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8
9 **BEFORE THE**
MEDICAL BOARD OF CALIFORNIA
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA
11

12
13 In the Matter of the Accusation Against:

Case No. 800-2017-029203

14 **William H. Bresnick, M.D.**
15 **505 Montgomery St., Ste. 1123**
San Francisco, CA 94111-6529

A C C U S A T I O N

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

Respondent.

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19
20 **PARTIES**

21 1. Christine J. Lally (Complainant) brings this Accusation solely in her official capacity
22 as the Interim Executive Director of the Medical Board of California, Department of Consumer
23 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, 2021, unless renewed.

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1 **JURISDICTION**

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
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
into a stipulation for disciplinary 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
11 year upon order of the board.

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

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

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

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

20 **STATUTORY PROVISIONS**

21 5. Section 2234 of the Code, states:

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

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

26 (b) Gross negligence.

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

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

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

6 (d) Incompetence.

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

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

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

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

16 6. Section 2241 of the Code states:

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

20 (b) A physician and surgeon may prescribe, dispense, or administer prescription
21 drugs or prescription controlled substances to an addict for purposes of maintenance
22 on, or detoxification from, prescription drugs or controlled substances only as set
23 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.

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

27 (1) Emergency treatment of a patient whose addiction is complicated by the
28 presence of incurable disease, acute accident, illness, or injury, or the infirmities
attendant upon age.

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

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

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

8 (A) Impaired control over drug use.

9 (B) Compulsive use.

10 (C) Continued use despite harm.

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

14 7. Section 725 of the Code states:

15 (a) Repeated acts of clearly excessive prescribing, furnishing, dispensing, or
16 administering of drugs or treatment, repeated acts of clearly excessive use of
17 diagnostic procedures, or repeated acts of clearly excessive use of diagnostic or
18 treatment facilities as determined by the standard of the community of licensees is
19 unprofessional conduct for a physician and surgeon, dentist, podiatrist, psychologist,
20 physical therapist, chiropractor, optometrist, speech-language pathologist, or
21 audiologist.

22 (b) Any person who engages in repeated acts of clearly excessive prescribing or
23 administering of drugs or treatment is guilty of a misdemeanor and shall be punished
24 by a fine of not less than one hundred dollars (\$100) nor more than six hundred
25 dollars (\$600), or by imprisonment for a term of not less than 60 days nor more than
26 180 days, or by both that fine and imprisonment.

27 (c) A practitioner who has a medical basis for prescribing, furnishing,
28 dispensing, or administering dangerous drugs or prescription controlled substances
shall not be subject to disciplinary action or prosecution under this section.

(d) No physician and surgeon shall be subject to disciplinary action pursuant to
this section for treating intractable pain in compliance with Section 2241.5.

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

9. Section 4021 of the Code states:

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

DEFINITIONS

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2 10. Alprazolam – Generic name for the drug Xanax. Alprazolam is a short-acting
3 benzodiazepine used to treat anxiety, and is a Schedule IV controlled substance pursuant to Code
4 of Federal Regulations Title 21 section 1308.14. Alprazolam is a dangerous drug pursuant to
5 California Business and Professions Code section 4022 and is a Schedule IV controlled substance
6 pursuant to California Health and Safety Code section 11057(d).

7 11. Clonazepam – Generic name for Klonopin. Clonazepam is an anti-anxiety
8 medication in the benzodiazepine family used to prevent seizures, panic disorder, and akathisia.
9 Clonazepam is a Schedule IV controlled substance pursuant to Code of Federal Regulations Title
10 21 section 1308.14(c). It is a Schedule IV controlled substance pursuant to Health and Safety
11 Code section 11057, subdivision (d), and a dangerous drug pursuant to Business and Professions
12 Code section 4022.

13 12. Lorazepam – Generic name for Ativan. Lorazepam is a member of the
14 benzodiazepine family and is a fast-acting anti-anxiety medication used for the short-term
15 management of severe anxiety. Lorazepam is a Schedule IV controlled substance pursuant to
16 Code of Federal Regulations Title 21 section 1308.14(c) and Health and Safety Code section
17 11057, subdivision (d), and a dangerous drug pursuant to Business and Professions Code section
18 4022.

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

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1 **FACTUAL ALLEGATIONS**

2 **FIRST CAUSE FOR DISCIPLINE**

3 **(Gross Negligence)**

4 14. Respondent's license is subject to disciplinary action under section 2234, subdivision
5 (b), and section 2241 of the Code, in that he committed gross negligence during the care and
6 treatment of Patient A¹. The circumstances are as follows:

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

10 16. On or about October 16, 2015, Respondent first saw Patient A for a clinic visit.
11 Patient A was at the time, a 39-year-old female with symptoms of anxiety and depression.
12 Respondent's initial diagnoses included: "Major Depressive Disorder, recurrent, moderate-
13 severe, Generalized Anxiety Disorder, Panic Disorder, Post-Traumatic Stress Disorder, sexual
14 abuse history, "Alcohol Overuse/self-medication type? Severe Family Psychosocial Stressors."
15 Respondent ordered routine lab tests for thyroid and liver function and started on a trial of
16 Lexapro 5-10 mg and a trial of Klonopin (clonazepam) 0.5 mg with the goal of decreasing the
17 symptoms of anxiety and panic and self-medication after work with alcohol. A Beck Depression
18 Inventory yielded a score of 35.

19 17. On or about November 13, 2015, Respondent noted that Patient A had suffered from
20 generalized anxiety and panic since childhood and that she had experienced sexual abuse and
21 depression. She was beaten and molested as a child. Respondent also noted that Patient A had a
22 high tolerance to psychiatric medications and alcohol. Respondent prescribed Ativan (lorazepam)
23 0.5 mg, and Ambien (zolpidem tartrate) 0.5 mg.

24 18. On or about January 8, 2016, Respondent noted that Patient A requested a
25 prescription for Xanax (alprazolam), which she has taken before. Respondent prescribed Xanax
26 0.5 mg. Respondent failed to perform and/or document a thorough and comprehensive
27 assessment of her current and past issues with alcohol and drugs. Respondent failed to diagnose

28 ¹ Patient names and information have been removed to protect patient confidentiality.

1 and adequately investigate a history of alcohol abuse and to include this information in
2 prescribing and treatment planning.

3 19. During the period of January 8, 2016 to August 23, 2016, Respondent continued to
4 prescribe alprazolam, and zolpidem tartrate.

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

7 21. On or about February 10, 2016, Respondent documented that Patient A's boyfriend
8 reported concerns about increased tolerance for psychiatric medications and alcohol. Respondent
9 continues to prescribe clonazepam and alprazolam along with Ambien despite the ongoing
10 consumption of alcohol and despite having cautioned the patient not to consume alcohol for one
11 month as a goal.

12 22. On or about July 25, 2016, Respondent documented that Patient A continues to suffer
13 from major depressive disorder, recurrent severe, panic, generalized anxiety, severe. Respondent
14 documented his findings as increasing depression, anxiety with panic, overwhelmed lability,
15 crying, hopelessness, helplessness, guilt, insomnia, and nervousness. Patient A is placed on
16 disability status with the comment "unable to work now."

17 23. On or about August 4, 2016, Respondent wrote Patient A's employer stating that
18 Patient A continues to be highly symptomatic, impaired and disabled. She was not able to work
19 for the next thirty days. Respondent advised intensified treatments, with rest and recuperation.

20 24. On or about August 18, 2016, Respondent documented that Patient A was "unable to
21 work at all, and for next weeks at least." Respondent documented that Patient A was "unable to
22 mentally focus, concentrate, low energy, fatigue, and overwhelmed easily." Respondent
23 prescribed clonazepam 0.5 mg. to Patient A.

24 25. During the period of August 23, 2016 to January 15, 2017, Respondent prescribed
25 alprazolam, clonazepam and zolpidem tartrate to Patient A.

26 26. On or about October 21, 2016, Respondent documented that Patient A needed to
27 extend leave another thirty days.

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1 27. On or about November 30, 2016, Respondent documented that Patient A does not
2 have her car any longer. Respondent noted that Patient A crashed her car and hit a tree. Patient
3 A was arrested and had a blood alcohol level of 0.22mg/dl. Patient A lost her driver's license.

4 28. On or about December 1, 2016, Respondent wrote Patient A stating that he was sad to
5 hear about Patient A's increased binge drinking and November 2016 DUI arrest. Respondent
6 noted that Patient A is drinking at home. Respondent warned against alcohol use and forwarded a
7 copy of "Smart Recovery", a free non-religious, non-12 step self-help approach to recovery from
8 substance and behavioral addictions to Patient A. Respondent continued to prescribe alprazolam,
9 clonazepam, and zolpidem tartrate.

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 prescribed controlled substances to a known addict and alcoholic.
16 Respondent failed to perform and/or document a thorough and comprehensive assessment of her
17 current and past issues with alcohol and drugs. Respondent failed to diagnose and adequately
18 investigate a history of alcohol abuse and to include this information in prescribing and treatment
19 planning. Respondent failed to ask Patient A about her substance-use history, including past
20 patterns of alcohol, illicit drug and prescription drug use. Respondent failed to initiate basic
21 screening questions that should be integrated into all Patient A's histories and physical
22 examinations. Respondent failed to assess the temporal onset of each disorder (alcohol and other
23 drug abuse, medical disorders, psychiatric disorders) that should be considered during the
24 evaluation. Respondent failed to perform and/or document baseline medical or psychiatric status
25 that should be determined during periods of abstinence. Respondent failed to ask and/or
26 document Patient A's family history and genetic risk factors. Finally, Respondent failed to
27 ascertain Patient A's current state (intoxication or withdrawal) and stage (early or chronic) of
28 addiction.

1 B. Respondent failed to set limits and boundaries with Patient A and failed to recognize
2 benzodiazepine-dependence. Respondent prescribed benzodiazepines to Patient A who had a
3 history of instability and impulsivity. Respondent failed to gradually taper benzodiazepine.
4 Respondent failed to diagnose and appropriately treat Patient A's underlying alcohol and
5 chemical dependency issues. Respondent failed to perform and/or document a comprehensive or
6 thorough work-up of her alcohol abuse issues.

7 C. Respondent prescribed excessive amounts of benzodiazepines over an extended
8 period of time. Respondent continued to prescribe long term benzodiazepines for two years
9 despite ongoing clinical evidence of deterioration, including but not limited to Patient A's
10 automobile accident, and alcohol use disorder. Respondent failed to obtain a second opinion or
11 consultation in the treatment of a very difficult patient with complex psychological and substance
12 abuse issues. Respondent failed to make a referral to a detox or rehabilitation facility.
13 Respondent demonstrated a lack of knowledge about chemical dependency diagnosis and
14 treatment. Respondent failed to take into consideration that Patient A's physical dependency on
15 the benzodiazepines may actually be contributing to many of the mood and behavioral symptoms
16 and suffering of Patient A. Respondent was prescribing benzodiazepines which is not
17 recommended for patients with Post Traumatic Stress Disorder. Respondent failed to check the
18 CURES report.

19 **SECOND CAUSE FOR DISCIPLINE**
20 **(Repeated Negligent Acts)**

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

25 **THIRD CAUSE FOR DISCIPLINE**
26 **(Excessive Prescribing)**

27 32. Respondent's license is further subject to disciplinary action under sections 2227,
28 2234 and 725, in that he has excessively prescribed controlled substances and dangerous drugs to

1 Patient A, as more particularly alleged hereinafter. Paragraphs 14 through 30, above, are hereby
2 incorporated by reference and realleged as if fully set forth herein.

3 **FOURTH CAUSE FOR DISCIPLINE**
4 **(Failure to Maintain Adequate and Accurate Records)**

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

9 **FIFTH CAUSE FOR DISCIPLINE**
10 **(General Unprofessional Conduct)**

11 34. Respondent's license is further subject to disciplinary action under sections 2227 and
12 2234, as defined by section 2234, of the Code, in that he has engaged in conduct which breaches
13 the rules or ethical code of the medical profession, or conduct which is unbecoming of a member
14 in good standing of the medical profession, and which demonstrates an unfitness to practice
15 medicine, as more particularly alleged in paragraphs 14 through 30, above, which are hereby
16 realleged and incorporated by reference as if fully set forth herein.

17 **PRAYER**

18 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
19 and that following the hearing, the Medical Board of California issue a decision:

- 20 1. Revoking or suspending Physician's and Surgeon's Certificate No. G 78434, issued to
21 William H. Bresnick, M.D.;
- 22 2. Revoking, suspending or denying approval of William H. Bresnick, M.D.'s authority
23 to supervise physician assistants and advanced practice nurses;
- 24 3. Ordering William H. Bresnick, M.D., if placed on probation, to pay the Board the
25 costs of probation monitoring; and

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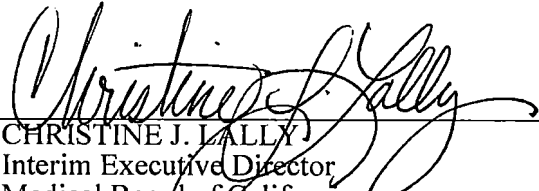
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4. Taking such other and further action as deemed necessary and proper.

DATED: JAN. 7, 2020


CHRISTINE J. LALLY
Interim Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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