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FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO *February 27, 2012*
BY: *J. Melchior* ANALYST

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

12 In the Matter of the Accusation Against:

Case No. 09 2010 211439

13 **HOZAIR SYED, M.D.**
14 **P.O. Box 1139**
15 **Atascadero, CA 93423**

ACCUSATION

16 **Physician's and Surgeon's Certificate**
17 **A111058,**

18 Respondent.
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20 Complainant alleges:

21 **PARTIES**

- 22 1. Linda K. Whitney (Complainant) brings this Accusation solely in her official
23 capacity as the Executive Director of the Medical Board of California (Board).
- 24 2. On or about February 5, 2010, the Board issued Physician's and Surgeon's
25 Certificate Number A 111058 to Hozair Syed, M.D. (Respondent). The Certificate was in full
26 force and effect at all times relevant to the charges brought herein and will expire on October 31,
27 2013, unless renewed.

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JURISDICTION

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

5 4. Section 2227 of the Code provides that a licensee who is found guilty under the
6 Medical Practice Act may have his or her license revoked, suspended for a period not to exceed
7 one year, placed on probation and required to pay the costs of probation monitoring, be publicly
8 reprimanded, or have such other action taken in relation to discipline as the Board deems proper.

9 5. Section 2234 of the Code states:
10 "The Division of Medical Quality¹ shall take action against any licensee who is
11 charged with unprofessional conduct. In addition to other provisions of this article,
12 unprofessional conduct includes, but is not limited to, the following:

13 (a) Violating or attempting to violate, directly or indirectly, assisting in or
14 abetting the violation of, or conspiring to violate any provision of this chapter [Chapter 5, the
15 Medical Practice Act].

16 (b) Gross negligence.

17 (c) Repeated negligent acts . . .

18 (d) Incompetence.

19 (e) The commission of any act involving dishonesty or corruption which is
20 substantially related to the qualifications, functions, or duties of a physician and surgeon.

21 (f) Any action or conduct which would have warranted the denial of a
22 certificate.

23 . . ."

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25 ¹ California Business and Professions Code section 2002, as amended and effective
26 January 1, 2008, provides that, unless otherwise expressly provided, the term "board" as used in
27 the State medical Practice Act (Cal. Bus. & Prof. Code, section 2000, et.seq.) means the "Medical
28 Board of California," and references to the "Division of Medical Quality" and "Division of
Licensing" in the Act or any other provision of law shall be deemed to refer to the Board.

1 6. Unprofessional conduct under California Business and Professions Code
2 section 2234 is conduct which breaches the rules or ethical code of the medical profession, or
3 conduct which is unbecoming to a member in good standing of the medical profession, and which
4 demonstrates an unfitness to practice medicine. (*Shea v. Board of Medical Examiners* (1978) 81
5 Cal.App.3d 564, 575.)

6 7. Section 726 of the Code states:

7 "The commission of any act of sexual abuse, misconduct, or relations with a patient, client,
8 or customer constitutes unprofessional conduct and grounds for disciplinary action for any person
9 licensed under this division, under any initiative act referred to in this division and under Chapter
10 17 (commencing with Section 9000) of Division 3."

11 **FIRST CAUSE FOR DISCIPLINE**

12 **(Sexual Abuse, Misconduct and Relations with a Patient)**

13 8. Respondent is subject to discipline under section 726 of the Code in that he
14 engaged in sexual abuse, misconduct and relations with his patient R.D., as more particularly
15 alleged hereinafter:

16 9. Patient R.D. first sought evaluation at the Riverside County Mental Health
17 Clinic (RCMHC) clinic in Hemet on or about July 27, 2010, when she underwent an intake
18 evaluation. At that time, patient R.D. was 19-years old, married and the mother of two children, a
19 16-month old son and a 4-month old daughter. Her husband had just left her and she was under a
20 great deal of financial and emotional stress.

21 10. After an intake evaluation at RCMHC, Respondent initially evaluated patient
22 R.D. on or about August 12, 2010. He diagnosed her with Major Depressive Episode, which was
23 recurrent and of moderate severity and Panic Attacks, without Agoraphobia. Her Global
24 Assessment of Functioning (GAF) was scored by Respondent as 36, which indicates according to
25 DSM-IV "Some impairment in reality testing or communication OR major impairment in several
26 areas such as work or school, family relations, judgment, thinking or mood." Respondent
27 prescribed the antidepressant medication Zoloft 25 mg once a day for patient R.D.

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1 11. Patient R.D. was next seen by Respondent on or about September 9, 2010. At
2 this visit, Respondent noted that patient R.D. was "still feeling hopeless, worthless" with some
3 suicidal ideation and panic attacks." The medication Zoloft was increased to 75 mg and patient
4 R.D. was scheduled to return in three weeks.

5 12. The next appointment with Respondent was on or about October 7, 2010. At
6 this session, Respondent noted that "she's feeling depressed, down, as her husband left her a week
7 ago. Patient R.D. also lost job last week." He recommended increasing the dose of Zoloft to 100
8 mg and scheduling an appointment in one week.

9 13. The next appointment was on or about October 14, 2010. At this session,
10 Respondent recorded that patient R.D. "is doing good at this time and meds working fine, but
11 feeling low energy." He recommended continuing the medication as is, and scheduling an
12 appointment in two weeks. This appointment was scheduled for November 4, 2010.

13 14. At one of her appointments in October 2010, Respondent insisted on giving
14 her money. Patient R.D. told him no. While leaving she gave him a friendly hug but he kissed
15 her on the neck. Respondent then put \$40.00 in her purse which was open and sitting on her lap
16 and told Patient R.D. that she was beautiful and he wanted to take her out to dinner. Patient R.D.
17 told Respondent no.

18 15. The evening before her November 4, 2010, appointment with Respondent,
19 Respondent called patient R.D. and said they should meet for lunch. He asked her to give him her
20 address and said he would come to patient R.D.'s house. She said no and said she would meet
21 him somewhere. He asked patient R.D., "Why don't you want me to come to your house? Is it
22 dirty?" Patient R.D. asked Respondent where he wanted to meet and he told her that he wanted to
23 go to a small restaurant. She suggested the mall. He offered to pick her up at her home. Patient
24 R.D. told him no and that she would meet him at the mall. Respondent asked patient R.D. if she
25 lived alone. She told him that she lived with her kids. Patient R.D. asked him why he was asking
26 her these questions. Respondent told her that he was just a very good friend and cares about her.
27 Respondent also told patient R.D. that he thinks about her a lot and that she is a very beautiful
28 girl. Patient R.D. said she would meet him at the mall. The morning they were scheduled to

1 meet, Respondent called patient R.D. numerous times asking her if he could come to her house.
2 Patient R.D. declined to have Respondent pick her up. She took public transportation to the mall
3 to meet him.

4 16. Patient R.D. met Respondent at a fast food restaurant at the mall. He offered
5 his food to her to eat. She said no. Respondent asked her, "What, you don't want to eat after
6 me?" During this lunch, Respondent asked patient R.D. how close her parents were from her.
7 She told him down the street. Respondent asked her if she wanted to have fun. Patient R.D.
8 asked him what he meant. Respondent asked her if she would like to go out and have a good time
9 and hang out. Patient R.D. told him no. Respondent told her that he liked to swim and asked her
10 if she wanted to go swimming. Patient R.D. said no. Respondent asked her why she wore flip-
11 flops and told her she needed new clothes. After they were done eating Respondent asked her if
12 she would like him to buy her shoes. She told him no. Respondent insisted that he buy her
13 clothes. Patient R.D. told him no. Respondent told her he would buy her a pair of new jeans.
14 Respondent walked Patient R.D. to a clothes store and they both looked around until patient R.D.
15 found a pair of jeans. Respondent told her to "hold them up to you." Respondent said "those are
16 too big for you. You need a smaller pair of jeans." Patient R.D. stated she wanted the size she
17 was holding. Respondent purchased the jeans and they left the store. He then grabbed her by the
18 waist and pulled her close to him. Respondent also tried to kiss her. She pulled away from him.
19 They walked out of the mall together and he asked her if she wanted a ride. She said no.
20 Respondent then gave patient R.D. a hug and tried to kiss her on the mouth. She pulled away and
21 he told her that she was a very beautiful girl. He tried to kiss her again on the mouth and she
22 pulled away again. Respondent told her that they would do this again and she walked away from
23 him.

24 17. Respondent did not record in patient R.D.'s medical record meeting her at the
25 mall, his conversations with her prior to his November 4, 2010, appointment with patient R.D., or
26 that he gave patient R.D. money at one of her appointments with him.

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1 18. Soon after patient R.D.'s meeting with Respondent at the mall, Patient R.D.
2 told her mother what had happened. Her mother complained to the clinic director regarding
3 Respondent's conduct towards her daughter.

4 19. Patient R.D. did not return for treatment at RCMHC.

5 **SECOND CAUSE FOR DISCIPLINE**

6 **(Gross Negligence)**

7 20. Respondent is further subject to disciplinary action under sections 2227 and
8 2234, as defined by section 2234, subdivision (b), of the Code in that he committed gross
9 negligence in his care and treatment of patient R.D., as more particularly alleged hereinafter:

10 21. Paragraphs 9 through 19, above, are hereby incorporated by reference and re-
11 alleged as if fully set forth herein.

12 22. Respondent committed gross negligence in his care and treatment of patient
13 R.D. which included, but was not limited to, the following:

14 (a) On or about November 4, 2010, Respondent met patient R.D. not at his office but
15 at a mall;

16 (b) On or about October 2010, Respondent gave money to patient R.D.;

17 (c) On or about November 3, 2010, Respondent called patient R.D. repeatedly and
18 sought to come to her house; and

19 (d) On or about November 4, 2010, Respondent grabbed patient R.D. around the
20 waist and repeatedly attempted to kiss her.

21 **THIRD CAUSE FOR DISCIPLINE**

22 **(Repeated Negligent Acts)**

23 23. Respondent is further subject to disciplinary action under sections 2227 and
24 2234, as defined by section 2234, subdivision (c), of the Code, in that he committed repeated
25 negligent acts in his care and treatment of patient R.D., as more particularly alleged hereinafter:

26 24. Paragraphs 9 through 22, above, are hereby incorporated by reference and re-
27 alleged as if fully set forth herein.

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1 **FOURTH CAUSE FOR DISCIPLINE**

2 (Failure to Maintain Adequate or Accurate Medical Records)

3 25. Respondent is further subject to disciplinary action under sections 2227 and
4 2234, as defined by section 2266, of the Code, in that respondent failed to maintain adequate and
5 accurate records in regards to his care and treatment of patient R.D., as more particularly alleged
6 hereinafter.

7 26. Paragraphs 9 through 19, above, are hereby incorporated by reference and re-
8 alleged as if fully set forth herein.

9 **FIFTH CAUSE FOR DISCIPLINE**

10 **(General Unprofessional Conduct)**

11 27. Respondent has further subjected his Physician's and Surgeon's Certificate No.
12 A 111058 to disciplinary action under sections 2227 and 2234 of the Code in that he has engaged
13 in conduct which breaches the rules or ethical code of the medical profession, or conduct which is
14 unbecoming to a member in good standing of the medical profession, and which demonstrates an
15 unfitness to practice medicine, as more particularly alleged hereinafter:

16 28. Paragraphs 9 through 26, above, are hereby incorporated by reference and re-
17 alleged as if fully set forth herein.

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1 **PRAYER**

2 **WHEREFORE**, Complainant requests that a hearing be held on the matters herein
3 alleged, and that following the hearing, the Board issue a decision:

4 1. Revoking or suspending Physician's and Surgeon's Certificate A111058, issued
5 to respondent Hozair Syed, M.D.;

6 2. Revoking, suspending or denying approval of respondent Hozair Syed, M.D.'s
7 authority to supervise physician's assistants, pursuant to section 3527 of the Code;

8 3. If placed on probation, ordering respondent Hozir Syed, M.D. to pay the costs of
9 probation monitoring; and

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

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12 DATED: February 27, 2012

13 
14 LINDA K. WHITNEY
15 EXECUTIVE DIRECTOR
16 MEDICAL BOARD OF CALIFORNIA
17 STATE OF CALIFORNIA
18 *Complainant*