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

In the Matter of the Accusation Against: **Jaswant S. Khokhar, M.D.** **1408 Dunaire Dr.** **Bakersfield, CA 93312-4658** **Physician's and Surgeon's Certificate No. No. A50719,** Respondent.	Case No. 800-2015-016178 **A C C U S A T I O N**

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 (Board).

2. On or about June 4, 2003, the Medical Board issued Physician's and Surgeon's Certificate No. A50719 to Jaswant S. Khokhar, M.D. (respondent). The Physician's and Surgeon's Certificate No. A50719 was in full force and effect at all times relevant to the charges brought herein and will expire on April 30, 2019, unless renewed.

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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 states, in pertinent part:

"(a) A licensee whose matter has been heard by an administrative law judge of the Medical Quality Hearing Panel as designated in Section 11371 of the Government Code, or whose default has been entered, and who is found guilty, or who has entered into a stipulation for disciplinary action with the division, may, in accordance with the provisions of this chapter:

"(1) Have his or her license revoked upon order of the board.

"(2) Have his or her right to practice suspended for a period not to exceed one year upon order of the board.

"(3) Be placed on probation and be required to pay the costs of probation monitoring upon order of the board.

"(4) Be publicly reprimanded by the board. The public reprimand may include a requirement that the licensee complete relevant educational courses approved by the board.

"(5) Have any other action taken in relation to discipline as part of an order of probation, as the board or an administrative law judge may deem proper.

"..."

5. 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:

"...

"(b) Gross negligence.

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"(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.

"..."

6. Section 2242, subdivision (a), of the Code states, in pertinent part:

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

"..."

7. 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."

FIRST CAUSE FOR DISCIPLINE

(Gross Negligence)

8. Respondent has subjected his Physician's and Surgeon's Certificate No. A50719 to disciplinary action under sections 2227 and 2234, as defined by section 2234, subdivision (b), of the Code, in that he committed gross negligence in his care and treatment of patient S.C., as more particularly alleged hereinafter:

9. On or about January 11, 2010, patient S.C., a then thirty-five (35) year old divorced female, presented to respondent for the first time for psychiatric treatment, and specifically wanted to know if she had Attention Deficit Disorder (ADD). During that initial visit, patient S.C. disclosed she had a poor history in school due to decreased concentration and attention, a poor job history as an adult, and a current difficulty focusing and concentrating on her occupation as a registered nurse. Patient S.C. described herself, among other things, as impulsive, rude, and angry. No further discussion was documented in the chart regarding the patient's symptoms and how they were impacting her functioning, or in what setting. No physical exam was conducted at this visit, and no tests were conducted. At the conclusion of the visit, respondent diagnosed patient S.C. with Attention Deficit Hyperactivity Disorder (ADHD) and Major Depressive Disorder (MDD). Respondent continued patient S.C. on Cymbalta[1] 60 mg daily for depression, which she had allegedly been taking for several years, and added new prescriptions for Concerta[2] 36 mg to treat her ADHD, and Risperdal[3] 1 mg to help her sleep and to control her anger. Respondent's notes for this visit do not document any discussion with patient S.C. regarding the specific side-effects of the prescribed medications.

10. On or about January 25, 2010, patient S.C. was seen by respondent. During that visit, patient S.C. informed respondent that she had not taken the Risperdal, but that she was sleeping well. At this visit, patient S.C. denied experiencing any side effects from the medications. The notes for this visit indicate the patient's affect was appropriate, and she was able to sit still. At the conclusion of this visit, respondent's notes indicate a diagnosis of ADHD, and a referral to cognitive behavioral therapy (CBT). Respondent discontinued Risperdal, continued Cymbalta, and increased Concerta to 54 mg.

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[1] Cymbalta (duloxetine) is a selective serotonin and norepinephrine reuptake inhibitor antidepressant, and is a dangerous drug pursuant to Business and Professions Code section 4022. It is used to treat depression, anxiety, diabetic peripheral neuropathy, fibromyalgia, and chronic muscle or bone pain.

[2] Concerta (methylphenidate) is a central nervous system stimulant, and is a dangerous drug pursuant to Business and Professions Code section 4022. It is used to treat ADHD and narcolepsy.

[3] Risperdal (risperidone) is an antipsychotic medicine. It works by changing the effects of chemicals in the brain, and is a dangerous drug pursuant to Business and Professions Code section 4022.

11. On or about February 2, 2010, patient S.C. was seen by respondent. During that visit, patient S.C. informed respondent that she had been experiencing heart palpitations, but claimed to have a history of hypoglycemia. Patient S.C.'s vital signs were not taken at this visit, no tests were conducted or referrals made, and there is no further documentation regarding her history or nature of the hypoglycemia. Patient S.C. also informed respondent that she had been taking two Concerta 54 mg capsules in the morning, instead of one, for a total of 108 mg. At the conclusion of this visit, respondent increased Concerta to 72 mg.

12. On or about March 12, 2010, patient S.C. was seen by respondent. At this visit, patient S.C. complained that she had run out of her one month supply of Concerta in twenty (20) days. At the conclusion of this visit, respondent discontinued the Concerta and prescribed Strattera[4] 40 mg, for one week, with an increase to 60 mg the following week.

13. On or about April 23, 2010, patient S.C. was seen by respondent. At this visit, the patient indicated she was having trouble sleeping, but denied experiencing any side effects from medication. At the conclusion of this visit, respondent's notes indicate that he diagnosed patient S.C. with ADHD, and maintained her on the same medications, but added Ambien[5] 12 mg.

14. On or about May 20, 2010, patient S.C. was seen by respondent. At this visit, the patient indicated she was feeling good, but complained of tachycardia. At the conclusion of this visit, respondent's notes indicate he diagnosed patient S.C. with MDD, discontinued Cymbalta, continued Strattera 60 mg, decreased Ambien to 10 mg, and added Lexapro[6] 10 mg.

15. On or about June 17, 2010, patient S.C. was seen by respondent. At this visit, the patient indicated she was feeling good, denied experiencing tachycardia or any other side effects

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[4] Strattera (atomoxetine) affects chemicals in the brain and nerves that contribute to hyperactivity and impulse control, and is a dangerous drug pursuant to Business and Professions Code section 4022. One of the known side effects of this medication is insomnia.

[5] Ambien (zolpidem) 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. It is a sedative used for the short-term treatment of insomnia.

[6] Lexapro (escitalopram) is an antidepressant belonging to a group of drugs called selective serotonin reuptake inhibitors, and is a dangerous drug pursuant to Business and Professions Code section 4022.

from medication, but requested to be put back on Cymbalta. At the conclusion of this visit, respondent's notes indicate he diagnosed patient S.C. with MDD, discontinued Lexapro, added Cymbalta 60 mg, increased Strattera to 80 mg, and continued Ambien 10 mg.

16. On or about July 15, 2010, patient S.C. was seen by respondent. At this visit, the patient indicated she was experiencing constipation and irregular menses, but denied any side effects from medication. Respondent did not believe the constipation or irregular menses were related to the medications, and referred the patient to discuss those symptoms with her primary care physician. The notes for this visit are silent regarding that discussion and referral. At the conclusion of this visit, respondent's notes indicate he diagnosed patient S.C. with MDD, and decreased Strattera to 60 mg, but continued Cymbalta 60 mg, and Ambien 10 mg.

17. On or about August 12, 2010, patient S.C. was seen by respondent. At this visit, the patient indicated she was feeling good, and denied experiencing any side effects from medication. At the conclusion of this visit, respondent's notes indicate he diagnosed patient S.C. with ADHD, continued Cymbalta 60 mg and Ambien 10 mg, and increased Strattera to 80 mg.

18. On or about September 16, 2010, patient S.C. was seen by respondent. At this visit, the patient complained of "side effects from Strattera," but no specific details are mentioned in the patient chart. The patient denied any trouble sleeping. At the conclusion of this visit, respondent's notes indicate he diagnosed patient S.C. with ADHD, and discontinued Strattera and Ambien, but continued Cymbalta 60 mg, and added Adderall[7] 20 mg.

19. On or about December 6, 2010, patient S.C. was seen by respondent. At this visit, the patient complained of depression and decreased concentration and attention. No physical exam was conducted at this visit, and no tests were conducted. At the conclusion of this visit, respondent's notes indicate he diagnosed patient S.C. with ADHD and MDD, increased Cymbalta to 90 mg, discontinued Adderall, added Vyvanse[8] 50 mg, and provided her with

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[7] Adderall is a brand name for dextroamphetamine and amphetamine, a Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision (d), and a dangerous drug pursuant to Business and Professions Code section 4022. It is used to treat ADHD and narcolepsy.

[8] Vyvanse (lisdexamfetamine) is a Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision (d), and a dangerous drug pursuant to Business and Professions Code (continued...)

Intuniv[9] samples for thirty (30) days.

20. On or about December 22, 2010, patient S.C. was seen by respondent. At this visit, the patient complained that "Vyvanse makes me restless and decrease in focusing," but indicated she was feeling good, and denied any side effects from medications. At the conclusion of this visit, respondent's notes indicate he diagnosed patient S.C. with ADHD, discontinued Vyvanse, decreased Cymbalta to 60 mg, and added Adderall 30 mg.

21. On or about January 24, 2011, patient S.C. was seen by respondent. At this visit, the patient indicated she was feeling good, and denied any side effects from medications. At the conclusion of this visit, respondent's notes indicate he diagnosed patient S.C. with ADHD, ordered an electrocardiogram (EKG), continued the patient on Cymbalta 60 mg, and decreased Adderall to 20 mg.

22. On or about May 20, 2011, patient S.C. was seen by respondent. At this visit, the patient indicated she was feeling good, denied any side effects from medications, but informed respondent that she was feeling anxious because she was suing her former employer. Respondent did not discuss the lawsuit with the patient. At the conclusion of this visit, respondent's notes indicate he diagnosed patient S.C. with ADHD, continued the patient on Cymbalta 60 mg and Adderall 20 mg, and added Klonopin[10] 0.5 mg twice per day.

23. On or about July 20, 2011, patient S.C. was seen by respondent. At this visit, the patient indicated she was feeling good, and denied any side effects from medications. At the conclusion of this visit, respondent's notes indicate he diagnosed patient S.C. with ADHD, continued the patient on Cymbalta 60 mg, but increased Adderall to 30 mg, and increased the Klonopin 0.5 mg to three times per day.

(...continued)
section 4022. It is a is a stimulant used to treat ADHD.

[9] Intuniv (guanfacine) is a sympatholytic drug used in the treatment of ADHD anxiety, and hypertension, and is a dangerous drug pursuant to Business and Professions Code section 4022.

[10] Klonopin (clonazepam), 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. It is an anti-anxiety medication in the benzodiazepine family.

24. On or about October 21, 2011, patient S.C. was seen by respondent. At this visit, the patient complained that the medication took one hour before it took effect, but she was otherwise feeling good. At the conclusion of this visit, respondent's notes indicate he diagnosed patient S.C. with ADHD, continued the patient on Cymbalta 60 mg and Klonopin 0.5 mg three times per day, discontinued Adderall, and added Vyvanse 70 mg.

25. On or about January 10, 2012, patient S.C. was seen by respondent. At this visit, the patient complained the Vyvanse wears off. At the conclusion of this visit, respondent's notes indicate he diagnosed patient S.C. with ADHD, continued the patient on Cymbalta 60 mg and Klonopin 0.5 mg three times per day, discontinued the Vyvanse, and added Adderall 20 mg twice per day.

26. On or about July 9, 2012, patient S.C. was seen by respondent. At this visit, the patient indicated she was feeling good, and denied any side effects from medications. At the conclusion of this visit, respondent's notes indicate he diagnosed patient S.C. with MDD, continued the patient on Cymbalta 60 mg and Adderall 20 mg twice per day, but discontinued Klonopin.

27. On or about January 15, 2013, patient S.C. was seen by respondent. At this visit, the patient indicated she was feeling good. At the conclusion of this visit, respondent's notes indicate he diagnosed patient S.C. with ADHD and MDD, continued the patient on Cymbalta 60 mg, discontinued Adderall, and added Vyvanse 50 mg.

28. On or about February 7, 2013, patient S.C. was seen by respondent. At this visit, the patient indicated she was feeling good, and denied any side effects from medications. At the conclusion of this visit, respondent's notes indicate he diagnosed patient S.C. with ADD, continued the patient on Cymbalta 60 mg, and increased Vyvanse to 70 mg.

29. On or about April 17, 2013, patient S.C. was seen by respondent. At this visit, the patient indicated she was feeling good, and denied any side effects from medications. At the conclusion of this visit, respondent's notes indicate he diagnosed patient S.C. with ADD, continued the patient on Cymbalta 60 mg, and decreased Vyvanse to 50 mg.

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30. One week later, on or about April 24, 2013, patient S.C. was seen by respondent for the last time. At this visit, the patient indicated she had lost her prescriptions, and was feeling anxious and agitated. At the conclusion of this visit, respondent's notes indicate he diagnosed patient S.C. with ADD and MDD, discontinued Cymbalta and Vyvanse, and added Adderall 20 mg and Celexa[11] 40 mg.

31. From approximately January 11, 2010, through approximately April 24, 2013, patient S.C. was seen by respondent approximately thirty-eight (38) times, for an average of fifteen (15) minutes per visit. During that time period, patient S.C. missed approximately twelve (12) appointments. The notes are silent as to the reason for the missed appointments, and whether respondent ever discussed the missed appointments with the patient at any time.

32. From approximately January 11, 2010, through approximately April 24, 2013, no physical exam of patient S.C. was conducted at any visit, including but not limited to weight or vital signs, and no tests were ever conducted.

33. From approximately January 11, 2010, through approximately April 24, 2013, respondent's notes are nearly identical, contain almost no detail regarding patient S.C.'s life and how the treatment was affecting her, contain no stated reason for the varied diagnoses of ADHD, ADD, and MDD, and contain no reference to informed consent or the reasoning for medication changes. Although the notes indicate that respondent referred patient S.C. to CBT once, and for an EKG once, no follow-up was ever documented regarding either referral.

34. Respondent committed gross negligence in his care and treatment of patient S.C., which included but was not limited to, the following:

(a) Failing to properly monitor the medical aspects of prescribing stimulants;

(b) Prescribing Intuniv without checking cardiovascular status history and vital signs, discussing titration, side effects, and rational for making two changes to the medications at the same time; and

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[11] Celexa (citalopram) is an antidepressant drug of the selective serotonin reuptake inhibitor (SSRI) class, and is a dangerous drug pursuant to Business and Professions Code section 4022.

(c) Engaging in an abrupt and poorly reasoned pattern of prescribing and managing treatment.

SECOND CAUSE FOR DISCIPLINE

(Repeated Negligent Acts)

35. Respondent has further subjected his Physician's and Surgeon's Certificate No. A50719 to disciplinary action under sections 2227 and 2234, as defined by section 2234, subdivision (c), of the Code, in that he committed repeated negligent acts in his care and treatment of patient S.C., as more particularly alleged hereinafter:

(a) Paragraphs 8 through 34, above, are hereby incorporated by reference and realleged as if fully set forth herein;

(b) Diagnosing patient S.C. with ADD and ADHD over a three year period, without ever obtaining a thorough history, both past and present; and

(c) Failing to properly document history, observations in monitoring treatment, impressions, treatment decision-making, and informed consent.

THIRD CAUSE FOR DISCIPLINE

(Inadequate and Inaccurate Records)

36. Respondent has further subjected his Physician's and Surgeon's Certificate No. A50719 to disciplinary action under sections 2227 and 2234, as defined by section 2266, of the Code, in that he failed to maintain adequate and accurate records regarding his care and treatment of patient S.C., as more particularly alleged in paragraphs 8 through 34, above, which are hereby incorporated by reference and realleged as if fully set forth herein.

FOURTH CAUSE FOR DISCIPLINE

(Furnishing Dangerous Drugs without Appropriate Prior Examination or Medical Indication)

37. Respondent has further subjected his Physician's and Surgeon's Certificate No. A50719 to disciplinary action under sections 2227 and 2242, as defined by section 2242, subdivision (a), of the Code, in that he furnished dangerous drugs without an appropriate prior examination or medical indication during his care and treatment of patient S.C., as more

particularly alleged in paragraphs 8 through 34, above, which are hereby incorporated by reference and realleged as if fully set forth herein.

DISCIPLINARY CONSIDERATIONS

38. To determine the degree of discipline, if any, to be imposed on respondent, complainant alleges that on or about June 22, 2012, in a prior disciplinary action before the Board, Medical Board of California Case No. 08-2009-200940, respondent was issued a Public Letter of Reprimand for Repeated Negligent Acts, in violation of section 2234, subdivision (c), of the Code, and for Failure to Maintain Adequate and Accurate Medical Records, in violation of section 2266, of the Code. That Decision is now final and is incorporated by reference 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. A50719, issued to respondent Jaswant S. Khokhar, M.D.;

2. Revoking, suspending or denying approval of respondent Jaswant S. Khokhar, M.D.'s authority to supervise physician assistants and advance practice nurses;

3. Ordering respondent Jaswant S. Khokhar, 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: April 26, 2017

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

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