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

11 In the Matter of the Accusation Against:	Case No. 800-2021-082975
12 <b>ELISA CUELLAR ALVARADO, M.D.</b>	<b>A C C U S A T I O N</b>
13 <b>630 S. Raymond Ave., Suite 340</b>	
14 <b>Pasadena, CA 91105</b>	
15 <b>Physician's and Surgeon's Certificate</b>	
16 <b>No. A 98438,</b>	
17 <b>Respondent.</b>	

18 **PARTIES**

- 19 1. Reji Varghese (Complainant) brings this Accusation solely in his official capacity as  
20 the Executive Director of the Medical Board of California, Department of Consumer Affairs  
21 (Board).
- 22 2. On or about December 29, 2006, the Board issued Physician's and Surgeon's  
23 Certificate Number A 98438 to Elisa Cuellar Alvarado, M.D. (Respondent). The Physician's and  
24 Surgeon's Certificate was in full force and effect at all times relevant to the charges brought  
25 herein and will expire on August 31, 2024, unless renewed.

26 **JURISDICTION**

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

1 indicated.

2 4. Section 2004 of the Code states:

3 The board shall have the responsibility for the following:

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

6 (b) The administration and hearing of disciplinary actions.

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

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

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

13 (f) Approving undergraduate and graduate medical education programs.

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

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

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

18 5. Section 2227 of the Code states:

19 (a) A licensee whose matter has been heard by an administrative law judge of  
20 the Medical Quality Hearing Panel as designated in Section 11371 of the Government  
21 Code, or whose default has been entered, and who is found guilty, or who has entered  
22 into a stipulation for disciplinary action with the board, may, in accordance with the  
23 provisions of this chapter:

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

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

27 (3) Be placed on probation and be required to pay the costs of probation  
28 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,

1 continuing education activities, and cost reimbursement associated therewith that are  
2 agreed to with the board and successfully completed by the licensee, or other matters  
3 made confidential or privileged by existing law, is deemed public, and shall be made  
4 available to the public by the board pursuant to Section 803.1.

5  
6 6. Section 2228 of the Code states:

7 The authority of the board or the California Board of Podiatric Medicine to  
8 discipline a licensee by placing him or her on probation includes, but is not limited to,  
9 the following:

10 (a) Requiring the licensee to obtain additional professional training and to pass  
11 an examination upon the completion of the training. The examination may be written  
12 or oral, or both, and may be a practical or clinical examination, or both, at the option  
13 of the board or the administrative law judge.

14 (b) Requiring the licensee to submit to a complete diagnostic examination by  
15 one or more physicians and surgeons appointed by the board. If an examination is  
16 ordered, the board shall receive and consider any other report of a complete  
17 diagnostic examination given by one or more physicians and surgeons of the  
18 licensee's choice.

19 (c) Restricting or limiting the extent, scope, or type of practice of the licensee,  
20 including requiring notice to applicable patients that the licensee is unable to perform  
21 the indicated treatment, where appropriate.

22 (d) Providing the option of alternative community service in cases other than  
23 violations relating to quality of care.

### 24 STATUTORY PROVISIONS

25 7. Section 2234 of the Code states:

26 The board shall take action against any licensee who is charged with  
27 unprofessional conduct. In addition to other provisions of this article, unprofessional  
28 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.

1 (d) Incompetence.

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

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

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

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

### 12 COST RECOVERY

13 9. Section 125.3 of the Code states:

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

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

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

28 (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.

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

2 (2) Notwithstanding paragraph (1), the board may, in its discretion,  
3 conditionally renew or reinstate for a maximum of one year the license of any  
4 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  
5 costs.

6 (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  
7 to be available upon appropriation by the Legislature.

8 (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.

9 (j) This section does not apply to any board if a specific statutory provision in  
10 that board's licensing act provides for recovery of costs in an administrative  
disciplinary proceeding.

### 11 FACTUAL ALLEGATIONS

12 10. At all times relevant to the allegations herein, Respondent was a licensed physician  
13 practicing internal medicine.

#### 14 Patient 1<sup>1</sup>

15 11. Respondent first began treating Patient 1, then a 46-year-old female, in or around  
16 2010. Respondent served as Patient 1's primary care physician. From in or around 2017 through  
17 2021,<sup>2</sup> Respondent regularly treated Patient 1 for various conditions, including chronic low back  
18 pain, which was diagnosed as multifactorial with a combination of progressive degenerative disc  
19 disease and inflammatory arthritis with mixed connective tissue disease. Respondent prescribed  
20 the same dosage of Vicodin (hydrocodone with acetaminophen)<sup>3</sup> to Patient 1 from at least in or  
21 around 2018 through 2021 for her back pain.

22 12. Patient 1 also suffered from chronic anxiety, which Respondent treated with Xanax  
23 (alprazolam),<sup>4</sup> 1 mg three times per day. Respondent regularly prescribed alprazolam from at

24 <sup>1</sup> Patients are identified by number to protect their privacy.

25 <sup>2</sup> The medical records that were available to the Board spanned this time period.

26 <sup>3</sup> Vicodin is a brand name for hydrocodone with acetaminophen. Hydrocodone is a semi-  
synthetic opioid form of codeine. It is a narcotic analgesic taken orally for relief of moderate to  
severe pain.

27 <sup>4</sup> Alprazolam is a benzodiazepine drug used to treat anxiety disorders, panic disorders, and  
28 anxiety caused by depression. Benzodiazepines are a class of drugs that produce central nervous  
system (CNS) depression. They are used therapeutically to produce sedation, induce sleep,  
relieve anxiety and muscle spasms, and to prevent seizures.

1 least in or around 2018 through 2021. Between in or around 2017 and 2021, Respondent  
2 repeatedly listed Patient 1's anxiety in the "Problems" list in Patient 1's chart. However, the one  
3 and only time when Respondent addressed Patient 1's anxiety in the note portion of the chart was  
4 for her visit on or about September 2, 2021. On or about September 2, 2021, Respondent's nurse  
5 practitioner wrote "Anxiety stable on Xanax," in the "Plan" portion of that chart note.

6 Respondent did not document medications that had been tried and failed before prescribing  
7 alprazolam. Respondent also failed to document a discussion of the risks of alprazolam (a  
8 benzodiazepine) use in combination with Vicodin (an opioid).

9 13. In an interview with Board representatives, Respondent admitted that she did not  
10 have a signed medication management agreement with Patient 1. Patient 1 had been using opioid  
11 medications long term (monthly for years), which warranted the use of a medication management  
12 agreement.

### 13 **Patient 2**

14 14. On or about October 18, 2017, Respondent first began treating Patient 2, then a 71-  
15 year-old male. Respondent served as Patient 2's primary care physician from in or around 2017  
16 through 2021. Patient 2 had a history of chronic leg pain as a result of restless leg syndrome.  
17 Prior to establishing care with Respondent, Patient 2 had been taking tramadol<sup>5</sup> and Tylenol  
18 (acetaminophen) with codeine.<sup>6</sup>

19 15. The first time Respondent performed a leg or neurological exam on Patient 2 was on  
20 or about November 18, 2018, more than one year after Patient 2 first began treating with  
21 Respondent. Throughout the course of treatment, Respondent treated Patient 2's restless leg  
22 syndrome by prescribing Tylenol with codeine and tramadol, 50 mg tablets, 8 tablets per day,  
23 which equates to a daily dose of 400 mg of tramadol. This is above the daily maximum dose  
24 recommended by the FDA, which is 300 mg per day in a patient aged 65 or older. Moreover, the  
25 initial pharmacologic therapies for restless leg syndrome include gabapentoids<sup>7</sup> and

26 <sup>5</sup> Tramadol is an opioid analgesic used to help relieve moderate to moderately severe pain.

27 <sup>6</sup> Codeine is an opioid pain reliever used to treat mild to moderately severe pain.

28 <sup>7</sup> "Gabapentin" is an anticonvulsant medication used to treat partial seizures, neuropathic pain, hot flashes, and restless leg syndrome.

1 dopaminergic<sup>8</sup> agents. Severe cases sometimes require the use of a benzodiazepine, but opioids  
2 are not generally used in treating restless leg syndrome. The use of two opioids (high doses of  
3 Tylenol with codeine in addition to tramadol) is not the standard of care for restless leg syndrome.

4 16. During the course of treatment of Patient 2, Respondent also failed to adequately  
5 document a description of the pain experienced by Patient 2, including, without limitation, a  
6 justification for treatment with the drugs that she prescribed to him including the narcotics.  
7 Respondent only documented two visits with a physical exam and neither exam had findings  
8 consistent with radiculopathy or severe pain syndromes. The records did not demonstrate an  
9 indication for two separate narcotics (Tylenol with codeine and tramadol) for pain management.

10 17. Respondent also prescribed multiple benzodiazepines to Patient 2 throughout the  
11 course of treatment. Since in or around 2018, Respondent regularly prescribed 1 mg per day of  
12 lorazepam,<sup>9</sup> and intermittently prescribed temazepam<sup>10</sup> for insomnia. Respondent was also aware  
13 that Patient 2's psychiatrist was also prescribing Adderall<sup>11</sup> to the patient. Thus, during the  
14 course of Respondent's treatment of Patient 2, the patient was taking an amphetamine, two  
15 opioids, and two benzodiazepines. The combination of these controlled substances increases the  
16 potential risk of sedation, addiction, and seizures. Respondent failed to document a discussion  
17 with Patient 2 regarding the risks of using these controlled substances concomitantly and the  
18 potential hazards of addiction, somnolence, and/or seizures.

19 18. In an interview with Board representatives, Respondent acknowledged that she did  
20 not have a signed medication management agreement with Patient 2 and did not perform  
21 toxicology testing to screen for diversion of medications.

### 22 **FIRST CAUSE FOR DISCIPLINE**

#### 23 **(Gross Negligence)**

24 19. Respondent is subject to disciplinary action under section 2234, subdivision (b), of

25 <sup>8</sup> Dopaminergic means "related to dopamine" (literally, "working on dopamine"),  
26 dopamine being a common neurotransmitter. Dopaminergic substances or actions increase  
dopamine-related activity in the brain

27 <sup>9</sup> Lorazepam is a benzodiazepine used to treat anxiety disorders.

<sup>10</sup> Temazepam is a benzodiazepine used to treat insomnia.

28 <sup>11</sup> Adderall is a brand name of a combination of two stimulant drugs, amphetamine and  
dextroamphetamine. It is generally used to treat attention deficit hyperactivity disorder.

1 the Code, in that she committed gross negligence in the course of her care and treatment of  
2 Patient 2. The circumstances are as follows:

3 20. The allegations of paragraphs 14 through 18 are incorporated by reference herein as if  
4 set forth in full.

5 21. With respect to Patient 2, Respondent's prescribing of two opioid medications  
6 (Tylenol with codeine and tramadol) for restless leg syndrome, and a tramadol dose above the  
7 recommended daily maximum dose for patients aged 65 or older, constitutes gross negligence.

8 **SECOND CAUSE FOR DISCIPLINE**

9 **(Repeated Negligent Acts)**

10 22. Respondent is subject to disciplinary action under section 2234, subdivision (c), of  
11 the Code, in that she committed repeated negligent acts in the course of her care and treatment of  
12 Patients 1 and 2. The circumstances are as follows:

13 23. The allegations of paragraphs 10 through 18 are incorporated by reference herein as if  
14 set forth in full.

15 24. Respondent's treatment of Patients 1 and 2 includes the following acts and/or  
16 omissions which constitute repeated negligent acts:

17 **Patient 1**

- 18 a. The lack of a signed medication management agreement.  
19 b. Respondent's failure to document alternative options or medications that had  
20 been tried and failed before prescribing a benzodiazepine (Xanax) and the risks of harm of  
21 concomitant opioid (Vicodin) use.

22 **Patient 2**

- 23 c. The allegations of the First Cause for Discipline are incorporated by reference  
24 herein as if set forth in full.  
25 d. Respondent's failure to document the need for persistent use of opioids and the  
26 failure to document monitoring of appropriate use (e.g., toxicology testing).  
27 e. Respondent's failure to document a discussion of the risks, benefits, and  
28 alternatives to polysubstance use.



1 **THIRD CAUSE FOR DISCIPLINE**

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

3 25. Respondent is subject to disciplinary action under section 2266 of the Code, in that  
4 she failed to maintain adequate and accurate records concerning the care and treatment of Patients  
5 1 through 2, inclusive. The circumstances are as follows:

6 26. The allegations of the First and Second Causes for Discipline are incorporated by  
7 reference herein as if set forth in full.

8 **PRAYER**

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

- 11 1. Revoking or suspending Physician's and Surgeon's Certificate Number A 98438,  
12 issued to Respondent Elisa Cuellar Alvarado, M.D.;
- 13 2. Revoking, suspending or denying approval of Respondent Elisa Cuellar Alvarado,  
14 M.D.'s authority to supervise physician assistants and advanced practice nurses;
- 15 3. Ordering Respondent Elisa Cuellar Alvarado, M.D., to pay the Board the costs of the  
16 investigation and enforcement of this case, and if placed on probation, the costs of probation  
17 monitoring; and
- 18 4. Taking such other and further action as deemed necessary and proper.

19  
20 DATED: APR 04 2024

21 JENNA JONES FOR  
22 REJI VARGHESE  
23 Executive Director  
24 Medical Board of California  
25 Department of Consumer Affairs  
26 State of California  
27 Complainant  
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