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FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO *Nov. 14* 20 *17*
BY *[Signature]* ANALYST

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. 800-2017-029116

13 **SAM A. CASTRO, M.D.**
333 West Shaw Avenue, Suite 7
Fresno, CA 93704

A C C U S A T I O N

14 **Physician's and Surgeon's Certificate**
15 **No. C 15434,**

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

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

23 2. On or about December 7, 1953, the Medical Board issued Physician's and Surgeon's
24 Certificate Number C 15434 to Sam A. Castro, 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 expired on April 30, 2017.

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JURISDICTION

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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 unless otherwise indicated.

4 4. Section 2227 of the Code states:

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

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

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

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

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

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

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

24 5. Section 2234 of the Code, states:

25 “The board shall take action against any licensee who is charged with unprofessional
26 conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not
27 limited to, the following:
28

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

3 “(b) Gross negligence.

4 “(c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or
5 omissions. An initial negligent act or omission followed by a separate and distinct departure from
6 the applicable standard of care shall constitute repeated negligent acts.

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

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

14 “(d) Incompetence.

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

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

18 “(g) The practice of medicine from this state into another state or country without meeting
19 the legal requirements of that state or country for the practice of medicine. Section 2314 shall not
20 apply to this subdivision. This subdivision shall become operative upon the implementation of the
21 proposed registration program described in Section 2052.5.

22 “(h) The repeated failure by a certificate holder, in the absence of good cause, to attend and
23 participate in an interview by the board. This subdivision shall only apply to a certificate holder
24 who is the subject of an investigation by the board.”

25 6. Section 2266 of the Code states: “The failure of a physician and surgeon to maintain
26 adequate and accurate records relating to the provision of services to their patients constitutes
27 unprofessional conduct.”

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1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Gross Negligence)**

3 7. Respondent Sam A. Castro, M.D. is subject to disciplinary action under section 2234,
4 subdivision (b), in that he engaged in acts amounting to gross negligence. The circumstances are
5 as follows:

6 8. On or about July 20, 2016, Rehana Aziz, M.D., presented to Respondent for the first
7 time. At the time, Dr. Aziz was pending a hearing on a Petition for Interim Suspension Order
8 regarding matters that ultimately resulted in professional discipline.¹ Respondent generated no
9 notes regarding this encounter, but prescribed a 30 day supply of Adderall² to Dr. Aziz.

10 Respondent completed a billing form for this encounter, on which he circled "Adjustment
11 Disorder with Mixed Anxiety and Depressed Mood" from all the available diagnoses on the form.

12 9. On or about July 27, 2016, Respondent documented a note which stated, in its
13 entirety, "Problems with license because of self-prescribing of Adderall. Will have hearing with
14 Medical Board. I will see her Wednesday, July 27."

15 10. On or about September 2, 2016, Respondent's office sent new patient information
16 forms to Dr. Aziz. A cover letter instructed Dr. Aziz to "please put the date of July 20, 2016 on
17 all forms."

18 11. On or about October 12, 2016, a Board investigator interviewed Respondent. During
19 this interview, Respondent stated that he does not "take many notes," adding that he "found that
20 they're not that helpful and they distract me and the patient when I see them." Respondent
21 explained that he relies on his memory to remember patient information when he sees them on
22 return visits. Respondent stated that this has been his practice for decades. Respondent had no
23 explanation for the diagnosis he circled on the billing form for his encounter with Dr. Aziz.

24 Respondent made inconsistent statements during the interview regarding whether he believed Dr.

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26 ¹ See Medical Board of California case number 800-2014-008996.

27 ² Adderall is a preparation of amphetamine and dextroamphetamine, and is a Schedule II
28 controlled substance. It is commonly prescribed to treat Attention Deficit Hyperactivity Disorder (ADHD.)

1 Aziz had ADHD or not, or another condition which justified the prescription. The investigator
2 asked if Dr. Aziz specifically requested to be prescribed Adderall, and Respondent stated “she
3 must have, otherwise I wouldn’t have prescribed it.” When asked if he thought Adderall was
4 dangerous or subject to abuse, Respondent stated “Not very much.” When asked what steps he
5 took to prevent abuse of the Adderall he prescribed to Dr. Aziz, Respondent stated “I don’t
6 remember.”

7 12. The standard of care is to keep timely, accurate, and legible medical records. A
8 Psychiatric Diagnostic Evaluation note should consist of a chief complaint, a history of the
9 present illness, medical and psychiatric histories, a documentation of current medications and
10 allergies, substance abuse history, legal history, a mental status exam, a thorough assessment, and
11 an appropriate treatment plan. The complete lack of a written note in a psychiatric encounter in
12 which a controlled substance was prescribed is highly unusual and dangerous, and represents an
13 act of gross negligence.

14 13. The standard of care is to diagnose psychiatric conditions using standardized criteria,
15 as delineated in the *Diagnostic and Statistical Manual of Mental Disorders* and/or the
16 *International Classification of Diseases*. Respondent did not use any structured instrument, scale,
17 or standardized diagnostic criteria to reach a consistent conclusion regarding Dr. Aziz’s
18 diagnosis. Respondent appears to have relied upon Dr. Aziz’s self-diagnosis. Prescribing a
19 controlled substance based solely on a patient request has a high likelihood of resulting in abuse.
20 Respondent’s prescription of Adderall to Dr. Aziz without any clear, independently determined
21 diagnosis, represents an act of gross negligence.

22 **SECOND CAUSE FOR DISCIPLINE**

23 **(Repeated Negligent Acts)**

24 14. Respondent Sam A. Castro, M.D. is subject to disciplinary action under section 2234,
25 subdivision (c), in that he engaged in repeated acts of negligence. The circumstances are set forth
26 in paragraphs 8 through 13, above, which are incorporated here by reference.

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1 **THIRD CAUSE FOR DISCIPLINE**

2 **(Incompetence)**

3 15. Respondent Sam A. Castro, M.D. is subject to disciplinary action under section 2234,
4 subdivision (d), in that he exhibited incompetence. The circumstances are set forth in paragraphs
5 8 through 13, above, which are incorporated here by reference. Additional circumstances are as
6 follows:

7 16. During his interview with the investigator, Respondent exhibited complete ignorance
8 of the fact that Adderall is a dangerous medication with a high potential for abuse. There are
9 many studies documenting significant medical and psychiatric morbidity caused by inappropriate
10 Adderall use. Respondent's lack of knowledge regarding the danger inherent to prescribing
11 Adderall demonstrates incompetence.

12 17. During his interview with the investigator, Respondent was asked what steps he
13 usually takes "to detect and prevent abuse of potentially abusable medications." Respondent
14 stated only that he obtains "a complete statement from the patient about what's happening." A
15 patient statement is an insufficient safeguard against abuse, as patients may withhold information
16 or provide false information. The standard of care requires that additional steps be taken,
17 including but not limited obtaining additional information from other reliable sources, obtaining
18 serum and/or urine drug screens, having the patient sign a medication contract, and reviewing
19 CURES.³ Respondent's ignorance of these additional safeguards demonstrates incompetence.

20 **FOURTH CAUSE FOR DISCIPLINE**

21 **(Recordkeeping)**

22 18. Respondent Sam A. Castro, M.D. is subject to disciplinary action under section 2266
23 in that he kept inadequate medical records. The circumstances are set forth in paragraphs 8
24 through 13, which are incorporated here by reference.

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27 ³ The Controlled Substance Utilization Review and Evaluation System (CURES) is a
28 government database which medical practitioners may access, which shows all controlled
substances that have been prescribed and dispensed to a patient in California.

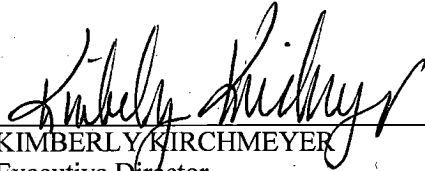
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PRAYER

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 Number C 15434, issued to Sam A. Castro, M.D.;
2. Revoking, suspending or denying approval of Sam A. Castro, M.D.'s authority to supervise physician assistants and advanced practice nurses;
3. Ordering Sam A. Castro, 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: November 14, 2017


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

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