

1 XAVIER BECERRA
Attorney General of California
2 LINDA L. SUN
Supervising Deputy Attorney General
3 LISA A. MILLER
Deputy Attorney General
4 State Bar No. 281374
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 269-6275
6 Facsimile: (916) 731-2126
E-mail: Lisa.Miller@doj.ca.gov
7 *Attorneys for Complainant*

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9 **BEFORE THE**
BOARD OF REGISTERED NURSING
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 4002019001626

13 **GERALD M. BALTZ**
14 **1412 3/4 North Hayworth Avenue**
West Hollywood, CA 90046

ACCUSATION

15 **Registered Nurse License No. 770693**
16 **Nurse Practitioner Certificate No. 19710**
17 **Nurse Practitioner Furnishing Certificate**
No. 19710
18 **Psychiatric Mental Health Nurse Certificate**
No. 563

19 Respondent.

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21 **PARTIES**

22 1. Loretta Melby, R.N., M.S.N. (“Complainant”) brings this Accusation solely in her
23 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
24 Consumer Affairs.

25 2. On or about March 18, 2010, the Board of Registered Nursing issued Registered
26 Nurse License Number 770693 to Gerald M. Baltz (“Respondent”). The Registered Nurse
27 License was in full force and effect at all times relevant to the charges brought herein and will
28 expire on April 30, 2021, unless renewed.

1 3. On or about March 22, 2010, the Board of Registered Nursing issued Nurse
2 Practitioner Certificate Number 19710 to Respondent. The Nurse Practitioner Certificate was in
3 full force and effect at all times relevant to the charges brought herein and will expire on April 30,
4 2021, unless renewed.

5 4. On or about April 27, 2010, the Board of Registered Nursing issued Nurse
6 Practitioner Furnishing Certificate Number 19710 to Respondent. The Nurse Practitioner
7 Furnishing Certificate was in full force and effect at all times relevant to the charges brought
8 herein and will expire on April 30, 2021, unless renewed.

9 5. On or about September 8, 2010, the Board of Registered Nursing issued Psychiatric
10 Mental Health Nurse Certificate Number 563 to Respondent. The Psychiatric Mental Health
11 Nurse Certificate was in full force and effect at all times relevant to the charges brought herein
12 and will expire on April 30, 2021, unless renewed.

JURISDICTION

14 6. This Accusation is brought before the Board of Registered Nursing (“Board”),
15 Department of Consumer Affairs, under the authority of the following laws. All section
16 references are to the Business and Professions Code (“Code”) unless otherwise indicated.

17 7. Section 2750 of the Code provides, in pertinent part, that the Board may discipline any
18 licensee, including a licensee holding a temporary or an inactive license, for any reason provided
19 in Article 3 (commencing with section 2750) of the Nursing Practice Act.

20 8. Section 2764 of the Code provides, in pertinent part, that the expiration of a license
21 shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the
22 licensee or to render a decision imposing discipline on the license.

STATUTORY PROVISIONS

24 9. Section 2761 of the Code states, in relevant part:

25 "The board may take disciplinary action against a certified or licensed nurse or deny an
26 application for a certificate or license for any of the following:

27 “(a) Unprofessional conduct, which includes, but is not limited to, the following:

1 (1) Incompetence, or gross negligence in carrying out usual certified or licensed nursing
2 functions.”

3 10. Section 726 of the Code states:

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

8 "This section shall not apply to sexual contact between a physician and surgeon and his or
9 her spouse or person in an equivalent domestic relationship when that physician and surgeon
10 provides medical treatment, other than psychotherapeutic treatment, to his or her spouse or person
11 in an equivalent domestic relationship."

12 11. Code section 2725 states, in pertinent part:

13

14 (c) "Standardized procedures," as used in this section, means either of the
15 following:

16 (1) Policies and protocols developed by a health facility licensed pursuant to
17 Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety
18 Code through collaboration among administrators and health professionals including
19 physicians and nurses.

20 (2) Policies and protocols developed through collaboration among
21 administrators and health professionals, including physicians and nurses, by an
22 organized health care system which is not a health facility licensed pursuant to
23 Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety
24 Code . . .

25 **REGULATORY PROVISIONS**

26 12. California Code of Regulations ("CCR"), title 16, section 1442, states:

27 As used in Section 2761 of the code, 'gross negligence' includes an extreme
28 departure from the standard of care which, under similar circumstances, would have
ordinarily been exercised by a competent registered nurse. Such an extreme departure
means the repeated failure to provide nursing care as required or failure to provide
care or to exercise ordinary precaution in a single situation which the nurse knew, or
should have known, could have jeopardized the client's health or life.

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13. CCR, title 16, section 1443, states:

As used in Section 2761 of the code, "incompetence" means the lack of possession of or the failure to exercise that degree of learning, skill, care and experience ordinarily possessed and exercised by a competent registered nurse as described in Section 1443.5.

14. CCR, title 16, section 1443.5, states in relevant part:

A registered nurse shall be considered to be competent when he/she consistently demonstrates the ability to transfer scientific knowledge from social, biological and physical sciences in applying the nursing process, as follows:

...

(2) Formulates a care plan, in collaboration with the client, which ensures that direct and indirect nursing care services provide for the client's safety, comfort, hygiene, and protection, and for disease prevention and restorative measures.

...

(6) Acts as the client's advocate, as circumstances require, by initiating action to improve health care or to change decisions or activities which are against the interests or wishes of the client, and by giving the client the opportunity to make informed decisions about health care before it is provided.

15. CCR, title 16, section 1474 states:

Following are the standardized procedure guidelines jointly promulgated by the Medical Board of California and by the Board of Registered Nursing:

(a) Standardized procedures shall include a written description of the method used in developing and approving them and any revision thereof.

(b) Each standardized procedure shall:

(1) Be in writing, dated and signed by the organized health care system personnel authorized to approve it.

(2) Specify which standardized procedure functions registered nurses may perform and under what circumstances.

(3) State any specific requirements which are to be followed by registered nurses in performing particular standardized procedure functions.

(4) Specify any experience, training, and/or education requirements for performance of standardized procedure functions.

(5) Establish a method for initial and continuing evaluation of the competence of those registered nurses authorized to perform standardized procedure functions.

1 (6) Provide for a method of maintaining a written record of those persons
authorized to perform standardized procedure functions.

2 (7) Specify the scope of supervision required for performance of standardized
3 procedure functions, for example, immediate supervision by a physician.

4 (8) Set forth any specialized circumstances under which the registered nurse is
5 to immediately communicate with a patient's physician concerning the patient's
6 condition.

7 (9) State the limitations on settings, if any, in which standardized procedure
8 functions may be performed.

9 (10) Specify patient record keeping requirements.

10 (11) Provide for a method of periodic review of the standardized procedures.

11 **COST RECOVERY**

12 16. Code section 125.3 provides, in pertinent part, that the Board may request the
13 administrative law judge to direct a licentiate found to have committed a violation or violations of
14 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
15 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being
16 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
17 included in a stipulated settlement.

18 **DANGEROUS DRUGS**

19 17. Alprazolam is used to treat anxiety disorders and panic disorder. It belongs to a class
20 of drugs called benzodiazepines. Alprazolam is Schedule IV substance as designated by Health
21 and Safety Code section 11057 (d)(1) and is categorized as a dangerous drug within the meaning
22 of Code section 4022 in that it requires a prescription under federal law.

23 18. Adderall XR/Mixed Amphetamine salts. This combination medication belongs to a
24 class of drugs known as stimulants and is used to treat attention deficit hyperactivity disorder.
25 Adderall XR is a Schedule II substance as designated by Health and Safety Code section 11055
26 (d)(1) and is categorized as a dangerous drug within the meaning of Code section 4022 in that it
27 requires a prescription under federal law.

28 19. Temazepam is used to treat insomnia. It belongs to a class of drugs called sedative-
hypnotics. Temazepam is a Schedule IV substance as designated by Health and Safety Code

1 section 11057 (d)(29) and is categorized as a dangerous drug within the meaning of Code section
2 4022 in that it requires a prescription under federal law.

3 20. Lorazepam is used to treat anxiety. It belongs to a class of drugs called
4 benzodiazepines. Lorazepam is a Schedule IV substance as designated by Health and Safety Code
5 section 11057 (d)(16) and is categorized as is dangerous drug within the meaning of Code section
6 4022 in that it requires a prescription under federal law.

7 **FACTUAL ALLEGATIONS**

8 21. On or about August 30, 2018, the Board received a complaint regarding Respondent,
9 a nurse practitioner who was employed as an independent contractor at Insight Choices in Los
10 Angeles, California from 2013 through August 2017. The complaint alleged that while working
11 at Insight Choices, Respondent engaged in an inappropriate sexual relationship with a female
12 patient, S.R. The complaint further alleged that S.R. had been a patient for some time at Insight
13 Choices, under the care of Respondent, during which time he prescribed medication and
14 counseled her. The complaint stated that in April of 2017, Respondent asked S.R. on a date and
15 began secretly seeing her, while she was still under his care. According to the complaint, as S.R.
16 became uncomfortable with the relationship, Respondent continued to send her inappropriate
17 texts in an effort to pursue the relationship. S.R. was in a fragile and suicidal mental state. The
18 complaint alleged that Respondent discouraged S.R. from checking herself into a psychiatric
19 facility. S.R. committed suicide on July 1, 2017.

20 22. S.R.'s family subsequently filed a wrongful death lawsuit against Respondent and
21 Insight Choices. As a result, a Report of Settlement Judgment, Arbitration Award was provided to
22 the Board. A total amount of \$200,000 was awarded to the family, with \$200,000 paid on behalf
23 of Respondent by his professional liability insurance carrier.

24 23. After receiving the complaint, the Board initiated an investigation into Respondent's
25 treatment of S.R. The Board obtained S.R.'s medical records, which show that Respondent
26 provided mental health services to S.R. between April 26, 2015 and April 5, 2017. Following
27 S.R.'s April 5, 2017 visit with Respondent, Respondent referred S.R. to another mental health
28 provider at Insight Choices.

1 24. Respondent’s first entry in S.R.’s medical records is dated on April 26, 2015 and is
2 the form of a SOAP note¹. Because S.R.’s April 26, 2015 visit was her first with Respondent, the
3 note for this date constitutes the intake note. However, Respondent provided scant information
4 and failed to document a comprehensive mental status exam, S.R.’s medical history, as well as
5 current and past medications. Respondent also failed to document S.R.’s allergies, her past
6 psychiatric treatment history, her psychosocial history, and provided no clear documentation of
7 how he determined the diagnosis of Attention Deficit Hyperactive Disorder (“ADHD”),
8 “Combo”. Respondent also failed to discuss any other diagnoses in his initial evaluation of S.R.

9 25. The Board investigator reviewed S.R.’s CURES² report, which stated that S.R. filled
10 the following prescriptions, which were written by Respondent: 17 prescriptions for Alprazolam,
11 10 prescriptions for Mixed Amphetamine Salts, one prescription for Lorazepam, and one
12 prescription for Adderall XR. In addition, Respondent’s SOAP notes list prescriptions not
13 included in S.R.’s CURES report, including Lexapro, Wellbutrin, Propranolol, Brintellix,
14 Trintellix, Vraylar, and Lamictal.³ A review of S.R.’s medical records revealed that for the
15 duration of her treatment by Respondent, Respondent failed to include the formulation of the
16 diagnosis or clear rationale for prescribed medications. Furthermore, the SOAP notes do not
17 provide any laboratory data or consideration of diagnostic testing in relation to the prescription of
18 antipsychotic medication.

19 26. Respondent’s SOAP notes do not document any collaboration with his supervising
20 psychiatrist. During Respondent’s interview with the Board investigator, Respondent stated that
21 his supervising physician was J.M. Respondent confirmed that he had standardized procedures
22 with J.M. The Board investigator reviewed Respondent’s standardized procedures, which state
23 that evaluation of the NP (Nurse Practitioner) will be provided in part, by “Chart reviews based
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25 ¹ The SOAP note (an acronym for subjective, objective, assessment, and plan) is a method of documentation
employed by healthcare providers to write out notes in a patient's chart.

26 ² CURES reports are the Controlled Substance Utilization Review and Evaluation System reports generated
by the California Department of Justice, which list all of a patient’s controlled substance prescriptions. Prescriptions
27 that are not controlled substances would not be included in a CURES report.

28 ³ Lexapro, Wellbutrin, Trintellix/Brintellix are used to treat depression. Propranolol is used to treat high
blood pressure, chest pain, uneven heartbeat, tremors and migraine headaches. Vraylar is used to treat schizophrenia,
and bipolar disorder type 1. Lamictal is used to treat epileptic seizures as well as bipolar disorder.

1 on written criteria”. The Board investigator interviewed J.M., who admitted he had not done chart
2 reviews with Respondent. J.M. also admitted that did not perform monthly chart reviews with
3 Respondent, as required by the standardized procedures. Furthermore, J.M. admitted that he had
4 last met with Respondent “a couple of years” previously. J.M. also stated he had not performed
5 annual evaluations of Respondent. Respondent failed to comply with the standardized procedures
6 by not engaging in chart reviews with his supervising physician.

7 27. In the course of the investigation, the Board investigator interviewed B.R., the
8 consumer complainant, who was S.R.’s former boyfriend. B.R. stated that he did not know about
9 Respondent until after S.R.’s death. B.R. and S.R. had briefly separated in April 2017 but
10 reconciled in May 2017. After S.R.’s death, B.R. cleaned out her apartment and discovered a
11 large number of prescription medication prescribed by Respondent. B.R. stated that Respondent
12 was rushing S.R. through medications in order to qualify her for magnetic treatment offered by
13 Insight Choices.⁴

14 28. The Board investigator interviewed Y.K., who described S.R. as her best friend. Y.K.
15 told the investigator that while S.R. had never mentioned Respondent’s name, S.R. told her that
16 Respondent was working on his doctorate.⁵ S.R.’s text messages to Y.K. on April 10, 2017 state
17 that she was going out with her doctor that evening and described how she had given Respondent
18 her number during a patient visit. In an undated text message, S.R. wrote to Y.K., “Saw my doc.
19 He said DO NOT go to the hospital. He’s putting me on new meds AGAIN... But he is so hot
20 yuni...like FINE... I think I’m dating my doctor now.”

21 29. The Board investigator also interviewed S.R.’s friend K.C. and reviewed K.C.’s texts
22 with S.R. While S.R. did not mention Respondent’s name, on April 5, 2017, S.R. told K.C., “I
23 asked my doc out!!!” .⁶ S.R. further stated to K.C. that he [Respondent] agreed but that she had
24 to get a new doctor. When K.C. inquired when they were going out, S.R. replied, “Not sure we
25 just exchanged numbers and he had a meltdown over it being unethical.”

26 ⁴ S.R. received Transcranial Magnetic Stimulation (“TMS”) from Insight Choices. TMS is a noninvasive
27 procedure that uses magnetic fields to stimulate nerve cells in the brain to improve symptoms of depression.

28 ⁵ Respondent informed the Board investigator that he graduated from Saint Louis University with a
doctorate of Nursing Practice in 2018.

⁶ S.R.’s records from Insight Choices indicate that Respondent last treated S.R. on April 5, 2017.

1 30. The Board investigator was able to obtain access to S.R.'s cell phone. The Board
2 investigator looked through S.R.'s contacts in her phone and found contact information for
3 Respondent. The investigator also found texts between Respondent and S.R., which began on
4 April 9, 2017, and continued through April 26, 2017. The Board investigator also reviewed
5 S.R.'s call history, which showed a call from Respondent's cell phone on April 10, 2017, at 11:13
6 p.m.

7 31. In a text conversation on April 9, 2017, S.R. asked Respondent if texting was
8 unethical. Respondent replied, "I'm a healer, it would be unethical for me for me not you. I took
9 an oath!". He then added, "...If I did anything to harm you it would not only be a dick move but
10 cause 10 years of school and work to disappear for me and injure you in some way." Respondent
11 then instructed S.R. to delete all their texts.

12 32. Respondent and S.R.'s text conversation from April 11, 2017, include photographs of
13 both S.R. and Respondent's necks, which show bruising, and which Respondent and S.R.
14 described as hickeys. Respondent told S.R. that "We tore it up woman" and that he had "scratches
15 on my chest which I don't recall getting." S.R. replied, "More like you tore me up! My titties are
16 sore as hell and my neck is tweaked." Respondent then apologized, stating, "Oh I'm sorry I
17 shouldn't have bitten I thought you liked it at the time for some reason." Respondent went on to
18 tell S.R., "When I put my fingers in you, you moaned. When you grabbed me, I grunted or some
19 sjit [sic]." Respondent then again instructed S.R. to delete the whole text chain.

20 33. In Respondent and S.R.'s text conversation from April 14, 2017, Respondent
21 provided S.R. with his address so that she could drive to his house. The address that Respondent
22 provided to S.R. is his address of record.

23 34. In a text conversation on April 15, 2017, S.R. complained to Respondent that her
24 "titties hurt." Respondent apologized, telling S.R., "I was gentle this time, I'm sorry they hurt."
25 Respondent then stated, "I'd rather be walking around botanical gardens with you but alas I must
26 toil." S.R. responded, "I'm going to a ballet class in a bit. Good luck with your work. Ps. My
27 vagina is still broken." Respondent replied, "Oh cool have fun. P.S. I love your vagina."

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1 35. In a text conversation on April 26, 2017, Respondent asked S.R. about whether she
2 would be doing TMS at Insight Choices. S.R. replied that she would call that day and apologized,
3 stating she had been busy. Respondent replied that staff at Insight Choices wanted him to follow
4 up with S.R. regarding the TMS treatment, stating, “That’s fine but he wants you to follow with
5 me [sic] as the person who referred you so that will be fun.” S.R. responded, “Fuck it I’m not
6 doing it. It’s too much drama.” Respondent wrote, “Listen I feel terrible about this whole thing.
7 Most important thing is your mental health. This is exactly why I’m an idiot.”

8 36. On or about October 9, 2019, the Board investigator interviewed Respondent. When
9 asked if he remembered S.R., Respondent replied that he remembered who she was, but didn’t
10 “remember all that clearly.” Respondent also told the investigator that he could not remember
11 what he had treated her for. Respondent confirmed his personal cell phone number, which
12 matched his contact information in S.R.’s cell phone. Respondent admitted that he provided
13 patients with his personal cell phone number but stated he could not recall if he ever sent text
14 messages to S.R. When shown screenshots of the text messages between Respondent and S.R.,
15 Respondent denied that they were from him. The Board investigator showed Respondent a
16 photograph within the text message thread, depicting the neck of a man with hickeys. The photo
17 also depicted a tattoo on the man’s right clavicle. The Board investigator asked Respondent if he
18 had a tattoo similar to the one depicted in the photo. Respondent then pulled the collar of his shirt
19 to the side, exposed the area just above his right clavicle, and showed the investigator a tattoo
20 identical to the one depicted in the photo.

21 37. During the Board investigator’s interview of Respondent, Respondent admitted that
22 he was aware that S.R. had suicidal thoughts. When S.R. was suicidal, Respondent did not refer
23 her to a higher level of care, did not send her to the Emergency Room, and did not conduct an in-
24 depth suicide assessment or crisis plan.

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1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Gross Negligence)**

3 38. Respondent is subject to disciplinary action pursuant to Code section 2761,
4 subdivision (a)(1), on the grounds of unprofessional conduct, in that Respondent was guilty of
5 gross negligence within the meaning of Title 16, CCR, section 1442, as follows:

- 6 a. Respondent provided an inadequate psychiatric assessment of S.R.;
- 7 b. Respondent failed to properly document his treatment of S.R.;
- 8 c. Respondent's treatment of S.R. was noncomprehensive treatment;
- 9 d. Respondent failed to use best practice/evidence based treatment, and failed to seek
10 supervision for a suicidal patient. Complainant incorporates by reference as though fully set forth
11 herein the allegations contained in paragraphs 21 through 37 above.

12 **SECOND CAUSE FOR DISCIPLINE**

13 **(Incompetence)**

14 39. Respondent is subject to disciplinary action pursuant to Code section 2761,
15 subdivision (a)(1), on the grounds of unprofessional conduct, in that Respondent was guilty of
16 incompetence within the meaning of Title 16, CCR, section 1443. Specifically, Respondent
17 demonstrated incompetence by not following standard procedures for supervision with his
18 collaborating physician. Complainant incorporates by reference as though fully set forth herein
19 the allegations contained in paragraphs 21 through 37 above.

20 **THIRD CAUSE FOR DISCIPLINE**

21 **(Unprofessional Conduct)**

22 40. Respondent is subject to disciplinary action pursuant to Code section 2761,
23 subdivision (a), in that Respondent committed acts constituting unprofessional conduct by having
24 a nonprofessional, intimate relationship with S.R. Complainant incorporates by reference as
25 though fully set forth herein the allegations contained in paragraphs 21 through 37 above.

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1 **FOURTH CAUSE FOR DISCIPLINE**

2 **(Sexual Misconduct with S.R.)**

3 41. Respondent is subject to disciplinary action under section 726 of the Code in that he
4 engaged in an inappropriate relationship with S.R., by obtaining S.R.'s phone number and flirting
5 with her while she was still his patient. Respondent began a sexual relationship with S.R. while she
6 was still a patient at Insight Choices. Complainant incorporates by reference as though fully set
7 forth herein the allegations contained in paragraphs 21 through 37 above.

8 **PRAYER**

9 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
10 and that following the hearing, the Board of Registered Nursing issue a decision:

11 1. Revoking or suspending Registered Nurse License Number 770693, issued to Gerald
12 M. Baltz;

13 2. Revoking or suspending Nurse Practitioner Certificate Number 19710, issued to
14 Gerald M. Baltz;


15 3. Revoking or suspending Nurse Practitioner Furnishing Certificate Number 19710,
16 issued to Gerald M. Baltz;

17 4. Revoking or suspending Psychiatric Mental Health Nurse Certificate Number 563,
18 issued to Gerald M. Baltz;

19 5. Ordering Gerald M. Baltz to pay the Board of Registered Nursing the reasonable
20 costs of the investigation and enforcement of this case, pursuant to Business and Professions
21 Code section 125.3; and,

22 6. Taking such other and further action as deemed necessary and proper.

23 DATED: June 15, 2020

24  for
LORETTA MELBY, R.N., M.S.N.
25 Executive Officer
26 Board of Registered Nursing
27 Department of Consumer Affairs
28 State of California
Complainant

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