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

13 In the Matter of the Accusation Against:
14 **Gunjan Goel, M.D.**
15 **200 W Arbor Dr. #8893**
16 **San Diego, CA 92103**
17 **Physician's and Surgeon's Certificate**
18 **No. A122057,**
Respondent.

Case No. 800-2014-005548

A C C U S A T I O N

19 Complainant alleges:

20 **PARTIES**

- 21 1. Kimberly Kirchmeyer (complainant) brings this Accusation solely in her official
22 capacity as the Executive Director of the Medical Board of California, Department of Consumer
23 Affairs.
24 2. On or about July 18, 2012, the Medical Board of California (Board) issued
25 Physician's and Surgeon's Certificate No. A122057 to Gunjan Goel, M.D. (respondent).
26 Respondent's Physician's and Surgeon's Certificate No. A122057 was in full force and effect at
27 all times relevant to the charges brought herein and will expire on June 30, 2016, 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 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 the
7 Medical Quality Hearing Panel as designated in Section 11371 of the Government Code, or
8 whose default has been entered, and who is found guilty, or who has entered into a
9 stipulation for disciplinary action with the division, may, in accordance with the provisions
10 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 year
13 upon order of the board.

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

16 “(4) Be publicly reprimanded by the board.

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

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

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

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

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

“...”

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

7. Section 2238 of the Code states:

“A violation of any federal statute or federal regulation or any of the statutes or regulations of this state regulating dangerous drugs or controlled substances constitutes unprofessional conduct.”

8. Section 2239 of the Code states, in pertinent part:

“(a) The use or prescribing for or administering to himself or herself, of any controlled substance; or the use of any of the dangerous drugs specified in Section 4022, or of alcoholic beverages, to the extent, or in such a manner as to be dangerous or injurious to the licensee, or to any other person or to the public, or to the extent that such use impairs the ability of the licensee to practice medicine safely or more than one misdemeanor or any felony involving the use, consumption, or self administration of any of the substances referred to in this section, or any combination thereof, constitutes unprofessional conduct. The record of the conviction is conclusive evidence of such unprofessional conduct.

“...”

9. Section 11170 of the Health and Safety Code states, “No person shall prescribe, administer, or furnish a controlled substance for himself.”

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1 10. Section 11357 of the Health and Safety Code states, in pertinent part:

2 “...

3 “(b) Except as authorized by law, every person who possesses not more than 28.5
4 grams of marijuana,^[1] other than concentrated cannabis, is guilty of an infraction
5 punishable by a fine of not more than one hundred dollars (\$100).

6 “...”

7 **FIRST CAUSE FOR DISCIPLINE**

8 **(Using or Administering Controlled Substances to Herself)**

9 11. Respondent is subject to disciplinary action under sections 2227 and 2234, as defined
10 by section 2239, subdivision (a), of the Code, in that she has used or administered controlled
11 substances to herself, as more particularly alleged hereinafter:

12 (a) On or about May 29, 2014, the Board’s Central Complaint Unit received a complaint
13 alleging, among other things, that respondent was practicing medicine while under the influence
14 of cannabis, and that she uses it daily, while at work, and on-call.

15 (b) On or about January 16, 2015, Investigator S.B. from the Division of Investigation
16 (DOI) Health Quality Investigation Unit (HQIU), approached respondent in the parking lot of her
17 apartment complex. Investigator S.B. explained to respondent that he was investigating the
18 complaint and inquired whether or not respondent “ingests” marijuana. Respondent replied,
19 “No.” Investigator S.B. then asked respondent if she would provide a hair sample. Respondent
20 then admitted that she sometimes consumes marijuana on her days off. Respondent informed
21 Investigator S.B. that the last time she consumed marijuana was the prior Wednesday. After
22 being given approximately five minutes to speak with an attorney over the phone, respondent
23 returned and agreed to provide a hair sample, but also insisted on providing a urine sample.
24 Investigator S.B. obtained both samples from respondent and then mailed them off that day to be
25 tested for marijuana.

26 _____
27 ¹ Marijuana is a Schedule I controlled substance pursuant to Health and Safety Code section
28 11054, subdivision (d).

1 (c) On or about January 23, 2015, respondent's urine sample revealed negative results for
2 marijuana.

3 (d) On or about February 10, 2015, respondent's hair sample revealed positive results for
4 THC² Metabolite.

5 (e) On or about May 15, 2015, respondent appeared at the DOI HQIU field office for a
6 subject interview. During that interview, respondent admitted consuming marijuana on three (3)
7 to four (4) occasions from approximately July, 2014, through December, 2014. Respondent
8 admitted using marijuana on those occasions socially with friends. Respondent denied having a
9 California State issued medical marijuana identification card.³

10 **SECOND CAUSE FOR DISCIPLINE**

11 **(Violation of State Laws Regulating Dangerous Drugs and/or Controlled Substances)**

12 12. Respondent is further subject to disciplinary action under sections 2227 and 2234, as
13 defined by section 2238, of the Code, in that she has violated a state law or laws regulating
14 dangerous drugs and/or controlled substances, as more particularly alleged hereinafter:

15 (a) Paragraphs 11(a) through (e), above, are hereby incorporated by reference and
16 realleged as if fully set forth herein.

17 (b) Respondent repeatedly administered to herself controlled substances, in violation of
18 section 2239 of the Code, and Health and Safety Code section 11170.

19 (c) Respondent repeatedly possessed marijuana, in violation of Health and Safety Code
20 section 11357.

21 **THIRD CAUSE FOR DISCIPLINE**

22 **(General Unprofessional Conduct)**

23 13. Respondent is further subject to disciplinary action under sections 2227 and 2234 of
24 the Code, in that she has engaged in conduct which breaches the rules or ethical code of the

25 ² THC, or tetrahydrocannabinol, is one of many compounds found in the resin secreted by glands
26 of the marijuana plant.

27 ³ Pursuant to Health and Safety Code section 11362.765, qualified patients who have a medical
28 marijuana identification card are not subject to criminal liability under Health and Safety Code section
11357.

1 medical profession, or conduct which is unbecoming to a member in good standing of the medical
2 profession, and which demonstrates an unfitness to practice medicine, as more particularly
3 alleged in paragraphs 11(a) through (e), above, which are hereby incorporated by reference and
4 realleged as if fully set forth herein.

5 **PRAYER**

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

- 8 1. Revoking or suspending Physician's and Surgeon's Certificate No. A122057, issued
9 to respondent Gunjan Goel, M.D.;
- 10 2. Revoking, suspending or denying approval of respondent Gunjan Goel, M.D.'s
11 authority to supervise physician assistants, pursuant to section 3527 of the Code;
- 12 3. Ordering respondent Gunjan Goel, M.D., if placed on probation, to pay the Board the
13 costs of probation monitoring; and
- 14 4. Taking such other and further action as deemed necessary and proper.

15
16 DATED: August 26, 2015


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

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