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

12 In the Matter of the Accusation Against:

Case No. 800-2017-035378

13 **Kristin Maura Levitan, M.D.**
14 151 Bernal Rd. Ste. 1B
San Jose CA 95119-1306

A C C U S A T I O N

15 Physician's and Surgeon's Certificate
16 No. G 61477,

17 Respondent.

18
19 **PARTIES**

20 1. Christine J. Lally (Complainant) brings this Accusation solely in her official capacity
21 as the Interim Executive Director of the Medical Board of California, Department of Consumer
22 Affairs (Board).

23 2. On or about October 5, 1987, the Medical Board issued Physician's and Surgeon's
24 Certificate Number G 61477 to Kristin Maura Levitan, M.D. (Respondent). The Physician's and
25 Surgeon's Certificate was in full force and effect at all times relevant to the charges brought
26 herein and will expire on March 31, 2021, unless renewed.
27
28

JURISDICTION

1
2 3. This Accusation is brought before the Board, under the authority of the following
3 laws. All section references are to the Business and Professions Code (Code) unless otherwise
4 indicated.

5 4. Section 2227 of the Code states:

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

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

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

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

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

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

21 (b) Any matter heard pursuant to subdivision (a), except for warning letters,
22 medical review or advisory conferences, professional competency examinations,
23 continuing education activities, and cost reimbursement associated therewith that are
24 agreed to with the board and successfully completed by the licensee, or other matters
25 made confidential or privileged by existing law, is deemed public, and shall be made
26 available to the public by the board pursuant to Section 803.1.

27 5. Section 2234 of the Code, states in pertinent part:

28 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.

(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.

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

6 (d) Incompetence. . .”

7 6. Section 725, in pertinent part, states:

8 “(a) Repeated acts of clearly excessive prescribing, furnishing, dispensing, or
9 administering of drugs or treatment . . . as determined by the standard of the
10 community of licensees is unprofessional conduct for a physician and surgeon . . .”

11 **CAUSE FOR DISCIPLINARY ACTION**

12 (Gross negligence/repeated negligent acts/excessive prescribing/incompetence)

13 7. Respondent is subject to disciplinary action under Business and Professions Code
14 section 2234 and/or 2234(b) and/or 2234(c) and/or 2234(d) and/or 725 in that Respondent was
15 grossly negligent and/or committed repeated acts of negligence and/or excessively prescribed
16 and/or was incompetent in the care and treatment of multiple patients. The circumstances are as
17 follows:

18 Patient 1¹

19 8. Patient 1, a 45-year old female, came under Respondent's care and treatment from
20 May 18, 2012, at which time the patient stated that she was taking Valium, 10 mg, BID, for neck
21 and back spasms. The patient gave a history of substance abuse, including alcohol and Vicodin
22 (an opiate), but advised that she had been taking Valium² for at least 10 years and had “never
23 been addicted” to it. Without conducting a full evaluation of the patient's past substance abuse,
24 Respondent prescribed Valium, 10 mg, BID. Over the course of treatment, Respondent would add
25 Klonopin³, .5 mg, and alprazolam⁴, 2 mg, to the patient's regimen of benzodiazepines, as well as

26 ¹ Patient names are withheld to protect privacy rights.

27 ² Valium (diazepam) is a benzodiazepine used to treat anxiety disorders, muscle spasms
28 and other conditions. Misuse of this medication can cause addiction, overdose or death. Valium
should not be used in combination with opioid medications or alcohol.

³ Klonopin (clonazepam) is a benzodiazepine used to treat panic attacks, seizures and
other conditions. Use of this medication along with opioid drugs can have serious side effects.

⁴ Alprazolam, marketed under the trade name Xanax, is a benzodiazepine used to treat
anxiety disorders. Use of this medication in conjunction with other benzodiazepines can cause
dangerous side effects.

1 Ambien⁵, 10 mg, a hypnotic with properties similar to benzodiazepines. There is no medical
2 benefit and potential for significant harmful interactions combining three medications of the same
3 class with a hypnotic. Respondent continued the patient on this regimen through 2018. Review of
4 a Controlled Substance Utilization Review and Evaluation System (CURES) report for the period
5 from May 2017 to May 2018 showed that Respondent was prescribing amounts of these
6 controlled substances such that the patient would be on an average daily dose of 15 mg of
7 Valium, 3.3 mg of alprazolam, 1.3 mg of Klonopin and 7.5 mg of Ambien.

8 9. On August 28, 2012, Patient 1 reported difficulty with focus. Respondent used an
9 adult ADHD self-report survey to assess the patient for possible ADD/ADHD. Based on the
10 results of that survey, Respondent diagnosed the patient with ADD and began prescribing
11 Adderall⁶, 10 mg, BID. The use of amphetamine and other stimulants to treat Attention Deficit
12 Disorder requires careful and thorough evaluation and is relatively contraindicated in a patient
13 with substance abuse and alcohol dependency issues. The 2017-2018 CURES report showed that
14 Respondent was prescribing Adderall and a mixed amphetamine in quantities sufficient to
15 provide the patient with an average daily dose of 94 mg.

16 10. During the period 2012-2019 when Respondent inappropriately prescribed a
17 combination of amphetamine salts, multiple benzodiazepines and a hypnotic to Patient 1,
18 Respondent failed to monitor the patient for possible abuse or diversion of her medications.
19 CURES reports show that while she was under Respondent's care, Patient 1 did resume use of
20 Vicodin. Combining benzodiazepines with an opiate posed the risk of serious side effects for the
21 patient and Respondent should have monitored her drug use via CURES reports to detect abuse
22 and doctor shopping. Given the patient's self-reported history of alcohol and opiate abuse,
23 Respondent should have required periodic urine toxicology screens and required that the patient
24 use only one pharmacy to fill her prescriptions. Respondent failed to maintain appropriate
25

26 ⁵ Ambien (zolpidem) is a hypnotic used to treat insomnia. Use of this medication in
27 conjunction with benzodiazepines may increase side effects such as dizziness, drowsiness,
28 confusion and difficulty concentrating.

⁶ Adderall is a combination medication containing four salts of amphetamine and used in
treatment of attention deficit disorder.

1 boundaries in that Respondent repeatedly accommodated the patient's requests for medications
2 and failed to wean her from them.

3 Patient 2

4 11. Patient 2, a 42 year old female with a complex psychiatric history, began treatment
5 with Respondent on January 28, 2000. Respondent described the patient as catatonic and mute,
6 with suicidal thoughts and auditory hallucinations. Respondent diagnosed the patient with Major
7 Depression, rule out Psychosis. At the first appointment, Respondent prescribed Xanax for
8 anxiety and Prozac for depression. To address the patient's severe, resistant insomnia,
9 Respondent prescribed Ambien and had the patient sign an informed consent for Ambien, 5-10
10 mg; however, Patient 2's use of Ambien equaled or exceeded 25 mg/day over a 20 year period,
11 which dosage Respondent stated was necessary to enable her to sleep in two four-hour shifts. The
12 recommended initial dose for Ambien CR is 6.25 mg for women, which can be increased to 12.5
13 mg if the lower dose is not effective. Higher doses pose the risk of next day impairment. During
14 the 20 year period, Patient 2 exhibited dependency on this hypnotic and resisted all efforts to
15 substitute other drugs and therapies to treat her insomnia.

16 12. In addition to sleep medications, Respondent also prescribed the benzodiazepines
17 Ativan⁷, 6 mg/day, and Klonopin, 4 mg/day. There is no benefit and potential for significant
18 harmful effects combining three benzodiazepines and benzodiazepine-like medications. In
19 addition, between 2015 and 2018, the patient was also being prescribed hydrocodone, an opiate,
20 by another physician, placing her at increased risk of life threatening drug interactions. Only in
21 2019, after many years of high dose benzodiazepine therapy, did Respondent significantly reduce
22 the amount of medications prescribed.

23 Patient 3

24 13. Patient 3, a 17 year old female, came under Respondent's care on January 29, 2013
25 for severe depression, with anxiety, mood swings and bipolar tendencies. Respondent started the
26 patient on Prozac, an antidepressant, and Xanax, .25 mg, as needed for anxiety and panic attacks.

27 ⁷ Ativan (lorazepam) is used to treat anxiety and insomnia. Used in combination with
28 other CNS depressants it may cause respiratory depression. Long-term use also poses a risk for
physical and psychological dependence.

1 In 2014, Respondent added Valium to treat the patient's neck/back spasms. Combining two
2 medications of the same class does not provide significant benefits and potentially can have
3 harmful effects. The patient continued to receive prescriptions for these medications for several
4 years, between 2014 and 2018. Long-term use of these medications poses a risk of patient harm,
5 including dependency, cognitive decline and falls. Benzodiazepines should be used restrictively
6 when treating patients with Bipolar Disorder and prescribing benzodiazepines may be associated
7 with a more severe course of illness.

8 14. In June 2013, Respondent used a psychometric scale to diagnose ADD, after which
9 she began prescribing Adderall, 20 mg, BID, which was later increased to 20 mg, TID.
10 Prescribing benzodiazepines and amphetamines concurrently and on a daily basis causes
11 secondary mood swings and aberrant behaviors that can be mistaken for the patient's underlying
12 condition. Patient 3 reported that her mood swings increased after taking Adderall.

13 15. Although Respondent prescribed drugs with the potential for dependency and abuse,
14 she did not perform routine urine toxicology screens. Patient 3 was using multiple pharmacies to
15 fill her medications, which can be a sign of abuse, but Respondent was not regularly utilizing
16 CURES reports to detect abuse or diversion and did not become aware of this until after the
17 Board began its investigation.

18 Patient 4

19 16. On August 16, 2017, the Board received a CURES report relating to Respondent's
20 overall prescribing. That report revealed that on July 6, 2015 and September 9, 2015, Respondent
21 prescribed Vicodin ES, 300/7.5 mg, #60, to Patient 4. Patient 4 did not receive prescriptions for
22 any psychiatric medications and she resided more than 60 miles from Respondent's office;
23 moreover, the patient had the same surname as Respondent. The Board sent Respondent a
24 subpoena for records relating to her treatment of Patient 4 and Respondent provided a
25 certification that in fact no records existed. Prescribing controlled substances to a family member
26 is below the standard of care.

27 17. Respondent is guilty of unprofessional conduct and Respondent's certificate is subject
28 to disciplinary action based on her gross negligence, repeated negligent acts, excessive

1 prescribing and/or incompetence as set forth above and including, but not limited to, the
2 following:

3 A. Respondent prescribed inappropriate combinations of multiple benzodiazepines for
4 long-term use;

5 B. Respondent inappropriately prescribed benzodiazepines and amphetamines to patients
6 whose substance abuse history and/or psychiatric diagnosis was a contraindication and/or
7 precaution.

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:

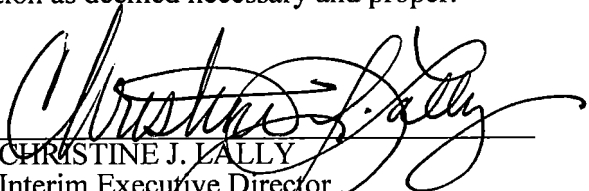
11 1. Revoking or suspending Physician's and Surgeon's Certificate Number G 61477,
12 issued to Kristin Maura Levitan, M.D.;

13 2. Revoking, suspending or denying approval of Kristin Maura Levitan, M.D.'s
14 authority to supervise physician assistants and advanced practice nurses;

15 3. Ordering Kristin Maura Levitan, 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: Jan. 24, 2020


CHRISTINE J. LALLY
Interim Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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22 Levitan Accusation with Client edits.docx
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