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

12 In the Matter of the Accusation Against:

Case No. 800-2018-048871

13 **Patrick Stephen Clyne, M.D.**
14 **Pediatric Med Grp. of Watsonville**
222 Green Valley Road
Freedom, CA 95019-3136

A C C U S A T I O N

15 **Physician's and Surgeon's Certificate**
16 **No. G 79053,**

17 Respondent.

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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 Affairs
22 (Board).

23 2. On or about June 8, 1994, the Medical Board issued Physician's and Surgeon's
24 Certificate Number G 79053 to Patrick Stephen Clyne, M.D. (Respondent). The Physician's and
25 Surgeon's Certificate was in full force and effect at all times relevant to the charges brought
26 herein and will expire on October 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 2004 of the Code states:

6 “The board shall have the responsibility for the following:

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

9 “(b) The administration and hearing of disciplinary actions.

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

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

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

16 “(f) Approving undergraduate and graduate medical education programs.

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

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

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

21 5. Section 2001.1 of the Code provides that the Board’s highest priority shall be public
22 protection.

23 6. Section 2234 of the Code, states:

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

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

1 (b) Gross negligence.

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

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

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

12 (d) Incompetence.

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

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

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

19 7. Section 2227 of the Code provides that a licensee who is found guilty under the
20 Medical Practice Act may have his or her license revoked, suspended for a period not to exceed
21 one year, placed on probation and required to pay the costs of probation monitoring, or such other
22 action taken in relation to discipline as the Board deems proper.

23 8. All of the incidents alleged herein occurred in California.

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1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Unprofessional Conduct: Gross Negligence/Repeated Negligent Acts – Patient One)¹**

3 9. Respondent has subjected his license to disciplinary action under sections 2234
4 [unprofessional conduct], 2234(b) [gross negligence] and/or 2234(c) [repeated negligent acts], for
5 unprofessional conduct, in that his care and treatment of Patient One included departures from the
6 standard of care constituting gross negligence and repeated negligent acts. The circumstances are
7 as follows:

8 10. On or around January 24, 2014, Patient One, then nine years old, was seen by
9 Respondent for a routine physical exam. Patient One was fully clothed for the visit. Respondent
10 told Patient One's mother that Respondent had to take Patient One's pants and underwear off. He
11 said he was going to check Patient One's stomach and that he would have to put his fingers in her
12 vagina in order to examine her stomach. The mother took Patient One and left before the
13 examination could be conducted.

14 11. Respondent is guilty of unprofessional conduct and subject to disciplinary action
15 under sections 2234 [unprofessional conduct], and/or 2234(b) [gross negligence], and/or 2234(c)
16 [repeated negligent acts] of the Code, including but not limited to, the following:

17 A. Failure to follow a standard well child check and with standard Tanner staging² when
18 there is no indication to insert a finger or speculum into the vagina.

19 **SECOND CAUSE FOR DISCIPLINE**

20 **(Unprofessional Conduct: Gross Negligence/Repeated Negligent Acts - Patient Two)**

21 12. Respondent has subjected his license to disciplinary action under sections 2234
22 [unprofessional conduct], 2234(b) [gross negligence], and/or 2234(c) [repeated negligent acts],
23 for unprofessional conduct, in that his care and treatment of Patient Two included departures from
24 the standard of care constituting gross negligence, and/or repeated negligent acts. The
25 circumstances are as follows:

26 ¹ The patients are identified herein as Patient One through Patient Six to preserve
27 confidentiality. The patients' names will be provided to Respondent in discovery.

28 ² Also known as Sexual Maturity Rating (SMR), it is an objective classification system
that providers use to document and track the development and sequence of secondary sex
characteristics of children during puberty.

1 13. On or about May 7, 2018, Patient Two, then eight years old, was seen by Respondent
2 for a routine physical exam. Initially, Patient Two was provided a gown to wear over his
3 underwear. During the examination, Respondent had Patient Two completely disrobe and walk
4 around the room apparently to evaluate the patient's balance.

5 14. Without indication that Patient Two had constipation, blood in the stool or
6 neurological complaints, Respondent used his hands to spread Patient Two's buttocks apart and
7 asked Patient Two if he cleaned his anus well.

8 15. Respondent is guilty of unprofessional conduct and subject to disciplinary action
9 under sections 2234 [unprofessional conduct], and/or 2234(b) [gross negligence], and/or 2234(c)
10 [repeated negligent acts] of the Code, including but not limited to, the following:

11 A. Failure to follow a standard well child check.

12 **THIRD CAUSE FOR DISCIPLINE**
13 **(Unprofessional Conduct: Repeated Negligent Acts – Patient Three)**

14 16. Respondent has subjected his license to disciplinary action under sections 2234 and
15 2234(c) [repeated negligent acts] for unprofessional conduct, in that his care and treatment of
16 Patient Three included departures from the standard of care constituting repeated negligent acts.
17 The circumstances are as follows:

18 17. Respondent saw and treated Patient Three from around October 14, 2014 to February
19 8, 2019. On December 14, 2016, Respondent noted in the records that Patient Three
20 demonstrated Attention Deficit Hyperactivity Disorder (ADHD) behavior in class but not at
21 home. There is reference in the charts to Vanderbilt questionnaire results,³ but the questionnaire
22 and actual scores are not in the records. Additionally, there is no evidence of any discussion with
23 the parent or patient regarding risks versus benefits of medication for ADHD. The patient was
24 started on 27 mg. of Concerta,⁴ not the traditional starting dose of 18 mg. Records for the follow-

25 ³ The NICHQ Vanderbilt Assessment Scales are used by health care professionals to help
26 diagnose ADHD in children between the ages of 6 and 12-years of age.

27 ⁴ Concerta, the trade name for methylphenidate hydrochloride, is a CNS stimulant
28 indicated for the treatment of attention deficit hyperactivity disorder ("ADHD").
Methylphenidate should be given cautiously to patients with a history of drug dependence or
alcoholism. Chronic abusive use can lead to marked tolerance and psychological dependence

1 up visits list vital signs but are deficient in review of progress, side effects and necessary vital
2 sign data for Patient Three in light of his course of treatment for ADHD.

3 18. Respondent is guilty of unprofessional conduct and subject to disciplinary action
4 under sections 2234 [unprofessional conduct] and/or 2234(c) [repeated negligent acts] of the
5 Code, including but not limited to, the following:

6 A. The care delivered on the visits since the stimulants were started for ADHD were not
7 consistent with the standard of care for the diagnosis, treatment and follow-up of ADHD
8 involving the use of psychostimulant medication.

9 **FOURTH CAUSE FOR DISCIPLINE**
10 **(Unprofessional Conduct: Repeated Negligent Acts – Patient Four)**

11 19. Respondent has subjected his license to disciplinary action under sections 2234 and
12 2234(c) [repeated negligent acts] for unprofessional conduct, in that his care and treatment of
13 Patient Four included departures from the standard of care constituting repeated negligent acts.
14 The circumstances are as follows:

15 20. Patient Four appears to have been treated by Respondent between at least August 4,
16 2017, and February 27, 2019. On August 17, 2018, Patient Four, then sixteen years old, was seen
17 by Respondent for a physical examination. The mother of Patient Four alleges that Respondent
18 did not use gloves during an examination of the patient's genitalia.

19 21. Patient Four had previously been diagnosed with ADHD by another treatment
20 provider. Respondent's records first note an ADHD diagnosis on August 4, 2017, with a
21 prescription for 27 mg. of Concerta for use on school days. However, there is no reference in the
22 medical records regarding the original diagnosis, response to treatment or medication side effects,
23 including risk versus benefits of the prescribed medicines. Records of subsequent visits are
24 inconsistent with respect to review of potential side effects and full vital signs that are important
25 when stimulants are prescribed.

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27 with varying degrees of abnormal behavior. The minimum dosage is one, 18 mg. tablet daily; the
28 maximum dosage is one, 54 mg. tablet daily. Methylphenidate is a dangerous drug as defined in
section 4022 of the Code and a Schedule II controlled substance under Health and Safety Code
section 11055(d)(6).

1 B. The care delivered to the patient on the visits since the stimulants were started for
2 ADHD were not consistent with the standard of care for the diagnosis, treatment and follow-up of
3 ADHD involving the use of psychostimulant medication.

4 **SIXTH CAUSE FOR DISCIPLINE**
5 **(Unprofessional Conduct: Repeated Negligent Acts – Patient Six)**

6 27. Respondent has subjected his license to disciplinary action under sections 2234 and
7 2234(c) [repeated negligent acts] for unprofessional conduct, in that his care and treatment of
8 Patient Six included departures from the standard of care constituting repeated negligent acts. The
9 circumstances are as follows:

10 28. Respondent treated Patient Six between around July 29, 2017 and April 29, 2019.
11 Around August 29, 2017, Respondent refilled a prescription for methylphenidate ER 27 mg., #30,
12 for Patient Six, then six years old. Respondent's records for this patient contain no prior
13 diagnosis of ADHD and there is no evidence in the chart of any assessment tools being used, and
14 no significant reference is made to the symptoms. Additionally, there is no indication of response
15 to treatment or medication side effects, or reference to risks versus benefit consultations or
16 advisements.

17 29. Respondent is guilty of unprofessional conduct and subject to disciplinary action
18 under sections 2234 [unprofessional conduct] and/or 2234(c) [repeated negligent acts] of the
19 Code, including but not limited to, the following:

20 A. The care delivered to the patient on the visits since the stimulants were started for
21 ADHD were not consistent with the standard of care for the diagnosis, treatment and follow-up of
22 ADHD involving the use of psychostimulant medication.

23 **PRAYER**


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

26 1. Revoking or suspending Physician's and Surgeon's Certificate Number G 79053,
27 issued to Patrick Stephen Clyne, M.D.;

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2. Revoking, suspending or denying approval of Patrick Stephen Clyne, M.D.'s authority to supervise physician assistants and advanced practice nurses;
3. Ordering Patrick Stephen Clyne, 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: FEB 19 2021



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