonazepam is a benzodiazepine, which is generally prescribed for severe anxiety.

were for the generic Adderall[9] (mixed Amphetamine salts). The prescriptions were filled at three separate pharmacies.

29. Respondent is subject to disciplinary action under section 2234 (unprofessional conduct) and/or 2234(b) (gross negligence) of the Code and/or violation of ethical standards, in that she regularly prescribed controlled substances to an immediate family member over the course of one year.

THIRD CAUSE FOR DISCIPLINE

(Unprofessional Conduct/Gross Negligence)

Patient C

30. Respondent prescribed to her own treating psychiatrist. Between June 12, 2015 through August 31, 2021, Respondent prescribed 40 unique controlled substance prescriptions to her own psychiatrist. Respondent's prescriptions to her psychiatrist include prescriptions for ketamine, Adderall (mixed Amphetamine salts), Adderall (XR) (a long-acting mixed amphetamine salt), an amphetamine salt combination and generic mixed amphetamine salts. The prescriptions were filled at three separate pharmacies.

31. In prescribing to her own psychiatrist, who was also prescribing to Respondent, Respondent engaged in a relationship wherein she and her psychiatrist were each other's doctors and patients. Such actions violate patient-physician boundaries and ethical standards.

32. Respondent is subject to disciplinary action under section 2234 (unprofessional conduct) and/or 2234(b) (gross negligence) of the Code and/or violation of ethical standards, in that she regularly prescribed controlled substances to her own treating psychiatrist over the course of six years.

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[9] Adderall is a stimulant, which is generally prescribed for Attention Deficit Hyperactivity Disorder (ADHD).

FOURTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct: Failure to Maintain Adequate and Accurate Records)

33. Respondent is subject to disciplinary action under section 2234 (unprofessional Conduct) and/or 2266 (inadequate records) of the Code in that Respondent failed to maintain adequate and accurate medical records for Patient A, including but not limited to:

A. Respondent failed to adequately and contemporaneously document her visits with Patient A and the prescriptions that she wrote for Patient A.

B. Respondent did not document a medical indication for the ketamine that she dispensed and administered to Patient A.

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 117017, issued to Jennifer Dore, M.D.;

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

3. Ordering Jennifer Dore, M.D., to pay the Board the costs of the investigation and enforcement of this case, and if placed on probation, the costs of probation monitoring;

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

DATED: JUN 21 2023

Jenna Jones for
REJI VARGHESE
Interim Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant