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

13 In the Matter of the Accusation Against:  
14 **Alan Michael Krystal, M.D.**  
15 **1492 Pioneer Cir.**  
16 **Oceanside, CA 92057-1804**  
17 **Physician's and Surgeon's Certificate**  
18 **No. G 74558,**  
19 Respondent.

Case No. 800-2021-078050

**A C C U S A T I O N**

20 **PARTIES**

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

24 2. On or about July 7, 1992, the Board issued Physician's and Surgeon's Certificate  
25 No. G 74558 to Alan Michael Krystal, 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 August 31, 2025, 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 2220 of the Code states:

6            Except as otherwise provided by law, the board may take action against all  
7 persons guilty of violating this chapter. . .

8       5.    Section 2227 of the Code states:

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

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

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

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

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

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

24            . . .

25       6.    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:

            . . .

            (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.

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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  
3 negligent act.

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

9 ...

10 7. Section 2266 of the Code states:

11 The failure of a physician and surgeon to maintain adequate and accurate  
12 records relating to the provision of services to their patients constitutes unprofessional  
13 conduct.

### 14 COST RECOVERY

15 8. Section 125.3 of the Code states:

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

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

24 (c) A certified copy of the actual costs, or a good faith estimate of costs where  
25 actual costs are not available, signed by the entity bringing the proceeding or its  
26 designated representative shall be prima facie evidence of reasonable costs of  
27 investigation and prosecution of the case. The costs shall include the amount of  
28 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.

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

3 (2) Notwithstanding paragraph (1), the board may, in its discretion,  
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 **FIRST CAUSE FOR DISCIPLINE**

#### 12 **(Repeated Negligent Acts)**

13 9. Respondent has subjected his Physician's and Surgeon's Certificate No. G 74558 to  
14 disciplinary action under sections 2227 and 2234, as defined by section 2234, subdivision (c), of  
15 the Code, in that he committed repeated negligent acts in his care and treatment of Patient A, as  
16 more particularly alleged hereinafter:<sup>1</sup>

17 10. At all times relevant to the allegations herein, Respondent was a primary care  
18 physician providing care and treatment to homebound patients as part of his mobile practice.

19 11. On or about June 25, 2016, Patient A's care was transferred to Respondent from  
20 another mobile practice.<sup>2</sup> Patient A's medical history included primary progressive multiple  
21 sclerosis diagnosed at age 31, generalized pain, chronic muscle spasms, placement of a  
22 suprapubic catheter in situ, and chronic urinary tract infections. Patient A also had a history of  
23 recurrent kidney stones, labile hypertension with intermittent high and low systemic blood  
24 pressures, depression with prior suicidal thoughts, bilateral femoral neck fractures, and chronic  
25 pain syndrome. Patient A was paralyzed from the waist down, bedbound, and living with his

26 <sup>1</sup> References to "Patient A" herein are used to protect patient privacy.

27 <sup>2</sup> Any medical care or treatment rendered by Respondent more than seven years prior to  
28 the filing of the instant Accusation is described for informational and contextual purposes only  
and not pleaded as a basis for disciplinary action.

1 parents. At the time, Patient A was 5'11" and weighed 102 pounds. Respondent reviewed the  
2 medical chart that was transferred to him, completed an intake and physical examination of  
3 Patient A, and discussed Patient A's case with his parents.

4 12. According to the prior progress notes from between in or about February 2016, and  
5 April 2016, Patient A's pains were localized to the quadriceps and groins, mostly involving the  
6 bilateral legs, and he had diffuse muscle atrophy resulting from his bedbound status with stage IV  
7 skin pressure ulcers. During a visit that took place on or about April 21, 2016, Patient A was  
8 described as appearing inebriated.

9 13. As of on or about June 25, 2016, Patient A's medications included, *inter alia*,  
10 diazepam,<sup>3</sup> methadone,<sup>4</sup> MS Contin,<sup>5</sup> baclofen,<sup>6</sup> gabapentin,<sup>7</sup> and tizanidine.<sup>8</sup> The dosage for  
11 methadone was 2.5 mg once a day, and the dosage for MS Contin was 30 mg two to three times a  
12 day. Respondent noted that Patient A's pain was mitigated to "4/5 out of 10" on methadone. In  
13 addition, Respondent noted that although Patient A experienced depression, he refused anti-  
14 depressant medication. Respondent refilled Patient A's methadone at this visit.

15 14. In or about July 2016, Respondent ordered x-rays for Patient A. The results  
16 confirmed bilateral femoral neck fractures due to severe osteoporosis.

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21 <sup>3</sup> Diazepam (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.

22 <sup>4</sup> Methadone is a Schedule II controlled substance pursuant to Health and Safety Code  
23 section 11055, subdivision (c), and a dangerous drug pursuant to Business and Professions Code  
section 4022.

24 <sup>5</sup> MS Contin (morphine sulfate) is a Schedule II controlled substance pursuant to Health  
25 and Safety Code section 11055, subdivision (b), and a dangerous drug pursuant to Business and  
Professions Code section 4022.

26 <sup>6</sup> Baclofen is a muscle relaxer used to treat muscle symptoms caused by multiple sclerosis,  
including spasm, pain, and stiffness.

27 <sup>7</sup> Gabapentin is an anticonvulsant and nerve pain medication.

28 <sup>8</sup> Tizanidine is used to treat muscle spasms caused by multiple sclerosis and other  
conditions.

1 15. Respondent regularly saw Patient A between on or about November 23, 2016, and  
2 May 27, 2021. The visits in 2016 and 2017 took place on or about November 23, 2016, March  
3 25, 2017, May 25, 2017, July 26, 2017, August 23, 2017, November 25, 2017, and December 19,  
4 2017.

5 16. The visits in 2018 and 2019 took place on or about January 15, 2018, April 3, 2018,  
6 June 1, 2018, June 28, 2018, July 30, 2018, August 28, 2018, September 29, 2018, October 29,  
7 2018, November 28, 2018, December 29, 2018, January 28, 2019, February 20, 2019, March 21,  
8 2019, April 21, 2019, May 26, 2019, June 2, 2019, June 18, 2019, July 13, 2019, August 21,  
9 2019, September 20, 2019, October 18, 2019, November 18, 2019, and December 17, 2019.

10 17. The visits in 2020 and 2021 took place on or about January 18, 2020, February 16,  
11 2020, March 19, 2020, April 17, 2020, September 12, 2020, November 13, 2020, December 10,  
12 2020, December 14, 2020, December 18, 2020, February 14, 2021, March 25, 2021, April 26,  
13 2021, and May 27, 2021.

14 18. During the March 25, 2017, visit, Respondent saw Patient A to refill his pain  
15 medications. He noted that Patient A's pain was generalized and not adequately controlled.  
16 Respondent assessed that Patient A's chronic pain was related to his multiple sclerosis, and he  
17 noted that Patient A and his family desired an increase in his morphine dosage. Respondent  
18 refilled Patient A's MS Contin and methadone medications. The methadone dosage continued to  
19 be 2.5 mg once per day, and the MS Contin dosage was increased to 45 mg three times a day.

20 19. At the next visit, which took place on or about May 25, 2017, visit, Respondent  
21 refilled Patient A's MS Contin medication, which had an increased dosage of 60 mg three times a  
22 day. He also continued methadone 2.5 mg once per day. Respondent noted that Patient A's pain  
23 was adequately controlled on this pain medication regimen. Respondent continued Patient A on  
24 the same MS Contin and methadone regimen for the next 18 months until on or about January 18,  
25 2019.

26 20. During the January 15, 2018, visit, Respondent noted that Patient A was experiencing  
27 anxiety and depression, along with poor appetite resulting in significant weight loss. Respondent  
28 noted that Patient A had lost 30 pounds in the past year and weighed 70 pounds. Respondent

1 prescribed Remeron, an anti-depressant, to Patient A in an effort to stimulate his appetite and aid  
2 his depression.

3 21. According to the Controlled Substance Utilization Review and Evaluation System  
4 (CURES) report for Patient A, between in or about July 2018, and January 2019, Patient A also  
5 regularly filled prescriptions of diazepam 5 mg, which Respondent prescribed for muscle  
6 relaxation and anxiety management. The diazepam prescriptions were in addition to the recurring  
7 MS Contin and methadone prescriptions.

8 22. During this timeframe, between in or about July 2018, and January 2019, Respondent  
9 also prescribed non-controlled medications to Patient A for pain and muscle relaxation, including  
10 gabapentin, tizanidine, and baclofen. In or about April 2019, due to Patient A's continuing  
11 weight loss, Respondent also prescribed dronabinol for appetite stimulation.

12 23. Beginning in or about July 2018, Respondent noted that Patient A's blood pressure  
13 was elevated during the previous two visits. Respondent discussed adding a low dose anti-  
14 hypertensive medication with Patient A and his father, and they agreed. Respondent prescribed  
15 lisinopril 5 mg to Patient A.

16 24. During the September 29, 2018, visit, Respondent increased the dosage of lisinopril  
17 to 10 mg.

18 25. At the next visit, which took place on or about October 29, 2018, Respondent noted  
19 that in addition to lisinopril, Patient A was also taking metoprolol and that the combination of  
20 both medications resulted in good control of Patient A's hypertension.

21 26. During the February 20, 2019, visit, Respondent also noted that Patient A's was  
22 experiencing tachycardia without symptoms.

23 27. During the March 21, 2019, visit, Respondent refilled Patient A's methadone at an  
24 increased dosage of 10 mg per day. Respondent had stopped MS Contin in or about January  
25 2019. During this visit, Respondent noted that Patient A's blood pressure was "81/61."

26 28. During the April 21, 2019, visit, Respondent noted Patient A's low blood pressure  
27 and tachycardia. He further noted that both conditions were well-maintained with medication.

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1           29. On or about June 2, 2019, Respondent added Percocet<sup>9</sup> to Patient A's medication  
2 regimen to address the onset of severe breakthrough pain of the lower back. The dosage for  
3 Percocet was 5 mg one to two tablets every four to six hours per day.

4           30. At the next visit, which took place on or about June 18, 2019, Respondent noted that  
5 Patient A was experiencing increased pain due to bladder and kidney stones. As a result,  
6 Respondent increased Patient A's methadone to 10 mg twice per day. In addition, he prescribed  
7 Percocet 5 mg one to two tablets every six hours. Respondent noted Patient A's low blood  
8 pressure, which was well-maintained with medication. Respondent further noted that Patient A  
9 was receiving palliative care at home.

10           31. As of on or about August 21, 2019, until on or about March 19, 2020, Patient A's  
11 pain medication regimen included methadone 10 mg twice per day and Percocet 10 mg three  
12 times per day.

13           32. During the October 18, 2019, visit, Respondent noted that Patient A had low blood  
14 pressure without symptoms, which was well-maintained with medication. During this visit,  
15 Respondent noted that Patient A's blood pressure was "89/61."

16           33. As of on or about April 17, 2020, Respondent decreased Patient A's methadone to 10  
17 mg total per day and he continued Percocet 10 mg at three times per day. Respondent maintained  
18 this pain medication regimen until on or about June 20, 2021. Respondent noted on multiple  
19 occasions that "[t]here is no evidence of misuse as his parents provide the pain medication to the  
20 patient as prescribed."

21           34. During the February 14, 2021, visit, Respondent again noted Patient A's history of  
22 low blood pressure and tachycardia, both of which continued to be treated with medication.

23           35. According to the CURES report for Patient A, between in or about January 2019, and  
24 June 2021, Respondent also continued to regularly prescribe diazepam 5 mg to Patient A,  
25 alongside methadone and Percocet.

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27 <sup>9</sup> Percocet (oxycodone and acetaminophen) is a Schedule II controlled substance pursuant  
28 to Health and Safety Code section 11055, subdivision (b), and a dangerous drug pursuant to  
Business and Professions Code section 4022.



1           36. Between in or about May 2017, and June 2021, Respondent did not prescribe and try  
2 safer alternative pain medications in an effort to reduce Patient A's opiate dependency, including  
3 topical therapies, NSAID medications, SSRI/SNRI medications, and other anticonvulsant  
4 medications.

5           37. Between in or about May 2017, and June 2021, Respondent did not perform any  
6 opiate risk assessment to determine Patient A's addiction and dependency risks.

7           38. Between in or about May 2017, and June 2021, Respondent did not perform regular  
8 urine drug screening.

9           39. Between in or about May 2017, and June 2021, Respondent did not review the  
10 CURES database.

11           40. Between in or about May 2017, and June 2021, Respondent did not properly monitor  
12 cardiac side effects from the use of methadone, including through EKG monitoring.

13           41. Between in or about May 2017, and June 2021, Respondent did not reduce the dosage  
14 of Patient A's opiate medications in an effort to minimize the risk of adverse cardiac side effects,  
15 particularly in light of Patient A's recurrent hypotension episodes.

16           42. Between in or about May 2017, and June 2021, Respondent concurrently prescribed  
17 benzodiazepine and opiate medications to Patient A on a prolonged basis without any informed  
18 consent discussion and/or documentation thereof.

19           43. Between in or about May 2017, and June 2021, Respondent did not actively taper  
20 Patient A off of benzodiazepine and/or opiate medications in an effort to reduce the risks of  
21 accidental overdose and respiratory failure.

22           44. Respondent committed repeated negligent acts in his care and treatment of Patient A  
23 between in or about May 2017, and June 2021, which included, but was not limited to, the  
24 following:

25           A. Respondent failed to prescribe and try safer alternative pain medications  
26 in an effort to reduce Patient A's opiate dependency, including topical therapies,  
27 NSAID medications, SSRI/SNRI medications, and other anticonvulsant medications;

28       ///

1 B. Respondent failed to perform any opiate risk assessment to determine  
2 Patient A's addiction and dependency risks;

3 C. Respondent failed to perform regular urine drug screening;

4 D. Respondent failed to review the CURES database;

5 E. Respondent continued Patient A on two long-acting opiate medications,  
6 methadone and MS Contin, which he prescribed concurrently until in or about  
7 January 2019;

8 F. Respondent failed to properly monitor cardiac side effects from the use of  
9 methadone, including through EKG monitoring;

10 G. Respondent failed to reduce the dosage of Patient A's opiate medications  
11 in an effort to minimize the risk of adverse cardiac side effects, particularly in light of  
12 Patient A's recurrent hypotension episodes;

13 H. Respondent concurrently prescribed benzodiazepine and opiate  
14 medications to Patient A on a prolonged basis without any informed consent  
15 discussion and/or documentation thereof; and

16 I. Respondent failed to actively taper Patient A off of benzodiazepine  
17 and/or opiate medications in an effort to reduce the risks of accidental overdose and  
18 respiratory failure.

19 **SECOND CAUSE FOR DISCIPLINE**

20 **(Failure to Maintain Adequate and Accurate Medical Records)**

21 45. Respondent has subjected his Physician's and Surgeon's Certificate No. G 74558 to  
22 disciplinary action under sections 2227 and 2234, as defined by section 2266, of the Code, in that  
23 he failed to maintain adequate and accurate records regarding his care and treatment of Patient A,  
24 as more particularly alleged in paragraphs 9 through 44, above, which are hereby incorporated by  
25 reference and re-alleged as if fully set forth herein.

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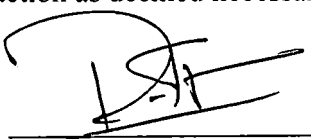
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**PRAYER**

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 74558, issued to Respondent Alan Michael Krystal, M.D.;
2. Revoking, suspending or denying approval of Respondent Alan Michael Krystal, M.D.'s authority to supervise physician assistants and advanced practice nurses;
3. Ordering Respondent Alan Michael Krystal, 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: MAY 10 2024

  
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REJI VARGHESE  
Executive Director  
Medical Board of California  
Department of Consumer Affairs  
State of California  
*Complainant*

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