

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

In the Matter of the Accusation Against:)
)
)
MICHAEL AZMY GHALY, M.D.) Case No. 8002015015171
)
Physician's and Surgeon's)
Certificate No. A 95429)
)
Respondent.)
_____)

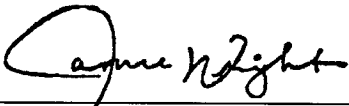
DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Medical Board of California, Department of Consumer Affairs, State of California, as its Decision in this matter.

This Decision shall become effective at 5:00 p.m. on May 25, 2017.

IT IS SO ORDERED April 25, 2017.

MEDICAL BOARD OF CALIFORNIA

By: 
Jamie Wright, J.D., Chair
Panel A

1 XAVIER BECERRA
Attorney General of California
2 JANE ZACK SIMON
Supervising Deputy Attorney General
3 GREG W. CHAMBERS
Deputy Attorney General
4 State Bar No. 237509
455 Golden Gate Avenue, Suite 11000
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Attorneys for Complainant
7

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

10 In the Matter of the Accusation Against:

Case No. 800-2015-015171

11 **MICHAEL A. GHALY, M.D.**

12 **433 Turk Street**
13 **San Francisco, CA 94114**

14 **Physician's and Surgeon's Certificate No.**
15 **A95429**

16 Respondent.

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

17
18 In the interest of a prompt and speedy settlement of this matter, consistent with the public
19 interest and the responsibility of the Medical Board of California of the Department of Consumer
20 Affairs, the parties hereby agree to the following Stipulated Settlement and Disciplinary Order
21 which will be submitted to the Medical Board of California for approval and adoption as the final
22 disposition of the Accusation.

23 PARTIES

24 1. Kimberly Kirchmeyer ("Complainant") is the Executive Director of the Medical
25 Board of California ("Board"). She brought this action solely in her official capacity and is
26 represented in this matter by Xavier Becerra, Attorney General of the State of California, by Greg
27 W. Chambers, Deputy Attorney General.
28

1 CULPABILITY

2 9. Respondent admits the truth of each and every charge and allegation in Accusation
3 No. 800-2015-015171.

4 10. Respondent agrees that his Physician's and Surgeon's Certificate is subject to
5 discipline and he agrees to be bound by the Board's probationary terms as set forth in the
6 Disciplinary Order below.

7 CONTINGENCY

8 11. This stipulation shall be subject to approval by the Medical Board of California.
9 Respondent understands and agrees that counsel for Complainant and the staff of the Medical
10 Board of California may communicate directly with the Board regarding this stipulation and
11 settlement, without notice to or participation by Respondent. By signing the stipulation,
12 Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the
13 stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this
14 stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of
15 no force or effect, except for this paragraph, it shall be inadmissible in any legal action between
16 the parties, and the Board shall not be disqualified from further action by having considered this
17 matter.

18 12. The parties understand and agree that Portable Document Format ("PDF") and
19 facsimile copies of this Stipulated Settlement and Disciplinary Order, including PDF and
20 facsimile signatures thereto, shall have the same force and effect as the originals.

21 13. In consideration of the foregoing admissions and stipulations, the parties agree that
22 the Board may, without further notice or formal proceeding, issue and enter the following
23 Disciplinary Order:

24 **DISCIPLINARY ORDER**

25 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A95429 issued
26 to Respondent Michael A. Ghaly, M.D. is revoked. However, the revocation is stayed and
27 Respondent is placed on probation for thirty-five (35) months on the following terms and
28 conditions.

1 1. PRESCRIBING PRACTICES COURSE. Within sixty (60) calendar days of the
2 effective date of this Decision, respondent shall enroll in a course in prescribing practices
3 approved in advance by the Board or its designee. Respondent shall provide the approved
4 course provider with any information and documents that the approved course provider may
5 deem pertinent. Respondent shall participate in and successfully complete the classroom
6 component of the course not later than six (6) months after respondent's initial enrollment.
7 Respondent shall successfully complete any other component of the course within one (1)
8 year of enrollment. The prescribing practices course shall be at respondent's expense and
9 shall be in addition to the Continuing Medical Education ("CME") requirements for renewal
10 of licensure.

11 A prescribing practices course taken after the acts that gave rise to the charges in the
12 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board
13 or its designee, be accepted towards the fulfillment of this condition if the course would have
14 been approved by the Board or its designee had the course been taken after the effective date of
15 this Decision.

16 Respondent shall submit a certification of successful completion to the Board or its
17 designee not later than fifteen (15) calendar days after successfully completing the course, or not
18 later than fifteen (15) calendar days after the effective date of the Decision, whichever is later.

19 2. MEDICAL RECORD KEEPING COURSE. Within sixty (60) calendar days of the
20 effective date of this Decision, Respondent shall enroll in a course in medical record keeping
21 approved in advance by the Board or its designee. Respondent shall provide the approved
22 course provider with any information and documents that the approved course provider may
23 deem pertinent. Respondent shall participate in and successfully complete the classroom
24 component of the course not later than six (6) months after respondent's initial enrollment.
25 Respondent shall successfully complete any other component of the course within one (1)
26 year of enrollment. The medical record keeping course shall be at respondent's expense and
27 shall be in addition to the CME requirements for renewal of licensure.

28 A medical record keeping course taken after the acts that gave rise to the charges in the

1 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board
2 or its designee, be accepted towards the fulfillment of this condition if the course would have
3 been approved by the Board or its designee had the course been taken after the effective date of
4 this Decision.

5 Respondent shall submit a certification of successful completion to the Board or its
6 designee not later than fifteen (15) calendar days after successfully completing the course, or not
7 later than fifteen (15) calendar days after the effective date of the Decision, whichever is later.

8 3. PROFESSIONALISM PROGRAM (ETHICS COURSE). Within sixty (60) calendar
9 days of the effective date of this Decision, Respondent shall enroll in a professionalism program,
10 that meets the requirements of Title 16, California Code of Regulations (“CCR”) section 1358.1.
11 Respondent shall participate in and successfully complete that program. Respondent shall
12 provide any information and documents that the program may deem pertinent. Respondent shall
13 successfully complete the classroom component of the program not later than six (6) months after
14 Respondent’s initial enrollment, and the longitudinal component of the program not later than the
15 time specified by the program, but no later than one (1) year after attending the classroom
16 component. The professionalism program shall be at Respondent’s expense and shall be in
17 addition to the CME requirements for renewal of licensure.

18 A professionalism program taken after the acts that gave rise to the charges in the
19 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board
20 or its designee, be accepted towards the fulfillment of this condition if the program would have
21 been approved by the Board or its designee had the program been taken after the effective date of
22 this Decision.

23 Respondent shall submit a certification of successful completion to the Board or its
24 designee not later than fifteen (15) calendar days after successfully completing the program or not
25 later than fifteen (15) calendar days after the effective date of the Decision, whichever is later.

26 4. NOTIFICATION. Within seven (7) days of the effective date of this Decision, the
27 Respondent shall provide a true copy of this Decision and Accusation to the Chief of Staff or the
28 Chief Executive Officer at every hospital where privileges or membership are extended to

1 Respondent, at any other facility where Respondent engages in the practice of medicine,
2 including all physician and locum tenens registries or other similar agencies, and to the Chief
3 Executive Officer at every insurance carrier which extends malpractice insurance coverage to
4 Respondent. Respondent shall submit proof of compliance to the Board or its designee within
5 fifteen (15) calendar days.

6 This condition shall apply to any change(s) in hospitals, other facilities or insurance carrier.

7 5. SUPERVISION OF PHYSICIAN ASSISTANTS. During probation, Respondent is
8 prohibited from supervising physician assistants.

9 6. OBEY ALL LAWS. Respondent shall obey all federal, state and local laws, all rules
10 governing the practice of medicine in California and remain in full compliance with any court
11 ordered criminal probation, payments, and other orders.

12 7. QUARTERLY DECLARATIONS. Respondent shall submit quarterly declarations
13 under penalty of perjury on forms provided by the Board, stating whether there has been
14 compliance with all the conditions of probation.

15 Respondent shall submit quarterly declarations not later than 10 calendar days after the end
16 of the preceding quarter.

17 8. GENERAL PROBATION REQUIREMENTS.

18 Compliance with Probation Unit

19 Respondent shall comply with the Board's probation unit and all terms and conditions of
20 this Decision.

21 Address Changes

22 Respondent shall, at all times, keep the Board informed of Respondent's business and
23 residence addresses, email address (if available), and telephone number. Changes of such
24 addresses shall be immediately communicated in writing to the Board or its designee. Under no
25 circumstances shall a post office box serve as an address of record, except as allowed by Business
26 and Professions Code section 2021(b).

27 Place of Practice

28 Respondent shall not engage in the practice of medicine in Respondent's or patient's place

1 of residence, unless the patient resides in a skilled nursing facility or other similar licensed
2 facility.

3 License Renewal

4 Respondent shall maintain a current and renewed California physician's and surgeon's
5 license.

6 Travel or Residence Outside California

7 Respondent shall immediately inform the Board or its designee, in writing, of travel to any
8 areas outside the jurisdiction of California which lasts, or is contemplated to last, more than thirty
9 (30) calendar days.

10 In the event Respondent should leave the State of California to reside or to practice
11 Respondent shall notify the Board or its designee in writing thirty (30) calendar days prior to the
12 dates of departure and return.

13 9. INTERVIEW WITH THE BOARD OR ITS DESIGNEE. Respondent shall be
14 available in person upon request for interviews either at Respondent's place of business or at the
15 probation unit office, with or without prior notice throughout the term of probation.

16 10. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or
17 its designee in writing within fifteen (15) calendar days of any periods of non-practice lasting
18 more than thirty (30) calendar days and within fifteen (15) calendar days of Respondent's return
19 to practice. Non-practice is defined as any period of time Respondent is not practicing medicine
20 in California as defined in Business and Professions Code sections 2051 and 2052 for at least
21 forty (40) hours in a calendar month in direct patient care, clinical activity or teaching, or other
22 activity as approved by the Board. All time spent in an intensive training program which has
23 been approved by the Board or its designee shall not be considered non-practice. Practicing
24 medicine in another state of the United States or Federal jurisdiction while on probation with the
25 medical licensing authority of that state or jurisdiction shall not be considered non-practice. A
26 Board-ordered suspension of practice shall not be considered as a period of non-practice.

27 In the event Respondent's period of non-practice while on probation exceeds 18 calendar
28 months, Respondent shall successfully complete a clinical training program that meets the criteria

1 of Condition 18 of the current version of the Board’s “Manual of Model Disciplinary Orders and
2 Disciplinary Guidelines” prior to resuming the practice of medicine.

3 Respondent’s period of non-practice while on probation shall not exceed two (2) years.

4 Periods of non-practice will not apply to the reduction of the probationary term.

5 Periods of non-practice will relieve Respondent of the responsibility to comply with the
6 probationary terms and conditions with the exception of this condition and the following terms
7 and conditions of probation: Obey All Laws; and General Probation Requirements.

8 11. COMPLETION OF PROBATION. Respondent shall comply with all financial
9 obligations (e.g., restitution, probation costs) not later than one-hundred twenty (120) calendar
10 days prior to the completion of probation. Upon successful completion of probation,
11 Respondent’s certificate shall be fully restored.

12 12. VIOLATION OF PROBATION. Failure to fully comply with any term or condition
13 of probation is a violation of probation. If Respondent violates probation in any respect, the
14 Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and
15 carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke Probation,
16 or an Interim Suspension Order is filed against Respondent during probation, the Board shall have
17 continuing jurisdiction until the matter is final, and the period of probation shall be extended until
18 the matter is final.

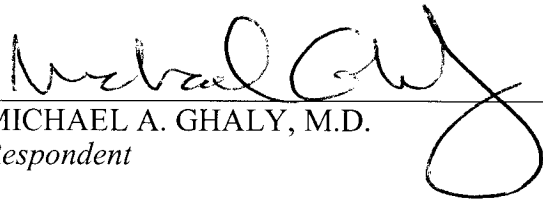
19 13. LICENSE SURRENDER. Following the effective date of this Decision, if
20 Respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy
21 the terms and conditions of probation, Respondent may request to surrender his or her license.
22 The Board reserves the right to evaluate Respondent’s request and to exercise its discretion in
23 determining whether or not to grant the request, or to take any other action deemed appropriate
24 and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent
25 shall within fifteen (15) calendar days deliver Respondent’s wallet and wall certificate to the
26 Board or its designee and Respondent shall no longer practice medicine. Respondent will no
27 longer be subject to the terms and conditions of probation. If Respondent re-applies for a medical
28 license, the application shall be treated as a petition for reinstatement of a revoked certificate.

1 14. PROBATION MONITORING COSTS. Respondent shall pay the costs associated
2 with probation monitoring each and every year of probation, as designated by the Board, which
3 may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of
4 California and delivered to the Board or its designee no later than January 31 of each calendar
5 year.

6 ACCEPTANCE

7 I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the
8 stipulation and the effect it will have on my Physician's and Surgeon's Certificate. I enter into
9 this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and
10 agree to be bound by the Decision and Order of the Medical Board of California.

11
12 DATED: 3/29/17


13 MICHAEL A. GHALY, M.D.
14 Respondent

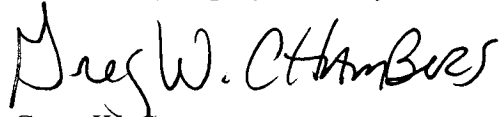
15 ENDORSEMENT

16 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
17 submitted for consideration by the Medical Board of California.

18 Dated: 3/30/2017

19 Respectfully submitted,

20 XAVIER BECERRA
21 Attorney General of California
22 JANE ZACK SIMON
23 Supervising Deputy Attorney General


24 GREG W. CHAMBERS
25 Deputy Attorney General
26 Attorneys for Complainant

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Exhibit A

Accusation No. 800-2015-015171

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Attorneys for Complainant

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO Dec. 1 20 16
BY R. Firdaus ANALYST

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

In the Matter of the Accusation Against:

Michael A. Ghaly, M.D.
433 Turk Street
San Francisco, CA 94114

Physician's and Surgeon's Certificate
No. A95429,

Respondent.

Case No. 800-2015-015171
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 May 10, 2006, the Medical Board issued Physician's and Surgeon's Certificate Number A95429 to Michael A. Ghaly, 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, 2018, unless renewed.

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.

1 4. Section 2234 of the Code, states:

2 “The board shall take action against any licensee who is charged with unprofessional
3 conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not
4 limited to, the following:

5 “(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the
6 violation of, or conspiring to violate any provision of this chapter.

7 “. . . .”

8 5. Section 2238 of the Code provides, in pertinent part, that a violation of “any of the
9 statutes or regulations of this state regulating dangerous drugs or controlled substances constitutes
10 unprofessional conduct.”

11 6. Section 2242, subdivision (a), of the Code provides, in pertinent part, that
12 “[p]rescribing, dispensing, or furnishing dangerous drugs as defined in Section 4022 without an
13 appropriate prior examination and a medical indication, constitutes unprofessional conduct.”

14 7. Section 2261 of the Code provides that “[k]nowingly making or signing any
15 certificate or other document directly or indirectly related to the practice of medicine or podiatry
16 which falsely represents the existence or nonexistence of a state of facts, constitutes
17 unprofessional conduct.”

18 8. Section 2266 of the Code provides that “[t]he failure of a physician and surgeon to
19 maintain adequate and accurate records relating to the provision of services to their patients
20 constitutes unprofessional conduct.”

21 9. Health and Safety Code section 11157 provides that “[n]o person shall issue a
22 prescription that is false or fictitious in any respect.”

23 **FACTS**

24 10. At all times relevant to this matter, Respondent was licensed and practicing medicine
25 in San Francisco, California.

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27
28

1 11. Respondent visited H.K.,¹ a close friend of his, in London near the end of June 2015.
2 Respondent said that H.K. was a hemophiliac, chronically ill, and in significant pain at the time.

3 12. On or about July 1, 2015, H.K., who was still in London, contacted Respondent and
4 asked him to prescribe Norco² 10/325 and Adderall³ 30 mg to A.S., a nurse friend of H.K.'s, who
5 would then deliver the drugs to H.K. in London for his use. He sent Respondent a photo of the
6 bottles of the pills for which he wanted prescriptions.

7 13. On July 2, 2015, Respondent wrote a prescription for 180 tablets of Norco 10/325 and
8 a prescription for 90 tablets of Adderall 30 mg for A.S., whom he had never met. When the
9 pharmacist at Walgreen's refused to fill the prescriptions when A.S. attempted to pick them up on
10 July 8, 2015, A.S. contacted Respondent who met her in the parking lot of the pharmacy.
11 Respondent and A.S. went into the pharmacy together and the pharmacist filled the Norco
12 prescription for 60 tablets instead of the 180 it was written for and continued to refuse to fill the
13 Adderall prescription.

14 14. Respondent wrote the prescriptions for A.S. before meeting her, intending them for
15 delivery to H.K. He did not create a medical chart for A.S. and did not maintain any medical
16 records for A.S.

17 15. On July 2, 2015, Respondent wrote a prescription for 90 tablets of Adderall 30 mg for
18 H.K. which A.S. picked up from the pharmacy on July 9, 2015. While Respondent had seen H.K.
19 in London several days before writing the prescription, he did not conduct an examination of
20 H.K., did not create a medical chart for H.K., and did not maintain any medical records for H.K.
21 He could not articulate a medical basis for prescribing Adderall for H.K.

22 ¹ The "patients" are designated in this document as H.K. and A.S. to protect their privacy.
23 Respondent knows the names of the patients and can confirm their identities through discovery.

24 ² Norco is a trade name for hydrocodone bitartrate, an opioid analgesic, in combination
25 with acetaminophen. It is a Schedule II controlled substance and narcotic and is a dangerous drug
26 as defined in section 4022. Hydrocodone can produce drug dependence and, therefore, has the
27 potential for being abused. It has a CNS depressant effect. The strength of a tablet is indicated by
28 mg of hydrocodone/mg of acetaminophen, e.g., 10/325 reflects 10 mg of hydrocodone and 325
mg of acetaminophen. At high levels, acetaminophen can cause liver toxicity and even death.
The maximum 24 hour dosage of acetaminophen should not exceed 4000 mg.

³ Adderall is a trade name for a single-entity amphetamine product. It is indicated for the
treatment of Attention Deficit Hyperactivity Disorder and Narcolepsy. Adderall is a Schedule II
controlled substance and narcotic and is a dangerous drug as defined in section 4022.

1 16. On September 17, 2015, Respondent wrote a second prescription for 90 tablets of
2 Adderall 30 mg for H.K. This prescription was picked up by an unknown person on September
3 29, 2015.

4 **FIRST CAUSE FOR DISCIPLINE**

5 **(Violation of Drug Laws, False Prescription)**

6 17. Respondent is guilty of unprofessional conduct and subject to disciplinary action
7 under section 2234 (unprofessional conduct), section 2238 (violation of drug laws), section 2261
8 (false medical records) of the Code and section 11157 of the Health and Safety Code (false
9 prescription) in that Respondent engaged in the conduct described above including, but not
10 limited to, writing prescriptions for controlled substances Norco and Adderall in A.S.'s name
11 intending them not for A.S. but for H.K.

12 **SECOND CAUSE FOR DISCIPLINE**

13 **(Prescribing without Prior Examination)**

14 18. Respondent is guilty of unprofessional conduct and subject to disciplinary action
15 under section 2234 (unprofessional conduct) and section 2242, subdivision (a) (prescribing
16 without appropriate prior examination and medical indication), in that Respondent engaged in the
17 conduct described above including, but not limited to, the following:

18 A. Respondent wrote prescriptions for controlled substances Norco and Adderall in
19 A.S.'s name intending them not for A.S. but for H.K.

20 B. Respondent wrote prescriptions for H.K. for controlled substance Adderall.

21 C. Respondent failed to examine either A.S. or H.K. before prescribing the controlled
22 substances Norco and Adderall.

23 D. Respondent prescribed controlled substances Norco and Adderall for H.K. without
24 medical indication.

25 **THIRD CAUSE FOR DISCIPLINE**

26 **(Failure to Maintain Medical Records)**

27 19. Respondent is guilty of unprofessional conduct and subject to disciplinary action
28 under section 2234 (unprofessional conduct) and section 2266 (inadequate records) of the Code in

1 that Respondent engaged in the conduct described above including, but not limited to, the
2 following:

3 A. Respondent wrote prescriptions for controlled substances Norco and Adderall for
4 H.K. in A.S.'s name and prescriptions for Adderall for H.K. in his own name.

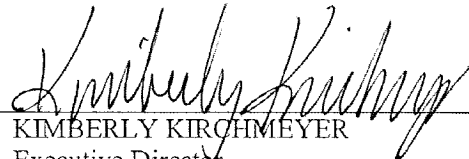
5 B. Respondent failed to maintain medical records for either A.S. or H.K.

6 **PRAYER**

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

- 9 1. Revoking or suspending Physician's and Surgeon's Certificate Number A95429,
10 issued to Michael A. Ghaly, M.D.;
- 11 2. Revoking, suspending or denying approval of Michael A. Ghaly, M.D.'s authority to
12 supervise physician assistants, pursuant to section 3527 of the Code;
- 13 3. Ordering Michael A. Ghaly, M.D., if placed on probation, to pay the Board the costs
14 of probation monitoring; and
- 15 4. Taking such other and further action as deemed necessary and proper.

16
17 DATED: December 1, 2016



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

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