

1 ROB BONTA
Attorney General of California
2 STEVEN D. MUNI
Supervising Deputy Attorney General
3 JANNSEN TAN
Deputy Attorney General
4 State Bar No. 237826
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 210-7549
Facsimile: (916) 327-2247
7 *Attorneys for Complainant*

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

12
13 In the Matter of the First Amended Accusation
Against:

Case No. 800-2017-029203

14 **WILLIAM H. BRESNICK, M.D.**
15 **505 Montgomery St., Ste. 1100**
San Francisco, CA 94111-2585

FIRST AMENDED ACCUSATION

16 **Physician's and Surgeon's Certificate**
17 **No. G 78434,**

18 Respondent.

19
20 **PARTIES**

21 1. William Prasifka (Complainant) brings this First Amended Accusation solely in his
22 official capacity as the Executive Director of the Medical Board of California, Department of
23 Consumer Affairs (Board).

24 2. On or about March 2, 1994, the Board issued Physician's and Surgeon's Certificate
25 No. G 78434 to William H. Bresnick, M.D. (Respondent). The Physician's and Surgeon's
26 Certificate was in full force and effect at all times relevant to the charges brought herein and will
27 expire on July 31, 2023, unless renewed.

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1 **JURISDICTION**

2 3. This First Amended Accusation is brought before the Board, under the authority of
3 the following laws. All section references are to the Business and Professions Code (Code)
4 unless otherwise indicated.

5 4. Section 2227 of the Code states:

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

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

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

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

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

27 **STATUTORY PROVISIONS**

28 5. Section 2234¹ of the Code, states:

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

(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.

(b) Gross negligence.

1. ¹ “Business and Professions Code Section 2234 was amended in January 1, 2020. All
allegations in this Accusation occurred prior to January 1, 2020. The prior version of
Section 2234 was effective January 1, 2014 to December 31, 2019.”

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

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

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

13 (d) Incompetence.

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

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

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

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

27 6. Section 2241 of the Code states:

28 (a) A physician and surgeon may prescribe, dispense, or administer prescription
drugs, including prescription controlled substances, to an addict under his or her
treatment for a purpose other than maintenance on, or detoxification from,
prescription drugs or controlled substances.

(b) A physician and surgeon may prescribe, dispense, or administer prescription
drugs or prescription controlled substances to an addict for purposes of maintenance
on, or detoxification from, prescription drugs or controlled substances only as set
forth in subdivision (c) or in Sections 11215, 11217, 11217.5, 11218, 11219, and
11220 of the Health and Safety Code. Nothing in this subdivision shall authorize a
physician and surgeon to prescribe, dispense, or administer dangerous drugs or
controlled substances to a person he or she knows or reasonably believes is using or
will use the drugs or substances for a nonmedical purpose.

(c) Notwithstanding subdivision (a), prescription drugs or controlled substances
may also be administered or applied by a physician and surgeon, or by a registered
nurse acting under his or her instruction and supervision, under the following
circumstances:

(1) Emergency treatment of a patient whose addiction is complicated by the

1 presence of incurable disease, acute accident, illness, or injury, or the infirmities
2 attendant upon age.

3 (2) Treatment of addicts in state-licensed institutions where the patient is kept
4 under restraint and control, or in city or county jails or state prisons.

5 (3) Treatment of addicts as provided for by Section 11217.5 of the Health and
6 Safety Code.

7 (d)(1) For purposes of this section and Section 2241.5, addict means a person
8 whose actions are characterized by craving in combination with one or more of the
9 following:

10 (A) Impaired control over drug use.

11 (B) Compulsive use.

12 (C) Continued use despite harm.

13 (2) Notwithstanding paragraph (1), a person whose drug-seeking behavior is
14 primarily due to the inadequate control of pain is not an addict within the meaning of
15 this section or Section 2241.5.

16 7. Section 2266 of the Code states: The failure of a physician and surgeon to maintain
17 adequate and accurate records relating to the provision of services to their patients constitutes
18 unprofessional conduct.

19 8. Section 4021 of the Code states:

20 'Controlled substance' means any substance listed in Chapter 2 (commencing
21 with Section 11053) of Division 10 of the Health and Safety Code.

22 DEFINITIONS

23 9. Alprazolam – Generic name for Xanax. Alprazolam is a short-acting benzodiazepine
24 used to treat anxiety, and is a Schedule IV controlled substance pursuant to Code of Federal
25 Regulations Title 21 section 1308.14. Alprazolam is a dangerous drug pursuant to California
26 Business and Professions Code section 4022 and is a Schedule IV controlled substance pursuant
27 to California Health and Safety Code section 11057(d).

28 10. Clonazepam – Generic name for Klonopin. Clonazepam is an anti-anxiety
medication in the benzodiazepine family used to prevent seizures, panic disorder, and akathisia.
Clonazepam is a Schedule IV controlled substance pursuant to Code of Federal Regulations Title
21 section 1308.14(c). It is a Schedule IV controlled substance pursuant to Health and Safety

1 Code section 11057, subdivision (d), and a dangerous drug pursuant to Business and Professions
2 Code section 4022.

3 11. Lorazepam – Generic name for Ativan. Lorazepam is a member of the
4 benzodiazepine family and is a fast-acting anti-anxiety medication used for the short-term
5 management of severe anxiety. Lorazepam is a Schedule IV controlled substance pursuant to
6 Code of Federal Regulations Title 21 section 1308.14(c) and Health and Safety Code section
7 11057, subdivision (d), and a dangerous drug pursuant to Business and Professions Code section
8 4022.

9 12. Zolpidem tartrate – Generic name for Ambien. Zolpidem tartrate is a sedative and
10 hypnotic used for short term treatment of insomnia. Zolpidem tartrate is a Schedule IV controlled
11 substance pursuant to Code of Federal Regulations Title 21 section 1308.14(c). It is a Schedule
12 IV controlled substance pursuant to Health and Safety Code section 11057, subdivision (d), and a
13 dangerous drug pursuant to Business and Professions Code section 4022.

14 **FACTUAL ALLEGATIONS**

15 **FIRST CAUSE FOR DISCIPLINE**
16 **(Gross Negligence)**

17 13. Respondent's license is subject to disciplinary action under section 2234, subdivision
18 (b), and section 2241 of the Code, in that he committed gross negligence during the care and
19 treatment of Patient A². The circumstances are as follows:

20 14. Respondent is a physician and surgeon, board certified in psychiatry, who at all times
21 relevant to the charges brought herein worked in a solo-practice clinic under the business name of
22 William H. Bresnick, M.D., in San Francisco, California.

23 15. On or about October 16, 2015, Respondent first saw Patient A for a clinic visit.
24 Patient A was, at the time, a 39-year-old female with symptoms of anxiety and depression.
25 Respondent's initial diagnoses included: Major Depressive Disorder; recurrent, moderate-severe,
26 Generalized Anxiety Disorder; Panic Disorder; Probable Post-Traumatic Stress Disorder/sexual
27 abuse history; R/O ETOH Overuse/self-medication type; Severe Family/ Psychosocial Stressors.

28 ² Patient names and information have been removed to protect patient confidentiality.

1 Respondent ordered routine lab tests for thyroid and liver function and started Patient A on a trial
2 of Lexapro 5-10 mg and a trial of Klonopin 0.5 mg, with the goal of decreasing the symptoms of
3 anxiety, panic, and self-medication with alcohol after work. A Beck Depression Inventory yielded
4 a score of 35. Respondent ordered a comprehensive full-screen battery of blood tests, including a
5 complete blood count with differentials, comprehensive metabolic panel, several different liver
6 function tests, and a thyroid test. Respondent documented that he educated Patient A on alcohol
7 use, body health, mental health, and the need for exercise.

8 16. The comprehensive blood tests were taken on or about October 22, 2015, and were
9 normal with no indication of alcohol overuse. The report was shared with Patient A at her next
10 appointment.

11 17. On or about November 13, 2015, Respondent noted that Patient A had suffered from
12 generalized anxiety and panic since childhood and that she had experienced probable sexual
13 abuse and depression. Respondent also noted that Patient A had a high tolerance to psychiatric
14 medications and alcohol. Respondent prescribed Ativan 0.5 mg PRN "pro re nata (taken as
15 needed)" for 30 days for anxiety/severe anxiety, and Ambien 0.5 mg, PRN for insomnia.

16 18. On or about January 8, 2016, Respondent noted that Patient A requested a
17 prescription for Xanax, which she had taken before. Respondent prescribed Xanax 0.5 mg, PRN,
18 for severe anxiety and panic. Respondent failed to perform and/or document performing a
19 thorough and comprehensive assessment of Patient A's current and past issues with alcohol and
20 drugs. Respondent documented "SH/H", under which he documented ETOH and marijuana use.
21 Respondent documented "FH" for family history with positives noted. Respondent failed to
22 diagnose and adequately investigate a history of alcohol abuse and to include this information in
23 prescribing and treatment planning.

24 19. During the period of January 8, 2016 to August 23, 2016, Respondent continued to
25 prescribe alprazolam, PRN for severe anxiety and panic only; and zolpidem tartrate, PRN, for
26 insomnia only.

27 20. On or about February 8, 2016, Respondent noted that Patient A had four glasses of
28 wine on February 5, 2016, where she fell and bumped her head.

1 21. On or about February 10, 2016, Respondent documented that Patient A's boyfriend
2 reported concerns about increased tolerance for psychiatric medications and alcohol. Respondent
3 discontinued Klonopin. Respondent continued to prescribe alprazolam, PRN, along with Ambien,
4 PRN despite the ongoing consumption of alcohol and despite having cautioned the patient not to
5 consume alcohol for one month as a goal.

6 22. On or about July 25, 2016, Respondent documented that Patient A continued to suffer
7 from major depressive disorder, recurrent severe; panic; generalized anxiety, severe. Respondent
8 documented his findings as increasing depression, anxiety with panic, overwhelmed lability,
9 crying, hopelessness, helplessness, guilt, insomnia, and nervousness. Patient A was placed on
10 disability status with the comment "unable to work now."

11 23. On or about August 4, 2016, Respondent wrote Patient A's employer stating that
12 Patient A continued to be highly symptomatic, impaired, and disabled, and that she was not able
13 to work for the next thirty days. Respondent recommended intensified treatments along with rest
14 and recuperation.

15 24. On or about August 18, 2016, Respondent documented that Patient A was "unable to
16 work at all, and for next weeks at least." Respondent documented that Patient A was "unable to
17 mentally focus, concentrate, low energy, fatigue, and overwhelmed easily." Respondent
18 prescribed Klonopin 0.5 mg., PRN to Patient A.

19 25. During the period of August 23, 2016 to January 15, 2017, Respondent prescribed
20 alprazolam, PRN; Klonopin, PRN; and zolpidem tartrate, PRN to Patient A.

21 26. On or about October 21, 2016, Respondent documented that Patient A needed her
22 leave extended for another thirty days.

23 27. On or about November 30, 2016, Respondent documented that Patient A did not have
24 her car any longer. Respondent noted that Patient A crashed her car and hit a tree. Patient A was
25 arrested and had a blood alcohol level of 0.22mg/dl. Department of Motor Vehicles (DMV)
26 issued Patient A a temporary driver license on September 29, 2016, pending the outcome of her
27 DMV administrative hearing.

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1 28. On or about December 1, 2016, Respondent wrote Patient A stating that he was sad to
2 hear about Patient A's increased binge drinking and November 2016 DUI arrest. Respondent
3 noted that Patient A was drinking at home. Respondent warned against alcohol use and
4 forwarded a copy of " AA & Smart Recovery," a free non-religious, non-12 step self-help
5 approach to recovery from substance and behavioral addictions to Patient A. Respondent
6 continued to prescribe alprazolam, PRN; Klonopin, PRN; and zolpidem tartrate, PRN.
7 Respondent documented that Patient A was ingesting 1-2 drinks with food in social situations in
8 the evening, 1-2 times per week; and that she had no prior DUIs or arrest history. Respondent
9 mailed a letter, dated December 1, 2016, following up on "AA & Smart Recovery."

10 29. On or about June 28, 2017, Patient A left Respondent's practice due to confusion over
11 her appointment time. Respondent documented that Patient A would sometimes show up at the
12 wrong time for appointments and sometimes was a no-show.

13 30. Respondent committed gross negligence in his care and treatment of Patient A, which
14 included, but was not limited to the following:

15 A. Respondent failed to set limits and boundaries with Patient A and failed to recognize
16 benzodiazepine dependence. Respondent prescribed benzodiazepines to Patient A who had a
17 history of instability and impulsivity. Respondent failed to gradually taper benzodiazepines.
18 Respondent failed to diagnose and appropriately treat Patient A's underlying alcohol and
19 chemical dependency issues. Respondent continued to prescribe long-term benzodiazepines for
20 two years, despite ongoing clinical evidence of deterioration, including but not limited to Patient
21 A's automobile accident and alcohol use disorder.

22 **SECOND CAUSE FOR DISCIPLINE**
23 **(Repeated Negligent Acts)**

24 31. Respondent's license is subject to disciplinary action under section 2234, subdivision
25 (c), of the Code, in that he committed repeated negligent acts during the care and treatment of
26 Patient A, as more particularly alleged hereinafter. Paragraphs 14 through 30, above, are hereby
27 incorporated by reference and realleged as if fully set forth herein.

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THIRD CAUSE FOR DISCIPLINE
(Failure to Maintain Adequate and Accurate Records)

32. Respondent’s license is subject to disciplinary action under section 2266 of the Code, in that he failed to maintain adequate and accurate medical records relating to his care and treatment of Patient A as more particularly alleged hereinafter. Paragraphs 14 through 30, above, are hereby incorporated by reference and realleged as if fully set forth herein.

FOURTH CAUSE FOR DISCIPLINE
(General Unprofessional Conduct)

34. Respondent’s license is further subject to disciplinary action under sections 2227 and 2234, as defined by section 2234, of the Code, in that he has engaged in conduct which breaches the rules or ethical code of the medical profession, or conduct which is unbecoming of a member in good standing of the medical profession, and which demonstrates an unfitness to practice medicine, as more particularly alleged in paragraphs 14 through 30, above, which are hereby realleged and incorporated by reference as if fully set forth herein.

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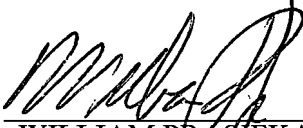
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PRAYER

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 No. G 78434, issued to Respondent William H. Bresnick, M.D.;
2. Revoking, suspending or denying approval of Respondent William H. Bresnick, M.D.'s authority to supervise physician assistants and advanced practice nurses;
3. Ordering Respondent William H. Bresnick, 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: **OCT 07 2021**



WILLIAM PRASIFKA
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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