ROB BONTA
Attorney General of California
JUDITH T. ALVARADO
Supervising Deputy Attorney General
TAN N. TRAN
Deputy Attorney General
State Bar No. 197775
300 South Spring Street, Suite 1702
Los Angeles, CA 90013
Telephone: (213) 269-6535
Facsimile: (916) 731-2117
Attorneys for Complainant

BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: **GERALD RAY WATKINS, M.D.** **44444 20th Street West** **Lancaster, CA 93534** **Physician's and Surgeon's Certificate No. G 31539,** Respondent.	Case No. 800-2019-059067 **A C C U S A T I O N**

PARTIES

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

2. On or about March 24, 1976, the Board issued Physician's and Surgeon's Certificate Number G 31539 to Gerald Ray Watkins, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought herein and will expire on April 30, 2024, unless renewed.

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JURISDICTION

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

4. Section 2004 of the Code states:

The board shall have the responsibility for the following:

(a) The enforcement of the disciplinary and criminal provisions of the Medical Practice Act.

(b) The administration and hearing of disciplinary actions.

(c) Carrying out disciplinary actions appropriate to findings made by a panel or an administrative law judge.

(d) Suspending, revoking, or otherwise limiting certificates after the conclusion of disciplinary actions.

(e) Reviewing the quality of medical practice carried out by physician and surgeon certificate holders under the jurisdiction of the board.

(f) Approving undergraduate and graduate medical education programs.

(g) Approving clinical clerkship and special programs and hospitals for the programs in subdivision (f).

(h) Issuing licenses and certificates under the board's jurisdiction.

(i) Administering the board's continuing medical education program.

5. Section 2227 of the Code states:

(a) A licensee whose matter has been heard by an administrative law judge of the Medical Quality Hearing Panel as designated in Section 11371 of the Government 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:

(1) Have his or her license revoked upon order of the board.

(2) Have his or her right to practice suspended for a period not to exceed one year upon order of the board.

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

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

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

(b) Any matter heard pursuant to subdivision (a), except for warning letters, medical review or advisory conferences, professional competency examinations, 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.

STATUTORY PROVISIONS

6. Section 2234 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.

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

(d) Incompetence.

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

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

(g) The failure by a certificate holder, in the absence of good cause, to 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.

7. Section 2241 of the Code states:

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

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

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

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

(A) Impaired control over drug use.

(B) Compulsive use.

(C) Continued use despite harm.

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

8. Section 2242 of the Code states:

(a) Prescribing, dispensing, or furnishing dangerous drugs as defined in Section 4022 without an appropriate prior examination and a medical indication, constitutes unprofessional conduct. An appropriate prior examination does not require a synchronous interaction between the patient and the licensee and can be achieved through the use of telehealth, including, but not limited to, a self-screening tool or a questionnaire, provided that the licensee complies with the appropriate standard of care.

(b) No licensee shall be found to have committed unprofessional conduct within the meaning of this section if, at the time the drugs were prescribed, dispensed, or furnished, any of the following applies:

(1) The licensee was a designated physician and surgeon or podiatrist serving in the absence of the patient's physician and surgeon or podiatrist, as the case may be, and if the drugs were prescribed, dispensed, or furnished only as necessary to maintain the patient until the return of the patient's practitioner, but in any case no longer than 72 hours.

(2) The licensee transmitted the order for the drugs to a registered nurse or to a licensed vocational nurse in an inpatient facility, and if both of the following conditions exist:

(A) The practitioner had consulted with the registered nurse or licensed vocational nurse who had reviewed the patient's records.

(B) The practitioner was designated as the practitioner to serve in the absence of the patient's physician and surgeon or podiatrist, as the case may be.

(3) The licensee was a designated practitioner serving in the absence of the patient's physician and surgeon or podiatrist, as the case may be, and was in possession of or had utilized the patient's records and ordered the renewal of a medically indicated prescription for an amount not exceeding the original prescription in strength or amount or for more than one refill.

(4) The licensee was acting in accordance with Section 120582 of the Health and Safety Code.

9. 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.

10. Section 725 of the Code states:

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

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

(c) A practitioner who has a medical basis for prescribing, furnishing, 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.

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COST RECOVERY

11. Section 125.3 of the Code states:

(a) Except as otherwise provided by law, in any order issued in resolution of a disciplinary proceeding before any board within the department or before the Osteopathic Medical Board, upon request of the entity bringing the proceeding, the administrative law judge may direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

(b) In the case of a disciplined licensee that is a corporation or a partnership, the order may be made against the licensed corporate entity or licensed partnership.

(c) A certified copy of the actual costs, or a good faith estimate of costs where actual costs are not available, signed by the entity bringing the proceeding or its designated representative shall be prima facie evidence of reasonable costs of investigation and prosecution of the case. The costs shall include the amount of investigative and enforcement costs up to the date of the hearing, including, but not limited to, charges imposed by the Attorney General.

(d) The administrative law judge shall make a proposed finding of the amount of reasonable costs of investigation and prosecution of the case when requested pursuant to subdivision (a). The finding of the administrative law judge with regard to costs shall not be reviewable by the board to increase the cost award. The board may reduce or eliminate the cost award, or remand to the administrative law judge if the proposed decision fails to make a finding on costs requested pursuant to subdivision (a).

(e) If an order for recovery of costs is made and timely payment is not made as directed in the board's decision, the board may enforce the order for repayment in any appropriate court. This right of enforcement shall be in addition to any other rights the board may have as to any licensee to pay costs.

(f) In any action for recovery of costs, proof of the board's decision shall be conclusive proof of the validity of the order of payment and the terms for payment.

(g) (1) Except as provided in paragraph (2), the board shall not renew or reinstate the license of any licensee who has failed to pay all of the costs ordered under this section.

(2) Notwithstanding paragraph (1), the board may, in its discretion, conditionally renew or reinstate for a maximum of one year the license of any licensee who demonstrates financial hardship and who enters into a formal agreement with the board to reimburse the board within that one-year period for the unpaid costs.

(h) All costs recovered under this section shall be considered a reimbursement for costs incurred and shall be deposited in the fund of the board recovering the costs to be available upon appropriation by the Legislature.

(i) Nothing in this section shall preclude a board from including the recovery of the costs of investigation and enforcement of a case in any stipulated settlement.

(j) This section does not apply to any board if a specific statutory provision in

that board's licensing act provides for recovery of costs in an administrative disciplinary proceeding.

FIRST CAUSE FOR DISCIPLINE

(Gross Negligence/Repeated Negligent Acts – 3 Patients)

12. Respondent Gerald Ray Watkins, M.D. is subject to disciplinary action under section 2234, subdivisions (b) and (c), of the Code for the commission of acts or omissions involving gross negligence/repeated negligent acts in the care and treatment of Patients 1, 2, and 3.[1] The circumstances are as follows:

Patient 1

13. Patient 1 (or "patient") is a twenty-seven-year-old male, who was treated by Respondent from approximately 2013 to 2021,[2] for various maladies including generalized anxiety disorder, and panic disorder. Of note, Patient 1 also had a previous diagnosis of cannabis dependency. Per medical records and CURES (Controlled Substance Utilization Review and Evaluation System, a drug monitoring database for Schedule II through V controlled substances dispensed in California), Respondent prescribed to Patient 1 the anti-anxiety drug clonazepam (Klonopin), in addition to alprazolam (Xanax).[3]

14. During the above time period, Patient 1 was displaying signs of overt substance abuse. For example, in 2018 Patient 1 had received other controlled medications (e.g. Tylenol with codeine) from another physician. On July 9, 2018, the patient asked for an early refill of alprazolam because "he spilled medication in sink." Also, in early 2019 Respondent noted that the patient had continued his cannabis use. Despite these "red flags," Respondent failed to take

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[1] The patients are identified by number to protect their privacy.

[2] These are approximate dates based on the medical records which were available to the Board. Patient 1 may have treated with Respondent before or after these dates. Treatment rendered prior to April 2015 is identified for historical purposes only.

[3] Both of these medications are controlled substances/benzodiazepines, and have serious side effects and risk for addiction. They are also dangerous drugs pursuant to section 4022 of the Code. The community standard is that only one benzodiazepine is prescribed at a time to a patient. Per Patient 1, after Respondent prescribed clonazepam to him, Patient 1 suggested to Respondent that he wanted a shorter-acting benzodiazepine, in addition to the clonazepam, as Patient 1's intentions for seeing Respondent was to obtain alprazolam/Xanax for recreational purposes. Respondent should have been aware that alprazolam, with a shorter half-life, had a higher risk of abuse, and therefore Respondent should not have prescribed two benzodiazepines (e.g. clonazepam and alprazolam) simultaneously to Patient 1.

active steps (e.g., screening for substance abuse, including: taking a substance abuse history, performing an examination, regular review of CURES, urine drug screens, etc.) to determine if he should stop prescribing controlled substances for the patient. Instead, Respondent continued to prescribe excessive doses of controlled substances to the patient, despite the patient's mother informing providers in 2019 that Patient 1 was a drug-seeking patient, and despite Patient 1 being diagnosed with polysubstance abuse, including heroin, alprazolam, and marijuana.[4]

15. The above acts/omissions committed by Respondent demonstrate an extreme departure from the standard of care with respect to Respondent's overall care of Patient 1, as well as repeated acts of negligence.

Patient 2

16. Patient 2 (or "patient") is a forty-year-old female, who was treated by Respondent from approximately September 2009 through July 2020.[5] Respondent diagnosed Patient 2 with panic disorder and generalized anxiety. Patient 2 was prescribed 2 mg alprazolam/Xanax (a benzodiazepine), 90 mg Adderall (a stimulant), and 60 mg duloxetine (an antidepressant which also helps anxiety).[6]

17. From a period of over three years (February 2016 through May 2019), Patient 2 was on a longstanding dose of 6 mg of alprazolam per day, despite Respondent being aware that the patient had a history of alcohol addiction. Respondent prescribed a large dose of alprazolam, which is one of the shortest-acting benzodiazepines, and thus most prone to incurring addiction, for more than three years with very little follow-up and no urine drug testing.[7] Respondent also

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[4] Respondent knew that Patient 1 had a history of cannabis dependence, but Respondent still prescribed controlled medications to Patient 1, despite the fact that the patient was not receiving regular treatment/therapy (e.g. Patient 1 was not seen by Respondent regularly, and at one point, the patient planned a "return in about [one] year...").

[5] Per the records, Respondent saw Patient 2 seventeen times during this period, and at one point, there were fourteen months between visits. Treatment rendered prior to April 2015 is identified for historical purposes only.

[6] These three combination of medications constituted inappropriate treatment because it involved an extremely high dose of a stimulant (Adderall), combined with a large dose of a sedative-hypnotic (alprazolam), and a non-benzodiazepine sedative-hypnotic (duloxetine). It also appeared that Respondent was prescribing Patient 2 these medications based on the patient's wishes, and not on diagnosis. The alprazolam and Adderall are dangerous drugs pursuant to section 4022 of the Code.

[7] This constituted inappropriate benzodiazepine prescribing on the part of Respondent,

prescribed 90 mg Adderall,[8] which is a controlled substance (stimulant) without justification, and without an appropriate diagnosis and treatment plan. For example, Respondent did not document that Patient 2 had symptoms which would be helped by the medication in an off-label manner. Respondent did document that he prescribed the Adderall to Patient 2 because the patient "wanted it."

18. The above acts/omissions on the part of Respondent demonstrate an extreme departure from the standard of care with respect to Respondent's overall care of Patient 2 during the above time period, as well as repeated acts of negligence.

Patient 3

19. Patient 3 (or "patient") is a forty-year-old male, who treated with Respondent from approximately 2006 through 2020. Respondent diagnosed Patient 3 with major depression in 2006, and generalized anxiety disorder in 2009. Patient 3 also had a care manager since March 2014, and the patient had multiple other medical problems including atherosclerosis, diverticulitis, diabetes, obesity, chronic kidney disease, GERD (gastroesophageal reflux disease), melanoma, and irritable bowel syndrome.[9] Per CURES, Respondent prescribed a very short-acting benzodiazepine (alprazolam) to Patient 3, who was concomitantly on opioids (e.g., Vicodin) and other medications.

20. As of May 2014, Patient 3 was noted to be on long-term opioid therapy, and the patient's primary care doctor diagnosed Patient 3 with moderate sedative, hypnotic or anxiolytic use disorder in January 2020. Of note, records showed that in late May 2020, Patient 3 was hospitalized for an altered mental status, which was "partly medication related." Despite this, Respondent failed to change Patient 3 to a longer-acting benzodiazepine, which is less likely to be abused than alprazolam. Also, Respondent prescribed quetiapine (an antipsychotic used for sleep), and mirtazapine (antidepressant) to Patient 3, who was already taking alprazolam, a benzodiazepine and a dangerous drug pursuant to section 4022 of the Code, an opioid (prescribed

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because it raised the risk for addiction to sedative-hypnotics.

[8] Typical doses of Adderall are 20-40 mg per day. 90-120 mg is well above the average, particularly for Patient 2, who was not diagnosed with ADHD or narcolepsy.

[9] Treatment rendered prior to April 2015 is identified for historical purposes only.

by another doctor), and topiramate (an anticonvulsant and a nerve pain medication, also prescribed by another doctor).[10]

21. Respondent's care and treatment of Patient 3, as outlined above, represents an extreme departure from the standard of care for inappropriate prescribing of benzodiazepines to Patient 3. Respondent's care and treatment of Patient 3, as outlined above, also demonstrates an extreme departure from the standard of care with respect to Respondent's inappropriate psychopharmacologic treatment of Patient 3. Respondent's care and treatment of Patient 3 also constitutes repeated acts of negligence.

SECOND CAUSE FOR DISCIPLINE

(Excessive Prescribing – 3 Patients)

22. By reason of the facts and allegations set forth in the First Cause for Discipline above, Respondent is subject to disciplinary action under section 725 of the Code, in that Respondent excessively prescribed dangerous drugs to Patients 1, 2, and 3.

THIRD CAUSE FOR DISCIPLINE

(Prescribing to an Addict – Patients 1 and 2)

23. Respondent is subject to disciplinary action under section 2241 of the Code in that Respondent prescribed controlled substances to Patients 1 and 2, who had signs of drug or alcohol addiction.

24. The facts and circumstances in the First Cause for Discipline, above, are incorporated by reference as if set forth in full herein.

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[10] This piling of medications (polypharmacy) with known cognitive side effects to a medically ill patient, such as Patient 3, is dangerous and can contribute to delirium and altered mental status. Also, Respondent's prescribing of polypharmacy to Patient 3 shows that Respondent failed to adequately collaborate with the patient's care team, and/or failed to adequately review CURES, and/or failed to adequately consider or take into account the other medications Patient 3 was taking.

FOURTH CAUSE FOR DISCIPLINE

(Furnishing Dangerous Drugs without a Prior Examination or Medical Indication – Patients 1 and 2)

25. By reason of the facts and allegations set forth in the First Cause for Discipline above, Respondent is subject to disciplinary action under section 2242 of the Code, in that Respondent furnished dangerous drugs to Patients 1 and 2 without conducting an appropriate prior examination and prescribed to Patients 1 and 2 without medical indication or justification. Respondent continued to prescribe dangerous drugs to Patients 1 and 2 without an appropriate medical diagnosis and treatment plan.

FIFTH CAUSE FOR DISCIPLINE

(Inadequate Records – 3 Patients)

26. By reason of the facts and allegations set forth in the First Cause for Discipline above, Respondent is subject to disciplinary action under section 2266 of the Code, in that Respondent failed to maintain adequate and accurate records of his care and treatment of Patients 1, 2, and 3, above.

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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 Number G 31539, issued to Respondent Gerald Ray Watkins, M.D.;

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

3. Ordering Respondent Gerald Ray Watkins, M.D. to pay the Board the costs of the investigation and enforcement of this case, and if placed on probation, the costs of probation monitoring; and

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

DATED: JUN 0 1 2022

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