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FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO March 9 20 17
BY R. Firdaus ANALYST

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

11 In the Matter of the Accusation Against:
12 **Guy Rogers Gullion, M.D.**
120 Pleasant Hill Avenue N., Suite 340
13 Sebastopol CA 95472
14 Physician's and Surgeon's Certificate
No. A50284,
15 Respondent.

Case No. 800-2014-008007
ACCUSATION

17 Complainant alleges:

18 **PARTIES**

- 19 1. Kimberly Kirchmeyer (Complainant) brings this Accusation solely in her official
20 capacity as the Executive Director of the Medical Board of California, Department of Consumer
21 Affairs (Board).
- 22 2. On or about December 17, 1991, the Board issued Physician's and Surgeon's
23 Certificate Number A50284 to Guy Rogers Gullion, M.D. (Respondent). The certificate was in
24 full force and effect at all times relevant to the charges brought herein and will expire on August
25 31, 2017, unless renewed. The certificate has a prior history of discipline by the Board: On July
26 1, 2013, an Accusation was filed in Case No. 12-2012-226548; in a Decision and Order effective
27 January 10, 2014, Respondent's certificate was revoked, stayed, and he was placed on probation
28 for seven years with terms and conditions.

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 unless otherwise indicated.

4. Section 2004 of the Code provides that the Board shall have the responsibility for the enforcement of the disciplinary and criminal provisions of the Medical Practice Act.

5. 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.

6. Section 2234 of the Code states:

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.

....

(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.

(1) An initial negligent diagnosis followed by an act or omission medically appropriate for that negligent diagnosis of the patient shall constitute a single negligent act.

(2) When the standard of care requires a change in the diagnosis, act, or omission that constitutes the negligent act described in paragraph (1), including, but not limited to, a reevaluation of the diagnosis or a change in treatment, and the licensee's conduct departs from the applicable standard of care, each departure constitutes a separate and distinct breach of the standard of care.

(d) Incompetence.

....

7. Section 725, subdivision (a), of the Code states in pertinent part:

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

1 13. On February 15, 2012, Respondent reported that Patient A was “much less depressed”
2 though not focusing well. At the same time, the patient was taking 350 mg of sertraline. One
3 week later, on February 22, 2012, Respondent reported that his patient was “doing great.” At the
4 same time, now seven weeks after Patient A had started taking sertraline, Respondent prescribed
5 her 400 mg of sertraline per day. There was no documentation of any symptoms of OCD and no
6 indication why Respondent decided to increase the dose.

7 14. On February 28, 2012, Patient A saw her primary care physician and reported that her
8 psychiatric medications were “not as helpful at managing her symptoms.” She reported having
9 diarrhea a few times per day for a few weeks. Following this, she saw Respondent on March 7,
10 2012. Respondent noted that she felt “down” and had “explosive diarrhea for two years on and
11 off.” Respondent continued the patient’s daily dose of 400 mg sertraline.

12 15. Among the most common side effect of selective serotonin reuptake inhibitors, like
13 sertraline, is gastrointestinal distress. Accordingly, to ensure patient safety and comfort, the
14 treating psychiatrist should assess any gastrointestinal symptom that co-occurs with a patient’s
15 use of selective serotonin reuptake inhibitors. Such symptoms can be minimized by starting with
16 low doses and implementing any increase in dosage slowly.

17 16. Documentation of treatment of Patient A by Respondent and her primary care
18 physician establishes a direct correlation between the increased doses of sertraline prescribed by
19 Respondent and the patient’s complaints of gastrointestinal distress. Following Respondent’s
20 prescription of 400 mg per day of sertraline to Patient A, she complained of gastrointestinal
21 distress. On February 28, 2012, Patient A reported “diarrhea a couple of times a day for a few
22 weeks” to her primary care physician. She then reported “explosive diarrhea” to Respondent on
23 March 7, 2012. Respondent noted that the primary care physician “is looking for etiology.” There
24 is no documentation that Respondent considered a high dose of sertraline as a potential etiology.

25 17. Patient A again reported her “ongoing severe diarrhea” and the negative impact it was
26 having on her life to Respondent on March 14, 2012. Nonetheless, Respondent continued to
27 prescribe her 400 mg of sertraline per day, including on March 28, 2012 and April 11, 2012. On
28

1 May 16, 2012, Patient A had decreased her daily dosage of sertraline to 200 mg and stated that
2 her “stomachache was gone” and that she was feeling “much better, less depressed.”

3 **FIRST CAUSE FOR DISCIPLINE**

4 **(Repeated Negligent Acts, Incompetence, Excessive Prescribing)**

5 18. Respondent’s prescription of excessive amounts of sertraline to Patient A as
6 described above constitutes a departure from the standard of care.

7 19. Respondent began his patient’s use of sertraline with a dosage well above the
8 recommended initial dose of 50 mg daily. Thereafter, he did not wait the recommended eight
9 weeks before increasing the dose, but rather rapidly increased it above the manufacturer’s
10 recommended maximum dose, to as high as 400 mg daily.

11 20. Respondent did not document an increase in Patient A’s symptoms of OCD or
12 decreased functioning as an effect of the patient’s OCD to justify an increase in her medication.
13 From January 11, 2012, when Respondent initially prescribed Patient A 200 mg of sertraline
14 daily, until February 22, 2012, by which time he had increased her dosage to 400 mg of sertraline
15 per day, Respondent did not document any symptoms of his patient’s OCD. Further, there is no
16 documentation in any of Respondent’s progress notes that he had informed his patient of the
17 indications for treatment, the risks and benefits of treatment, or that he was using a dose that was
18 above the manufacturer- and FDA-recommended maximum dose.

19 21. Respondent’s failure to investigate his patient’s co-occurring diarrhea in the context
20 of the high dose of sertraline he was prescribing to her constitutes an additional departure from
21 the standard of care. Respondent did not document any investigation into this possible correlation
22 nor did he document any collaboration with Patient A’s primary care physician to discuss the
23 patient’s co-occurring diarrhea.

24 22. Respondent was repeatedly negligent and incompetent in his prescribing to and
25 treatment of Patient A. Respondent’s conduct constitutes unprofessional conduct and is cause for
26 discipline pursuant to section 2234, subdivision (a) (violation of Medical Practice Act),
27 subdivision (c) (repeated negligent acts), and subdivision (d) (incompetence).
28

1 23. Further, Respondent's repeated excessive prescribing of sertraline to Patient A is
2 cause for discipline pursuant to section 725, subdivision (a) (excessive prescribing).

3 **SECOND CAUSE FOR DISCIPLINE**

4 **(Inadequate Records)**


5 24. Respondent's failure to maintain adequate records for Patient A, as described above,
6 constitutes unprofessional conduct and is cause for discipline pursuant to section 2266.

7
8 **PRAYER**

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

- 11 1. Revoking or suspending Physician's and Surgeon's Certificate Number A50284,
12 issued to Guy Rogers Gullion, M.D.;
- 13 2. Revoking, suspending or denying approval of Guy Rogers Gullion, M.D.'s authority
14 to supervise physician assistants, pursuant to section 3527 of the Code;
- 15 3. Ordering Guy Rogers Gullion, M.D., if placed on probation, to pay the Board the
16 costs of probation monitoring; and
- 17 4. Taking such other and further action as deemed necessary and proper.

18
19 DATED: March 9, 2017


20 KIMBERLY KIRCHMEYER
21 Executive Director
22 Medical Board of California
23 Department of Consumer Affairs
24 State of California
25 *Complainant*

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