

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

In the Matter of the Accusation
Against:

David Michael Kolinsky, M.D.

Physician's and Surgeon's
Certificate No. A 60010

Respondent.

Case No. 800-2020-069085

DECISION

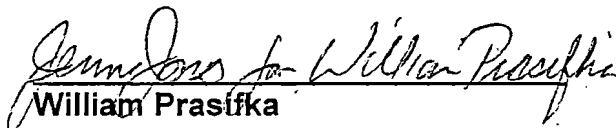
The attached Stipulated Surrender of License and Order is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on

DEC 29 2020

IT IS SO ORDERED DEC 22 2020

MEDICAL BOARD OF CALIFORNIA


William Prasifka
Executive Director

1 XAVIER BECERRA
Attorney General of California
2 JANE ZACK SIMON
Supervising Deputy Attorney General
3 LAWRENCE MERCER
Deputy Attorney General
4 State Bar No. 111898
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Attorneys for Complainant

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. 800-2020-069085

13 **DAVID MICHAEL KOLINSKY, M.D.**
2511 Garden Road, Suite C125
14 Monterey, CA 93924

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

15 Physician's and Surgeon's Certificate No. A
60010,

16 Respondent.

17
18 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
19 entitled proceedings that the following matters are true:

20 **PARTIES**

21 1. William Prasifka (Complainant) is the Executive Director of the Medical Board of
22 California (Board). He brought this action solely in his official capacity and is represented in this
23 matter by Xavier Becerra, Attorney General of the State of California, by Lawrence Mercer,
24 Deputy Attorney General.

25 2. David Michael Kolinsky, M.D. (Respondent) is represented in this proceeding by his
26 attorney Marvin Firestone, M.D., J.D., 1700 El Camino Real, Suite 408, San Mateo, CA 94402.

27 3. On or about April 12, 1996, the Board issued Physician's and Surgeon's Certificate
28 No. A 60010 to David Michael Kolinsky, M.D. (Respondent). Effective September 29, 2017,

1 Respondent's certificate was revoked, the revocation was stayed, and he was placed on a five-
2 year probation with terms and conditions. The Physician's and Surgeon's Certificate expired on
3 April 30, 2020, has not been renewed, and Respondent is currently prohibited from engaging in
4 the practice of medicine.

5 JURISDICTION

6 4. Accusation No. 800-2020-069085 was filed before the Board, and is currently
7 pending against Respondent. The Accusation and all other statutorily required documents were
8 properly served on Respondent on October 1, 2020. Respondent timely filed his Notice of
9 Defense contesting the Accusation. A copy of Accusation No. 800-2020-069085 is attached as
10 Exhibit A and incorporated by reference.

11 ADVISEMENT AND WAIVERS

12 5. Respondent has carefully read, fully discussed with counsel, and understands the
13 charges and allegations in Accusation No. 800-2020-069085. Respondent also has carefully read,
14 fully discussed with counsel, and understands the effects of this Stipulated Surrender of License
15 and Order.

16 6. Respondent is fully aware of his legal rights in this matter, including the right to a
17 hearing on the charges and allegations in the Accusation; the right to confront and cross-examine
18 the witnesses against him; the right to present evidence and to testify on his own behalf; the right
19 to the issuance of subpoenas to compel the attendance of witnesses and the production of
20 documents; the right to reconsideration and court review of an adverse decision; and all other
21 rights accorded by the California Administrative Procedure Act and other applicable laws.

22 7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
23 every right set forth above.

24 CULPABILITY

25 8. Respondent understands that the charges and allegations in Accusation No. 800-2020-
26 069085, if proven at a hearing, constitute cause for imposing discipline upon his Physician's and
27 Surgeon's Certificate.

9. For the purpose of resolving the Accusation without the expense and uncertainty of further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual basis for the charges in the Accusation and that those charges constitute cause for discipline. Respondent hereby gives up his right to contest that cause for discipline exists based on those charges.

10. Respondent understands that by signing this stipulation he enables the Board to issue an order accepting the surrender of his Physician's and Surgeon's Certificate without further process.

CONTINGENCY

11. This stipulation shall be subject to approval by the Board. Respondent understands and agrees that counsel for Complainant and the staff of the Board may communicate directly with the Board regarding this stipulation and surrender, without notice to or participation by Respondent or his counsel. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Surrender and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

12. The parties understand and agree that Portable Document Format (PDF) and facsimile copies of this Stipulated Surrender of License and Order, including PDF and facsimile signatures thereto, shall have the same force and effect as the originals.

13. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Order:

ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 60010, issued to Respondent DAVID MICHAEL KOLINSKY, M.D., is surrendered and accepted by the Board.

1. Respondent shall lose all rights and privileges as a physician and surgeon in California as of the effective date of the Board's Decision and Order.

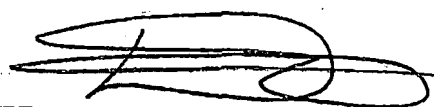
1 2. Respondent shall cause to be delivered to the Board his pocket license and, if one was
2 issued, his wall certificate on or before the effective date of the Decision and Order.

3 3. If Respondent ever files an application for licensure or a petition for reinstatement in
4 the State of California, the Board shall treat it as a petition for reinstatement. Respondent must
5 comply with all the laws, regulations and procedures for reinstatement of a revoked or
6 surrendered license in effect at the time the petition is filed, and all of the charges and allegations
7 contained in Accusation No. 800-2020-069085 shall be deemed to be true, correct and admitted
8 by Respondent when the Board determines whether to grant or deny the petition.

9
10 ACCEPTANCE

11 I have carefully read the above Stipulated Surrender of License and Order and have fully
12 discussed it with my attorney. I understand the stipulation and the effect it will have on my
13 Physician's and Surgeon's Certificate. I enter into this Stipulated Surrender of License and Order
14 voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the
15 Medical Board of California.

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17 DATED: 10/27/2020



DAVID MICHAEL KOLINSKY, M.D.
Respondent

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21 I have read and fully discussed with Respondent DAVID MICHAEL KOLINSKY, M.D.
22 the terms and conditions and other matters contained in this Stipulated Surrender of License and
23 Order. I approve its form and content.

24
25
26 DATED: 10/30/2020



MARVIN FIRESTONE, M.D., J.D.
Attorney for Respondent

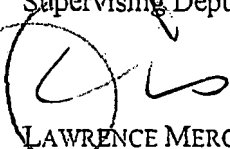
ENDORSEMENT

The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted
for consideration by the Medical Board of California of the Department of Consumer Affairs.

DATED: Nov. 3, 2020

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
JANE ZACK SIMON
Supervising Deputy Attorney General


LAWRENCE MERCER
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 800-2020-069085

1 XAVIER BECERRA
Attorney General of California.
2 JANE ZACK SIMON
Supervising Deputy Attorney General
3 LAWRENCE MERCER
Deputy Attorney General
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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. 800-2020-069085

13 **David Michael Kolinsky, M.D.**
14 **2511 Garden Road, Suite C125**
Monterey, CA 93940

A C C U S A T I O N

15 **Physician's and Surgeon's Certificate**
16 **No. A 60010,**

Respondent.

17
18
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 April 12, 1996, the Medical Board issued Physician's and Surgeon's
24 Certificate Number A 60010 to David Michael Kolinsky, M.D. (Respondent). On September 29,
25 2017, the Physician's and Surgeon's Certificate was revoked, the order of revocation stayed, and
26 a five year probation, with terms and conditions, was imposed. The Physician's and Surgeon's
27 Certificate expired on April 30, 2020, and has not been renewed. On or about March 14, 2020,
28 Respondent ceased practicing medicine in California, whereupon his probation tolled.

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4. Section 2227 of the Code states:

(1) Have his or her license revoked 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.

(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.

5. Section 2234 of the Code, states, in pertinent part:

... (b) Gross negligence.

(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.

6. Section 2228.1 of the Code provides, in pertinent part, that the Board shall require a licensee who is disciplined based on inappropriate prescribing resulting in harm to patients, to disclose to his or her patients information regarding his or her probation status. The licensee is required to disclose: Probation status, the length of the probation, the probation end date, all practice restrictions placed on the license by the Board, the Board's telephone number, and an explanation of how the patient can find further information on the licensee's probation on the Board's Internet Web site.

FACTUAL ALLEGATIONS

7. At all relevant times, Respondent was providing care and treatment for chronic pain patients, with a specialization in fibromyalgia and myofascial pain syndrome, at his offices in Monterey, California. From September 29, 2017 through March, 2020, Respondent was on probation with the Board, with terms that included clinical competence assessment, a practice monitor, and to maintain a record of all controlled substances prescribed.

8. In and before September, 2017, Patient 1¹, a 57 year old female, was under Respondent's care and treatment for chronic pain. Respondent provided treatment for the patient's condition with trigger point injections, opiates, muscle relaxants and benzodiazepines. After he was placed on probation, Respondent began to taper the patient's pain medications. In 2017-2018, Oxycontin², 40 mg, TID, #90, was eliminated. Norco³, 10/325 mg, 8/day, #240, was

¹ Patient names are redacted to protect privacy rights.

² Oxycontin (oxycodone hydrochloride) is a potent narcotic used to treat moderate to severe pain. Oxycontin exposes patients and other users to the risks of opioid addiction, abuse and misuse.

³ Norco is a trade name for hydrocodone bitartrate and acetaminophen, a controlled substance and an opiate medication with the potential for habituation and use.

1 reduced to #150 (5/day), Soma⁴, #120 was reduced from 4/day to 3/day, with clonazepam⁵, 2
2 mg/day, added to the regimen. Although he tapered her opioid medications, Respondent did not
3 perform periodic comprehensive reassessments of her chronic pain, but instead maintained her on
4 a treatment plan of trigger point injections and medications without appropriate consultations or
5 referrals for physical therapy, psychotherapy and other adjunct treatments for her condition. In
6 addition to her opioid medications, Respondent maintained the patient on a benzodiazepine and
7 muscle relaxant, despite the risk of CNS depression and respiratory arrest presented by this
8 combination of medications. Whether due to inadequate pain control or a substance abuse
9 disorder, Patient 1 obtained and used street drugs, including heroin and methamphetamine.
10 Respondent did not perform a complete physical examination, which would have revealed track
11 marks as evidence of the patient's intravenous drug abuse, nor did he order routine urine
12 toxicology screens to detect drug abuse. She died of a drug overdose on February 13, 2019,
13 approximately a month after being discharged from Respondent's care.

14 9. In and before September 2017, Patient 2, a 38 year old female, was under
15 Respondent's care and treatment for fibromyalgia. Patient 2 could not tolerate trigger point
16 injections and Respondent's treatment consisted of prescribing opioids and benzodiazepines.
17 Prior to September 2017, Patient 2 had been on extremely high doses of opioid medications,
18 exceeding an MME⁶ of 400. In and after 2017, Respondent gradually tapered the patient's opioid
19 medications. In September, 2017, Respondent prescribed oxycodone hydrochloride⁷, 20 mg, Q
20 4-6 hours, #150, Dilaudid⁸, 8 mg, BID, #60, Adderall⁹, 30 mg, ½ tablet BID, #30, which dosage

21 ⁴ Soma (carisoprodol) is a muscle relaxant and a controlled substance, which can have
22 dangerous addictive side effects when taken with opioids.

23 ⁵ Clonazepam, which is marketed under the trade name Klonopin, is a benzodiazepine
24 used to treat panic disorder and which can have dangerous additive side effects when taken in
25 combination with opioids.

26 ⁶ Morphine Milligram Equivalents (MME) are used to quantify the amount of opioids
27 across multiple drugs. Clinicians should use caution when prescribing opioids at any dosage,
28 should carefully reassess evidence of individual benefits and risks when considering increasing
dosage to ≥ 50 morphine milligram equivalents (MME)/day, and should avoid increasing dosage
to ≥ 90 MME/day or carefully justify a decision to titrate dosage to ≥ 90 MME/day.

⁷ See fn. 2 above.

⁸ Hydromorphone hydrochloride, which is marketed under the trade name Dilaudid, is a
potent opioid agonist and controlled substance.

⁹ Adderall (amphetamine salt combination) is a potent stimulant with a high potential for

1 he modified over time, substituting Percocet¹⁰, 10/325 mg, for oxycodone HCL, and reducing the
2 patient's MME to approximately 75 MME/day. At the same time that he was prescribing opioids,
3 Respondent prescribed Valium, a benzodiazepine, 10 mg, TID, thereby increasing the risk of
4 respiratory arrest. Patient 2 frequently missed appointments for several months at a time;
5 however, Respondent continued to prescribe dangerous medications to her without an in-person
6 meeting, examination or comprehensive reevaluation of the patient's condition. Patient 2 reported
7 little or no relief from her opioid medications. Despite her lack of improvement, Respondent did
8 not refer her for physical therapy, psychotherapy or other alternative modes of treatment for her
9 diagnosis of fibromyalgia.

10 10. In and before September 2017, Patient 3, a 34 year old male, was under Respondent's
11 care and treatment for myofascial pain syndrome. Respondent's treatment plan consisted of
12 trigger point injections, opioid and benzodiazepine medications. In September 2017, Respondent
13 was prescribing methadone¹¹, 10 mg, 5/day, oxycodone HCL, 20 mg, BID, #60, and clonazepam,
14 2 mg, TID, #120. Respondent did not refer the patient for a multidisciplinary approach to treat his
15 diagnosed myofascial pain syndrome, nor did he perform a periodic comprehensive reevaluation
16 of the patient's condition. Respondent did taper Patient 3's opioid and benzodiazepine
17 medications to oxycodone HCL, 10 mg, 1.5 tablets/day, #45, and clonazepam, 1 mg, QD, #30;
18 however, the combination of opioids and benzodiazepines created a risk of CNS depression and
19 overdose.

20 11. Patient 4, a 65 year old female, was under Respondent's care and treatment for
21 myofascial pain syndrome of the neck and shoulders from September 20, 2016 through April 9,
22 2019. Respondent provided treatment for the patient's chronic pain with trigger point injections
23 and Percocet, 10/325 mg, TID, #90. This treatment plan remained in place for the course of

24
25 misuse and abuse.

26 ¹⁰ Percocet (oxycodone/APAP) is a controlled substance and an opioid indicated for
27 treatment of moderate to severe pain.

28 ¹¹ Methadone hydrochloride is a controlled substance and an opioid indicated for the
treatment of pain severe enough to require around-the-clock long-term opioid management and
for which alternative treatments have failed. Methadone exposes users to the risks of opioid
addiction, misuse and abuse, which can lead to overdose and death.

1 Patient 4's treatment without appropriate consultations or referrals for multidisciplinary
2 treatments for her myofascial pain syndrome. The trigger point injections utilized by Respondent
3 contained local anesthetics, i.e., Marcaine¹², 0.5%, and lidocaine¹³, 1%. The package insert for
4 Marcaine states:

5 Local anesthetics should be employed only by clinicians who are well versed in
6 diagnosis and management of dose-related toxicity and other acute emergencies . . .
7 and then only after insuring the immediate availability of oxygen, other resuscitative
8 drugs, cardiopulmonary resuscitative equipment, and the personnel resources needed
9 for proper management of toxic reactions and related emergencies . . .

10 Although Respondent routinely administered trigger point injections with local anesthetics, he did
11 not have oxygen, other resuscitative drugs or cardiopulmonary resuscitative equipment available
12 in his office. Respondent was not certified in basic life support or advanced cardiovascular life
13 support. On April 9, 2019, while administering trigger point injections on Patient 4, Respondent
14 performed an injection in the vicinity of the cervical spine. After the injections, Patient 4 reported
15 that she was not feeling well and, later, stated that both her arms were numb. Patient 4
16 subsequently collapsed in Respondent's office. Arriving fire department paramedics found her
17 pulseless and apneic. Patient 4 was rushed to a hospital where she was resuscitated after her
18 cardiac arrest.

19 **CAUSE FOR DISCIPLINE**

20 **(Gross Negligence/Repeated Negligent Acts)**

21 12. Respondent David Michael Kolinsky, M.D. is subject to disciplinary action under
22 section 2234 and/or 2234(b) and/or 2234(c) in that he engaged in unprofessional conduct and/or
23 gross negligence and/or repeated negligent acts, including but not limited to the following:

24 A. Respondent failed to perform periodic complete reassessment of the patient's
25 condition and reevaluation of the overall treatment plan;

26 _____
27 ¹² Marcaine (bupivacaine hydrochloride) is a local anesthetic. It is longer acting than
28 lidocaine and can be used for a spinal block.

¹³ Lidocaine, which is marketed under the trade name Xylocaine, is a local anesthetic or
numbing medication used for local or regional anesthesia.

1 B. Respondent limited his treatment of fibromyalgia and myofascial pain syndrome to
2 trigger point injections and opioid medications and failed to refer his patients for appropriate
3 multidisciplinary treatment of their conditions, including physical therapy and psychotherapy;

4 C. Respondent failed to conduct a complete physical examination or to perform urine
5 toxicology screens on Patient 1;

6 D. Respondent prescribed potent and potentially dangerous drugs to Patient 2 without
7 regular face-to-face evaluations;

8 E. Respondent inappropriately prescribed benzodiazepines in combination with opioids;

9 F. Respondent provided trigger point injections without having basic resuscitative
10 equipment available for airway management, emergency resuscitative drugs or cardiopulmonary
11 resuscitative equipment available.

12 DISCIPLINARY CONSIDERATIONS

13 13. To determine the degree of discipline, if any, to be imposed on Respondent David
14 Michael Kolinsky, M.D., Complainant alleges that on or about September 29, 2017, in a prior
15 disciplinary action titled "In the Matter of the Accusation Against David Michael Kolinsky,
16 M.D." (Case Number 8002016024569), Respondent's license was placed on probation based on
17 allegations of inappropriate and excessive prescribing of opioids and benzodiazepines. That
18 decision is now final and is incorporated by reference as if fully set forth herein.

19 PRAYER

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

22 1. Revoking or suspending Physician's and Surgeon's Certificate Number A 60010,
23 issued to David Michael Kolinsky, M.D.;

24 2. Revoking, suspending or denying approval of David Michael Kolinsky, M.D.'s
25 authority to supervise physician assistants and advanced practice nurses;

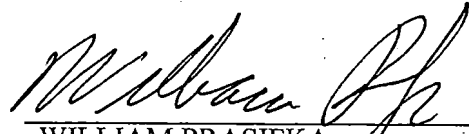
26 3. Ordering David Michael Kolinsky, M.D., if placed on probation, to pay the Board the
27 costs of probation monitoring; and
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4. Taking such other and further action as deemed necessary and proper.

OCT 01 2020

DATED: _____



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

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