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

13 In the Matter of the Accusation Against:

Case No. 800-2018-043751

14 **Allan H. Rabin, M.D.**
15 **4540 Kearny Villa Rd., # 117**
San Diego, CA 92123

A C C U S A T I O N

16 **Physician's and Surgeon's Certificate**
17 **No. G 10534,**

18 Respondent.

19 **PARTIES**

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

23 2. On or about March 19, 1965, the Medical Board issued Physician's and Surgeon's
24 Certificate No. G 10534 to Allan H. Rabin, M.D. (Respondent). The Physician's and Surgeon's
25 Certificate was in full force and effect at all times relevant to the charges brought herein and will
26 expire on October 31, 2021, unless renewed.

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JURISDICTION

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

5 4. Section 2227, subdivision (a) 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 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
24 conduct includes, but is not limited to, the following:

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

27 (b) Gross negligence.

28 (c) Repeated negligent acts. To be repeated, there must be two or more
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) An initial negligent diagnosis followed by an act or omission medically
appropriate for that negligent diagnosis of the patient shall constitute a single
negligent act.

(2) When the standard of care requires a change in the diagnosis, act, or
omission that constitutes the negligent act described in paragraph (1), including, but
not limited to, a reevaluation of the diagnosis or a change in treatment, and the

1 licensee's conduct departs from the applicable standard of care, each departure
2 constitutes a separate and distinct breach of the standard of care.

3 ...

4 6. At all times relevant to the acts or omissions alleged herein between and including
5 January 1, 2014 and December 31, 2020, Health and Safety Code section 11165, subdivision (a)
6 stated:¹

7 To assist health care practitioners in their efforts to ensure appropriate
8 prescribing, ordering, administering, furnishing, and dispensing of controlled
9 substances, law enforcement and regulatory agencies in their efforts to control the
10 diversion and resultant abuse of Schedule II, Schedule III, and Schedule IV controlled
11 substances, and for statistical analysis, education, and research, the Department of
12 Justice shall, contingent upon the availability of adequate funds in the CURES Fund,
maintain the Controlled Substance Utilization Review and Evaluation System
(CURES) for the electronic monitoring of, and internet access to information
regarding, the prescribing and dispensing of Schedule II, Schedule III, and
Schedule IV controlled substances by all practitioners authorized to prescribe, order,
administer, furnish, or dispense these controlled substances.

13 7. As in effect at all times between and including October 2, 2018 and March 31, 2020,
14 Health and Safety Code section 11165.4 stated, in pertinent part:

15 (a) (1) (A) (i) A health care practitioner authorized to prescribe, order,
16 administer, or furnish a controlled substance shall consult the CURES database to
17 review a patient's controlled substance history before prescribing a Schedule II,
18 Schedule III, or Schedule IV controlled substance to the patient for the first time and
at least once every four months thereafter if the substance remains part of the
treatment of the patient.

19 (ii) If a health care practitioner authorized to prescribe, order, administer, or
20 furnish a controlled substance is not required, pursuant to an exemption described in
21 subdivision (c), to consult the CURES database the first time he or she prescribes,
22 orders, administers, or furnishes a controlled substance to a patient, he or she shall
consult the CURES database to review the patient's controlled substance history
before subsequently prescribing a Schedule II, Schedule III, or Schedule IV
controlled substance to the patient and at least once every four months thereafter if
the substance remains part of the treatment of the patient.

23 (B) For purposes of this paragraph, first time means the initial occurrence in
24 which a health care practitioner, in his or her role as a health care practitioner, intends
25 to prescribe, order, administer, or furnish a Schedule II, Schedule III, or Schedule IV
26 controlled substance to a patient and has not previously prescribed a controlled
substance to the patient.

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27 ¹ Effective January 1, 2021, subdivision (a) of section 11165 of the Health and Safety
28 Code was amended to add references to Schedule V controlled substances. (See Stats. 2019,
c. 677, § 6.)

1 (2) A health care practitioner shall obtain a patient's controlled substance
2 history from the CURES database no earlier than 24 hours, or the previous business
3 day, before he or she prescribes, orders, administers, or furnishes a Schedule II,
4 Schedule III, or Schedule IV controlled substance to the patient.

5 ...

6 (d) (1) A health care practitioner who fails to consult the CURES database, as
7 described in subdivision (a), shall be referred to the appropriate state professional
8 licensing board solely for administrative sanctions, as deemed appropriate by that
9 board.

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11 8. Section 2238 of the Code states:

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

15 **FIRST CAUSE FOR DISCIPLINE**

16 **(Gross Negligence)**

17 9. Respondent has submitted his Physician's and Surgeon's Certificate
18 No. G 10534 to disciplinary action under sections 2227 and 2234, as defined by section 2234,
19 subdivision (b), of the Code in that he committed gross negligence in the course of his care and
20 treatment of one or more patients. The circumstances are as follows:

21 **Patient A²**

22 10. On multiple occasions beginning in or around October 2008,³ Respondent rendered
23 psychiatric care and treatment to Patient A, an adult patient with a history of ailments including,
24 but not limited to: opioid use disorder; attention deficit hyperactivity disorder (ADHD); and
25 sedative, hypnotic, or anxiolytic-related dependence.

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² Patients' true names are not used in the instant Accusation to maintain patient confidentiality. The patients' identities are known to Respondent or will be disclosed to Respondent upon receipt of a duly issued request for discovery in accordance with Government Code section 11507.6.

³ Any medical care or treatment rendered by Respondent more than seven years prior to the filing of the instant Accusation is described for informational purposes only, and is not alleged as a basis for disciplinary action.

1 11. In or around June 2014 to November 2019, Respondent issued recurring prescriptions
2 to Patient A for Suboxone.⁴

3 12. In or around June 2014 to August 2018, Respondent issued recurring prescriptions to
4 Patient A for amphetamine salts.⁵

5 13. In or around June 2014 to January 2018, Respondent issued recurring prescriptions to
6 Patient A for alprazolam.⁶

7 14. In or around June 2014 to December 2018, Respondent issued recurring prescriptions
8 to Patient A for diazepam.⁷

9 15. In or around October 2015 to January 2016, Respondent issued recurring
10 prescriptions to Patient A for phenobarbital.⁸

11 16. In or around October 2, 2018 to March 31, 2020, Respondent failed to consult the
12 CURES database to review Patient A's controlled substance history.

13 17. Respondent's medical records pertaining to his care and treatment of Patient A failed
14 to include progress note documentation for multiple clinical encounters with Patient A in or after
15 June 2014.

16 18. Respondent's medical records pertaining to his care and treatment of Patient A failed
17 to adequately or accurately document the basis for one or more clinical interventions by
18 Respondent in or after June 2014 including, but not limited to, the prescribing of controlled

19 _____
20 ⁴ Suboxone is a brand name for buprenorphine and naloxone, is a Schedule III controlled
21 substance pursuant to Health and Safety Code section 11056, subdivision (e), and a dangerous
22 drug pursuant to Business and Professions Code section 4022.

23 ⁵ Amphetamine salts, also known by brand names including, but not limited to, Adderall
24 and Zenzedi, are Schedule II controlled substances pursuant to Health and Safety Code
25 section 11055, subdivision (d), and a dangerous drugs pursuant to Business and Professions Code
26 section 4022. Such drugs are commonly used for ADHD or narcolepsy.

27 ⁶ Alprazolam, also known by the brand name Xanax, is a Schedule IV controlled
28 substance pursuant to Health and Safety Code section 11057, subdivision (d), and a dangerous
drug pursuant to Business and Professions Code section 4022. It belongs to the benzodiazepine
family of controlled substances.

⁷ Diazepam, also known by the brand name Valium, is a Schedule IV controlled substance
pursuant to Health and Safety Code section 11057, subdivision (d), and a dangerous drug
pursuant to Business and Professions Code section 4022. It belongs to the benzodiazepine family
of controlled substances.

⁸ Phenobarbital is a barbiturate, Schedule IV controlled substance pursuant to Health and
Safety Code section 11057, subdivision (d), and a dangerous drug pursuant to Business and
Professions Code section 4022.

1 substances including, without limitation, amphetamines, benzodiazepines, or Suboxone, or any
2 combination thereof.

3 19. Respondent committed gross negligence in the course of his care and treatment of
4 Patient A including, but not limited to, failing to maintain accurate and complete psychiatric
5 records for Patient A.

6 **Patient B**

7 20. On multiple occasions beginning in or around June 2017, Respondent rendered
8 psychiatric care and treatment to Patient B, an adult patient with a history of ailments including,
9 but not limited to: opioid use disorder; one or more anxiety disorders; and sedative, hypnotic, or
10 anxiolytic-related dependence.

11 21. In or around June 2017 to December 2020, Respondent issued recurring prescriptions
12 to Patient B for Suboxone.

13 22. In or around June 2017 to December 2020, Respondent issued recurring prescriptions
14 to Patient B for amphetamine salts.

15 23. In or around June 2017 to February 2019, Respondent issued recurring prescriptions
16 to Patient B for clonazepam.⁹

17 24. In or around July 2017 to December 2020, Respondent issued recurring prescriptions
18 to Patient B for diazepam.

19 25. In or around October 2, 2018 to March 31, 2020, Respondent consulted the CURES
20 database to review Patient B's controlled substance history on only one occasion, on or about
21 October 7, 2019.

22 26. Respondent's medical records pertaining to his care and treatment of Patient B failed
23 to adequately or accurately document one or more clinical interventions by Respondent including,
24 but not limited to, ADHD assessment, or the prescribing of controlled substances including,
25 without limitation, amphetamines, benzodiazepines, or Suboxone, or any combination thereof.

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27 ⁹ Clonazepam, also known by the brand name Klonopin, is a Schedule IV controlled
28 substance pursuant to Health and Safety Code section 11057, subdivision (d), and a dangerous
drug pursuant to Business and Professions Code section 4022. It is an anti-anxiety medication in
the benzodiazepine family.

1 27. In multiple instances, Respondent's medical records pertaining to his care and
2 treatment of Patient B contain inconsistent statements regarding patient evaluation or assessment.

3 28. Respondent committed gross negligence in the course of his care and treatment of
4 Patient B including, but not limited to, failing to maintain accurate and complete psychiatric
5 records for Patient B.

6 **Patient C**

7 29. On multiple occasions beginning in or around June 2017, Respondent rendered
8 psychiatric care and treatment to Patient C, an adult patient with a history of ailments including,
9 but not limited to, opioid use disorder and one or more anxiety disorders.

10 30. In or around June 2017 to January 2020, Respondent issued recurring prescriptions to
11 Patient C for Suboxone.

12 31. In or around June 2017 to November 2018, Respondent issued recurring prescriptions
13 to Patient C for diazepam.

14 32. In or around March 2018 to November 2018, Respondent issued recurring
15 prescriptions to Patient C for alprazolam.

16 33. In or around October 2, 2018 to March 31, 2020, Respondent failed to consult the
17 CURES database to review Patient C's controlled substance history.

18 34. Respondent committed gross negligence in the course of his care and treatment of
19 Patient C including, but not limited to, failing to adequately review the CURES database for
20 Patient C's controlled substance history.

21 **SECOND CAUSE FOR DISCIPLINE**

22 **(Repeated Negligent Acts)**

23 35. Respondent has further submitted his Physician's and Surgeon's Certificate
24 No. G 10534 to disciplinary action under sections 2227 and 2234, as defined by section 2234,
25 subdivision (c), of the Code in that he committed repeated negligent acts in the course of his care
26 and treatment of one or more patients as more particularly alleged in paragraphs 9 to 34, above,
27 which are hereby incorporated by reference as if fully set forth herein.

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1 **THIRD CAUSE FOR DISCIPLINE**

2 **(Failure to Consult CURES)**

3 36. Respondent has further submitted his Physician's and Surgeon's Certificate
4 No. G 10534 to disciplinary action under section 2227 of the Code and section 11165.4,
5 subdivision (d), paragraph (1) of the Health and Safety Code, as well as sections 2227 and 2234,
6 as defined by section 2238, of the Code, in that on one or more occasions on or after October 2,
7 2018 he failed to consult the CURES database to review Patient A's, Patient B's or Patient C's
8 controlled substance history before prescribing to any of them a Schedule II, Schedule III, or
9 Schedule IV controlled substance for the first time, or at least once every four months if the
10 controlled substance remained part of the respective patient's treatment, as more particularly
11 alleged in paragraphs 10 through 16, 20 through 25, and 29 through 33, above, which are hereby
12 incorporated by reference as if fully set forth herein.

13 **FOURTH CAUSE FOR DISCIPLINE**

14 **(Failure to Maintain Adequate and Accurate Records)**

15 37. Respondent has further submitted his Physician's and Surgeon's Certificate
16 No. G 10534 to disciplinary action under sections 2227 and 2234, as defined by section 2266, of
17 the Code in that he failed to maintain adequate and accurate records relating to the provision of
18 services to Patient A or Patient B, or both, as more particularly alleged in paragraphs 10
19 through 28, above, which are hereby incorporated by reference as if fully set forth herein.

20 **FIFTH CAUSE FOR DISCIPLINE**

21 **(Violation of the Medical Practice Act)**

22 38. Respondent has further submitted his Physician's and Surgeon's Certificate
23 No. G 10534 to disciplinary action under sections 2227 and 2234, as defined by section 2234,
24 subdivision (a), of the Code in that he violated or attempted to violate, directly or indirectly, one
25 or more provisions of the Medical Practice Act as more particularly alleged in paragraphs 9
26 through 37, above, which are hereby incorporated by reference as if fully set forth herein.

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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:

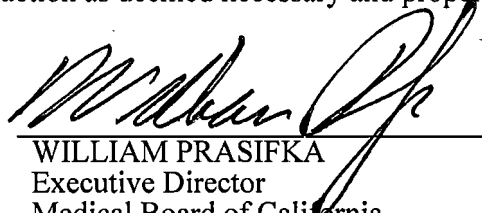
1. Revoking or suspending Physician's and Surgeon's Certificate No. G 10534, issued to Respondent Allan H. Rabin, M.D.;

2. Revoking, suspending or denying approval of Respondent Allan H. Rabin, M.D.'s authority to supervise physician assistants and advanced practice nurses;

3. Ordering Respondent Allan H. Rabin, 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: MAY 24 2021



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

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