

S232197

IN THE SUPREME COURT FOR THE STATE OF CALIFORNIA

---

KIRK KING, SARA KING,

Plaintiffs, Respondents

v.

COMPPARTNERS, INC. and NARESH SHARMA, M.D.,

Defendants, Petitioners.

---

SUPREME COURT  
**FILED**

FEB 15 2017

Jorge Navarrete Clerk

---

Deputy

Court of Appeal Fourth District, Division Two No. E063527

Riverside Superior Court No. RIC 1409797 (Hon. Sharon J. Waters)

---

**REQUEST FOR JUDICIAL NOTICE**

---

LAW OFFICES OF PATRICIA A. LAW

Patricia A. Law (SBN: 163661)

Jonathan A. Falcioni (SBN: 293405)

10837 Laurel St. Suite 101

Rancho Cucamonga, CA 91730

Phone: (951) 683-8320

Fax: (951) 683-8321

[jon@palfirm.com](mailto:jon@palfirm.com)

ARIAS & LOCKWOOD

Christopher D. Lockwood (SBN: 110853)

1881 S. Business Center Drive, Suite 9A

San Bernardino, CA 92408

Phone: (909) 890-0125

Fax: (909) 890-0185

[Christopher.Lockwood@](mailto:Christopher.Lockwood@AriasLockwood.Com)

[AriasLockwood.Com](http://AriasLockwood.Com)

Attorneys for Plaintiffs/Respondents KIRK KING and SARA KING

S232197

IN THE SUPREME COURT FOR THE STATE OF CALIFORNIA

---

KIRK KING, SARA KING,

Plaintiffs, Respondents

v.

COMPPARTNERS, INC. and NARESH SHARMA, M.D.,

Defendants, Petitioners.

---

Court of Appeal Fourth District, Division Two No. E063527

Riverside Superior Court No. RIC 1409797 (Hon. Sharon J. Waters)

---

**REQUEST FOR JUDICIAL NOTICE**

---

LAW OFFICES OF PATRICIA A. LAW  
Patricia A. Law (SBN: 163661)  
Jonathan A. Falcioni (SBN: 293405)  
10837 Laurel St. Suite 101  
Rancho Cucamonga, CA 91730  
Phone: (951) 683-8320  
Fax: (951) 683-8321  
[jon@palfirm.com](mailto:jon@palfirm.com)

ARIAS & LOCKWOOD  
Christopher D. Lockwood (SBN: 110853)  
1881 S. Business Center Drive, Suite 9A  
San Bernardino, CA 92408  
Phone: (909) 890-0125  
Fax: (909) 890-0185  
[Christopher.Lockwood@AriasLockwood.Com](mailto:Christopher.Lockwood@AriasLockwood.Com)

Attorneys for Plaintiffs/Respondents KIRK KING and SARA KING

Plaintiffs/respondents recently became aware of a pending accusation against Dr. Sharma before the Medical Board of California which is directly relevant to the issues presented by this case. The accusation does not include patient names, but the facts stated in the accusation are obviously based on the facts of this case. Plaintiffs request the Court to take judicial notice of the accusation.

The accusation is a matter of public record and was obtained from the website of the Medical Board of California. (See the attached declaration)

The pending accusation is relevant to several issues:

1. It shows that the Medical Board of California considers utilization review to be the practice of medicine.

2. It supports Plaintiffs' contentions concerning Dr. Sharma. The accusation includes:

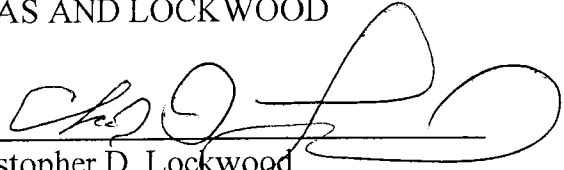
F. Respondent only looked at a few of K.K.'s medical records in reaching his decision. If he had done a comprehensive evaluation, he would have had a better understanding of K.K.'s complex psychiatric history. Respondent's performance of the Utilization Review was an extreme departure from the standard of care.

G. Respondent, an anesthesiologist, had no specific mental health training. Thus, it was an extreme departure from the standard of care for him to review the mental health treatment of K.K.

H. Discontinuing benzodiazepines without tapering was an extreme departure from the standard of care. The standard of care is to taper off these medications, and it is a well known side effect that abrupt discontinuation can cause seizures.

DATED: February 10, 2017

ARIAS AND LOCKWOOD

  
\_\_\_\_\_  
Christopher D. Lockwood  
Attorneys for Plaintiffs

**DECLARATION OF JONATHAN A. FALCIONI**

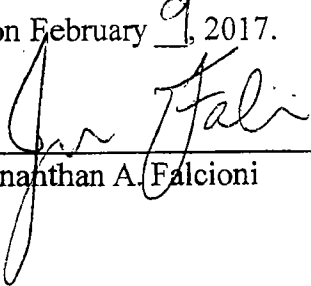
I, Jonathan A. Falcioni, declare:

1. I am an associate with the Law Office of Patricia A. Law, which is co-counsel of record for plaintiffs/respondents Kirk King and Sara King. I make this declaration of my own personal knowledge, and if called as a witness could testify to the following:

2. On or about January 28, 2017 I was provided by another attorney who contacted my office about filing an amicus curiae brief with a copy of the accusation for which judicial notice is sought. Prior to that date I was not aware of the accusation. I provided the accusation to my co-counsel, Mr. Lockwood.

I declare under penalty of perjury that the foregoing is true and correct.

Executed in the County of San Bernardino on February 9, 2017.

  
\_\_\_\_\_  
Jonathan A. Falcioni

**DECLARATION OF CHRISTOPHER D. LOCKWOOD**

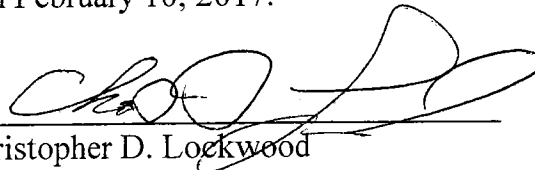
I, Christopher D. Lockwood, declare:

I am a partner with Arias & Lockwood, which is co-counsel of record for plaintiffs/respondents Kirk King and Sara King. I make this declaration of my own personal knowledge, and if called as a witness could testify to the following:

1. I first learned of the existence of the accusation against Dr. Sharma on February 1, 2017 from my co-counsel, Jon Falcioni. I then reviewed the website for the Medical Board of California. Attached hereto are true and correct copies of three printouts I obtained from the website: the license details page for Dr. Sharma, the Administrative Disciplinary Actions page I obtained by clicking on a link on the license details page, and the accusation which I obtained by clicking on the link on the Administrative Disciplinary Actions page.

I declare under penalty of perjury that the foregoing is true and correct.

Executed in the County of San Bernardino on February 10, 2017.

  
\_\_\_\_\_  
Christopher D. Lockwood



### License Details

The Department of Consumer Affairs encourages you to verify the license statuses of any licensees that may appear in a 'Related License' section below. You can verify these licensees by selecting 'New Search' and conducting a new search using the 'Search by Personal or Business Name' option. Please note that the 'Related License' section will only appear below if this license is related to another license. Not all licensees have a related license.

If the License Details below include 'Date of Graduation', the month and date of graduation may not be available. In this instance it will be displayed as '01/01/YYYY' where YYYY represents the year of graduation. Please note that not all license types disclose 'Date of Graduation' on the License Details screen.

- Press "Previous Record" to display the previous license.
- Press "Next Record" to display the next license.
- Press "Search Results" to return to the Search Results list.
- Press "New Search Criteria" to do another search of this type.
- Press "New Search" to start a new search.

License Number: 68991

Current Date: 02/10/2017 11:19 AM

**Name:** SHARMA, NARESH DURGAPRASAD  
**License Type:** Physician and Surgeon A  
**License Status:** License Renewed & Current  
**Secondary Status:** Accusation Filed  
**Expiration Date:** 02/28/2019  
**School Name:** INA69 - GUJARAT UNIVERSITY, N. H. L. MUNICIPAL MEDICAL COLLEGE  
**Date of Graduation:** 03/29/1975  
**Original Issuance Date:** 06/24/1999

#### Addresses

Address of Record (Required)	Address
	3 BRENNER COURT SOMERSET , NJ SOMERSET 08873 United States <a href="#">View on a map</a>

#### Survey Information

The following information is self-reported by the licensee and has not been verified by the Board.

Are you retired?	No
Activities in Medicine	Patient Care - 40+ Hours Teaching - 1-9 Hours
Patient Care Practice Location	Zip: 11203 County: OUT OF STATE
Patient Care Secondary Practice Location	Not identified
Telemedicine Practice Location	Not identified
Telemedicine Secondary Practice Location	Not identified
Current Training Status	Not in Training
Areas of Practice	Anesthesiology - Primary Pain Medicine - Secondary
Board Certifications	American Board of Anesthesiology - Anesthesiology
Postgraduate Training Years	Not identified
Cultural Background	Declined to Disclose
Foreign Language Proficiency	Declined to Disclose
Gender	Declined to Disclose

Public Record Actions

Administrative Disciplinary Actions	Found (1)
Court Order	None found
Misdemeanor Conviction	None found
Probationary License	None found
Felony Conviction	None found
Malpractice Judgment	None found
Hospital Disciplinary Action	None found
License Issued with Public Letter of Reprimand (Non-Disciplinary)	None found
Administrative Citation Issued	None found
Administrative Action Taken by Other State or Federal Government	None found
Arbitration Award	None found
Malpractice Settlements	None found

[Previous Record](#)   [Next Record](#)   [Search Results](#)   [New Search Criteria](#)   [Print](#)

[Back to Top](#) | [Conditions of Use](#) | [Privacy Policy](#) | [Accessibility](#)  
Copyright © 2013 State of California



Department of Consumer Affairs



[About Breeze](#) [FAQ's](#) [Help/Tutorials](#)

[Skip navigation](#)

[Logon](#) | [Contact Us](#)

## License Details - Public Record Actions - Administrative Disciplinary Actions

Press "Back" to return to the previous screen.

Name:	SHARMA, NARESH DURGAPRASAD
License:	A 68991
Case Number:	04 2013235458
Description:	ACCUSATION FILED. THE PHYSICIAN HAS NOT HAD A HEARING OR BEEN FOUND GUILTY OF ANY CHARGES.
Effective Date:	02/03/2016
Document URL:	<a href="http://www2.mbc.ca.gov/BreezePDL/default.aspx?licenseType=A&amp;licenseNumber=68991&amp;name=SHARMA,NARESHDURGAPRASAD">http://www2.mbc.ca.gov/BreezePDL/default.aspx?licenseType=A&amp;licenseNumber=68991&amp;name=SHARMA, NARESH DURGAPRASAD</a>

[Back](#)

[Back to Top](#) | [Conditions of Use](#) | [Privacy Policy](#) | [Accessibility](#)  
Copyright © 2015 State of California



FILED  
STATE OF CALIFORNIA  
MEDICAL BOARD OF CALIFORNIA  
SACRAMENTO February 3 20 16  
BY R. Firdaus ANALYST

1 KAMALA D. HARRIS  
Attorney General of California  
2 E. A. JONES III  
Supervising Deputy Attorney General  
3 CINDY M. LOPEZ  
Deputy Attorney General  
4 State Bar No. 119988  
California Department of Justice  
5 300 So. Spring Street, Suite 1702  
Los Angeles, CA 90013  
6 Telephone: (213) 897-7373  
Facsimile: (213) 897-9395  
7 *Attorneys for Complainant*

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. 04-2013-235458

13 **NARESH D. SHARMA, M.D.**  
3 Brenner Court  
14 Somerset, NJ 08873

**ACCUSATION**

15 Physician's and Surgeon's Certificate  
No. A68991,

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 June 24, 1999, the Medical Board issued Physician's and Surgeon's  
24 Certificate Number A68991 to Naresh D. Sharma, 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 February 28, 2017, unless renewed.

27 **JURISDICTION**

28 3. This Accusation is brought before the Board, under the authority of the following

1 laws. All section references are to the Business and Professions Code unless otherwise indicated.

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

6 5. Section 2234 of the Code, states:

7 "The board shall take action against any licensee who is charged with unprofessional  
8 conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not  
9 limited to, the following:

10 "(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the  
11 violation of, or conspiring to violate any provision of this chapter.

12 "(b) Gross negligence.

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

16 "(1) An initial negligent diagnosis followed by an act or omission medically  
17 appropriate for that negligent diagnosis of the patient shall constitute a single negligent  
18 act.

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

24 "(d) Incompetence.

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

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

28 "(g) The practice of medicine from this state into another state or country without meeting

1 the legal requirements of that state or country for the practice of medicine. Section 2314 shall not  
2 apply to this subdivision. This subdivision shall become operative upon the implementation of the  
3 proposed registration program described in Section 2052.5.

4 "(h) The repeated failure by a certificate holder, in the absence of good cause, to attend and  
5 participate in an interview by the board. This subdivision shall only apply to a certificate holder  
6 who is the subject of an investigation by the board."

### 7 FIRST CAUSE FOR DISCIPLINE

#### 8 (Gross Negligence)

9 6. Respondent Naresh D. Sharma, M.D. is subject to disciplinary action under section  
10 2234, subdivision (b), in that he was grossly negligent in his care and treatment of patient K.K.

11 The circumstances are as follows:

12 A. Patient K.K. suffered a back injury at work in 2008. That year K.K. had a  
13 microdiscectomy, which is a spine surgery intended to take pressure off the nerves and  
14 relieve back pain. However, five months after the surgery he had issues with the disc  
15 again. He became depressed because of the difficulties he was having with his injury.

16 B. Dr. L., a psychiatrist, started treating patient K.K. for depression, anxiety,  
17 and sleeplessness. K.K. was diagnosed with Adjustment Disorder With Mixed Anxiety  
18 and Depressed Mood. He was prescribed Wellbutrin, MS Contin, Norco, Xanax, and  
19 Ambien.

20 C. In July 2013, Respondent did a Utilization Review, which is used in  
21 Workers' Compensation cases to determine whether treatment is medically necessary.  
22 Respondent attempted to call K.K.'s psychiatrist, Dr. L. a few times, but it was over the  
23 July 4 holiday weekend. Respondent never spoke to Dr. L. prior to making his final  
24 decision.

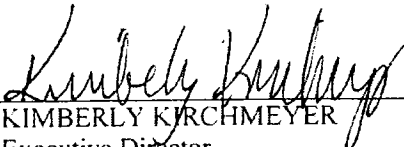
25 D. Respondent denied coverage for Klonopin, Xanax, and Ambien, and cut in  
26 half the dosage for the Wellbutrin. After K.K. abruptly stopped taking the medications, he  
27 had his first seizure on August 7, 2013. The next week on August 14, he had his second  
28 seizure and was taken to the Kaiser ER. The next day, on August 15, he had his third

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 A68991, issued to Naresh D. Sharma, M.D.;
2. Revoking, suspending or denying approval of Naresh D. Sharma, M.D.'s authority to supervise physician assistants, pursuant to section 3527 of the Code;
3. Ordering Naresh D. Sharma, 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: February 3, 2016

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

LA2015603739  
61827340.docx

**PROOF OF SERVICE**

STATE OF CALIFORNIA, COUNTY OF SAN BERNARDINO

I am employed in the County of San Bernardino, State of California. I am over the age of 18 and not a party to the within action. My business address is 1881 S. Business Center Drive, Suite 9A, San Bernardino, California 92408.

On February 13, 2017, I served the following document described as **REQUEST FOR JUDICIAL NOTICE** on all interested parties in this action by placing  a true copy of  the original thereof enclosed in sealed envelopes addressed as follows:

***SEE ATTACHED SERVICE LIST***

(BY MAIL, 1013a, 2015.5 C.C.P.) I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. postal service on that same date with postage thereon fully prepaid at San Bernardino, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

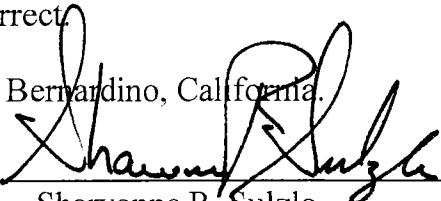
(BY FACSIMILE) The facsimile machine I used complied with Rule 2003(3) and no error was reported by the machine. Pursuant to Rule 2008(e)(4), I caused the machine to print a record of the transmission. I transmitted a copy of the foregoing documents this date via telecopier to the facsimile numbers shown above.

By PERSONAL/HAND DELIVERY: I caused a true copy of said document(s) to be hand-delivered to the addressee(s) via a California registered process server pursuant to C.C.P. §1011.

By FEDERAL EXPRESS: I caused said document(s) to be deposited in a box or other facility regularly maintained by the express service carrier providing overnight delivery pursuant to C.C.P. §1013(c) on that same date at San Bernardino, California in the ordinary course of business.

(STATE) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on February 13, 2017, at San Bernardino, California.

  
\_\_\_\_\_  
Sharvonne R. Sulzle

PARTY	ATTORNEY
<p>Kirk King : Plaintiff and Appellant</p> <p>Sara King : Plaintiff and Appellant</p>	<p>Jonathan Alan Falcioni, Esq.  Patricia A. Law, Esq.  Law Offices of Patricia A. Law  10837 Laurel Street, Suite 101  Rancho Cucamonga, California 91730</p>
<p>CompPartners, Inc. : Defendant and Respondent</p>	<p>William D. Naeve, Esq.  Terry L. Kesinger, Esq.  Murchison &amp; Cumming, LLP  18201 Von Karman Avenue, Suite 1100  Irvine, California 92612</p> <p>Fred Anthony Rowley, Jr., Esq.  Jeffrey Y. Wu, Esq.  Munger Tolles &amp; Olson LLP  355 South Grand Avenue, 35th Floor  Los Angeles, California 90071-1560</p> <p>Joshua S. Meltzer  Munger Tolles &amp; Olson LLP  560 Mission Street, 27th Floor  San Francisco, California 94105</p>
<p>Naresh Sharman : Defendant and Respondent</p>	<p>William D. Naeve, Esq.  Terry L. Kesinger, Esq.  Murchison &amp; Cumming, LLP  18201 Von Karman Avenue, Suite 1100  Irvine, California 92612</p>
<p>California Workers' Compensation Institute : Pub/Depublication Requestor</p>	<p>Michael Aaron Marks  Law Offices of Allweiss &amp; McMurtry  18321 Ventura Boulevard, Suite 500  Tarzana, California 92316</p>
<p>California Applicant Attorneys' Association : Amicus curiae</p>	<p>Bernhard Daniel Baltaxe  Smith &amp; Baltaxe, LLP  825 Van Ness Avenue, Suite 502  San Francisco, California 94109</p>

<p>California Chamber of Commerce : Amicus curiae</p> <p>California Association of Joint Powers Authorities : Amicus curiae</p>	<p>Ellen Sims Langille, Esq. Randall G. Poppy, Esq. Finnegan, Marks, Theofel &amp; Desmond P.O.Box 478011 San Francisco, California 94147-8011</p>
<p>Albertsons Safeway : Pub/Depublication Requestor</p> <p>Schools Insurance Authority : Pub/Depublication Requestor</p> <p>California Self-Insurers Association : Pub/Depublication Requestor</p> <p>American Insurance Association : Pub/Depublication Requestor</p> <p>California Coalition on Workers' Compensation : Pub/Depublication Requestor</p> <p>California Landscape Contractors Association : Pub/Depublication Requestor</p> <p>Employers Group : Pub/Depublication Requestor</p> <p>ACIC Property Casualty Insurers Association : Pub/Depublication Requestor</p> <p>Grimmway Enterprises, Inc. : Pub/Depublication Requestor</p>	<p>Ellen Sims Langille Finnegan Marks Theofel &amp; Desmond P.O. Box 478011 San Francisco, California 94147-8011</p>
<p>National Association of Independent Review Organizations : Amicus curiae</p> <p>ExamWorks, Inc. : Amicus curiae</p>	<p>Raul L. Martinez, Esq. Lewis Brisbois Bisgaard &amp; Smith, LLP 633 West 5th Street, Suite 4000 Los Angeles, California 90071</p>

Coventry Health Care Workers Compensation, Inc. : Amicus curiae	David Didier Johnson, Esq. Crowell & Moring, LLP Three Embarcadero Center, Suite 2600 San Francisco, California 94111
County of Los Angeles : Amicus curiae	Derrick M. Au, Esq. Office of the County Counsel County of Los Angeles 350 S. Figueroa Street, Suite 601 Los Angeles, California 90071
California Workers' Compensation Institute : Amicus curiae  American Insurance Association : Amicus curiae	Michael A. Marks, Esq. Law Offices of Allweiss & McMurtry 18321 Ventura Boulevard, Suite 500 Tarzana, California 91356
The National Council of Self-Insurers : Amicus curiae  Property Casualty Insurers Association of America (PCI) : Amicus curiae	Randall G. Poppy, Esq. Finnegan, Marks, Theofel & Desmond P.O. Box 478011 San Francisco, California 94147-8011
The Civil Justice Association of California : Amicus curiae	Fred J. Hiestand, Esq. Attorney at Law 3418 Third Avenue, Suite 1 Sacramento, California 95817
George Parisotto : Amicus curiae	Mi K Kim Department of Industrial Relations Office of the Director, Legal Unit 1515 Clay Street, Suite 701 Oakland, California 94612  Yvonne Marie Hauscarriague Department of Industrial Relations Division of Workers' Compensation 1515 Clay Street, 18th Floor Oakland, California 94612
California Medical Association : Amicus curiae	Long Xuan Do, Esq. Center for Legal Affairs California Medical Association 1201 J Street, Suite 200 Sacramento, California 95814



<b>COURTS</b>	
Supreme Court of California 350 McAllister Street San Francisco, California 94102 <i>(by electronic filing)</i>	<i>Plus Original and 14 copies including one for endorsed return)</i>
Fourth District Court of Appeal Division Two 3389 Twelfth Street Riverside, California 9501 <i>(by electronic filing)</i>	Appeal No.: E0653527
Clerk of the Court Riverside Superior Court 4050 Main Street Riverside, California 92501	Case No.: RIC1409797
<b>COURTESY COPIES:</b>	Ms. Erika Frank California Chamber of Commerce 1215 K Street, Suite 1400 Sacramento, California 95814