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XAVIER BECERRA
Attorney General of California
JANE ZACK SIMON
Supervising Deputy Attorney General
KEITH C. SHAW
Deputy Attorney General
State Bar No. 227029
455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102-7004
Telephone: (415) 703-5385
Facsimile: (415) 703-5480
Attorneys for Complainant

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO *November 2 2017*
BY: R. Voong ANALYST

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

In the Matter of the Accusation Against:
Madeline Andrew, M.D.
4715 Mangels Blvd
Fairfield, CA 94534
**Physician's and Surgeon's Certificate
No. A51143,**

Respondent.

Case No. 800-2015-017125
A C C U S A T I O N

Complainant alleges:

PARTIES

1. Kimberly Kirchmeyer (Complainant) brings this Accusation solely in her official capacity as the Executive Director of the Medical Board of California, Department of Consumer Affairs.
2. On or about September 1, 1992, the Medical Board issued Physician's and Surgeon's Certificate Number A51143 to Madeline Andrew, 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 August 31, 2018, unless renewed.

JURISDICTION

1
2 3. This Accusation is brought before the Medical Board of California (Board), under the
3 authority of the following laws. All section references are to the Business and Professions Code
4 unless otherwise indicated.

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

9 5. Section 2234 of the Code requires the Board to take action against any licensee who
10 is charged with unprofessional conduct, defined to include “[v]iolating or attempting to violate,
11 directly or indirectly, assisting in or abetting the violation of, or conspiring to violate any
12 provision of this chapter.”

13 6. Section 2236 of the Code states:

14 “(a) The conviction of any offense substantially related to the qualifications, functions, or
15 duties of a physician and surgeon constitutes unprofessional conduct within the meaning of
16 this chapter. The record of conviction shall be conclusive evidence only of the fact that the
17 conviction occurred.

18 “(d) A plea or verdict of guilty or a conviction after a plea of nolo contendere is deemed to
19 be a conviction within the meaning of this section and Section 2236.1. The record of
20 conviction shall be conclusive evidence of the fact that the conviction occurred.”

21 7. Section 2239 of the Code states:

22 “(a) The useof alcoholic beverages, to the extent, or in such a manner as to be
23 dangerous or injurious to the licensee, or to any other person or to the public, or to the
24 extent that such use impairs the ability of the licensee to practice medicine safely or more
25 than one misdemeanor or any felony involving the use, consumption, or self-administration
26 of any of the substances referred to in this section, or any combination thereof, constitutes
27 unprofessional conduct. The record of the conviction is conclusive evidence of such
28 unprofessional conduct.

1 “(b) A plea or verdict of guilty or a conviction following a plea of nolo contendere is
2 deemed to be a conviction within the meaning of this section. The Division of Medical
3 Quality¹ may order discipline of the licensee in accordance with Section 2227 or the
4 Division of Licensing may order the denial of the license when the time for appeal has
5 elapsed or the judgment of conviction has been affirmed on appeal or when an order
6 granting probation is made suspending imposition of sentence, irrespective of a subsequent
7 order under the provisions of Section 1203.4 of the Penal Code allowing such person to
8 withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the
9 verdict of guilty, or dismissing the accusation, complaint, information, or indictment.”

10 8. Section 822 of the Code provides that if the Board determines that a licensee’s ability
11 to practice his or her profession safely is impaired because the licensee is mentally ill, or
12 physically ill affecting competency, the Board may take action by revoking or suspending the
13 license, placing the licensee on probation, or taking such other action as the Board in its
14 discretion deems proper.

15 **FIRST CAUSE FOR DISCIPLINE**

16 **(Unprofessional Conduct: Conviction of a Crime/Dangerous Use of Alcohol)**

17 9. Respondent is subject to disciplinary action under sections 2234, and/or 2236, and/or
18 2239 in that Respondent has engaged in unprofessional conduct, was convicted of a crime, and
19 used alcohol in a dangerous manner. The circumstances are as follows:

20 10. On or about January 10, 2016, at approximately 2:40 a.m., a California Highway
21 Patrol observed Respondent’s vehicle cross over the double yellow lines into the opposing lane of
22 traffic while traveling eastbound on Highway 12 in Napa County. The officer’s vehicle pulled to
23 the rear of Respondent’s vehicle. Respondent’s vehicle then rapidly accelerated in excess of 80
24 mph in a posted 55 mph zone and pulled away from the officer’s vehicle. The officer caught up
25 to Respondent’s vehicle, which finally came to a stop. Upon approaching Respondent, the driver,
26 the officer noticed that she had the odor of alcohol coming from her breath and her eyes appeared

27 ¹ The “Division of Medical Quality” refers to the Board pursuant to Business and Profession Code section
28 2002.

1 to be red and watery. Respondent indicated that she had consumed one glass of wine earlier in
2 the night. The officer initiated a DUI investigation where Respondent performed several field
3 sobriety tests indicating that she was under the influence of alcohol. Respondent submitted to a
4 blood alcohol test which resulted in a 0.163% blood alcohol content, over twice the legal limit.

5 11. Respondent was arrested and charged in the Napa County Superior Court with two
6 misdemeanor charges: 1) Vehicle Code (VC) section 23152(a) – Driving Under the Influence of
7 Alcohol and; 2) VC section 23152(b) – Driving with a Blood Alcohol Level of 0.08% or More.
8 The Complaint included a special allegation for Excessive Blood Alcohol pursuant to VC section
9 23578, in that Respondent drove with a blood alcohol content of 0.15% or more. On August 25,
10 2016, Respondent pled no contest to VC section 23152(a). She was sentenced to the following:
11 three (3) years of court probation, four (4) days in jail, forty (40) hours of community service,
12 installation of an Ignition Interlock Device for a period of six (6) months, submit to random
13 chemical testing, attend the DUI offender’s nine (9) month driving program, do not operate a
14 motor vehicle with any measurable amount of alcohol, and obey all laws.

15 12. Respondent’s August 25, 2016 criminal conviction for driving under the influence of
16 alcohol is substantially related to the qualifications, functions and duties of a physician and
17 surgeon. Further, her conduct in driving recklessly while excessively intoxicated amounts to the
18 use of alcohol in a manner dangerous to both Respondent and the public. As such, her conviction
19 and conduct constitutes unprofessional conduct under section 2234, and a violation under section
20 2236 (criminal conviction), and section 2239 (dangerous use of alcohol).

21 **SECOND CAUSE FOR DISCIPLINE**

22 **(Mental or Physical Impairment)**

23 13. Respondent underwent a voluntary psychiatric evaluation in June 2017 with a Board-
24 appointed psychiatrist. The psychiatrist provided her report, dated August 2, 2017, which
25 contains her findings, opinions and conclusions regarding Respondent’s fitness to practice
26 medicine. During the evaluation, Respondent admitted that she has a long history of depression
27 dating back to her early twenties, and admitted that during one of her depressive episodes she
28 heard voices. The auditory hallucinations receded after she started receiving treatment.

1 Respondent also admitted to prescribing to herself anti-depressants and other medications for
2 many years, and ordering her own blood work. The evaluator noted that Respondent was
3 somewhat casual about the fact that she was prescribing herself medication and acting as her own
4 psychiatrist and primary care provider. Respondent indicated that she found nothing wrong with
5 prescribing her own medication and believed it to be the norm in her "culture." The evaluator
6 expressed concern that Respondent's psychiatric symptoms may be flaring up due to family and
7 marital stress, which may accelerate her drinking of alcohol.

8 14. Respondent was diagnosed with a longstanding Major Depressive Disorder with a
9 possible history of psychosis, or even mania. It was noted that Respondent's condition is
10 undertreated. The evaluator concluded that Respondent is "not able to practice medicine safely
11 without any restrictions" and that she requires sustained monitoring, psychotherapeutic treatment,
12 and oversight in order to ensure that she can safely practice. It was also recommended that
13 Respondent should be under the care of a primary care physician or specialist to prescribe all her
14 medications.

15 15. Respondent's license is subject to Board action pursuant to Sections 822 and 2227 of
16 the Code in that Respondent is impaired in her ability to safely practice medicine by virtue of
17 mental illness.

18 **PRAYER**

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

- 21 1. Revoking or suspending Physician's and Surgeon's Certificate Number A51143,
22 issued to Madeline Andrew, M.D.;
- 23 2. Revoking, suspending or denying approval of Madeline Andrew, M.D.'s authority to
24 supervise physician assistants and advanced practice nurses;
- 25 3. Ordering Madeline Andrew, M.D., if placed on probation, to pay the Board the costs
26 of probation monitoring; and

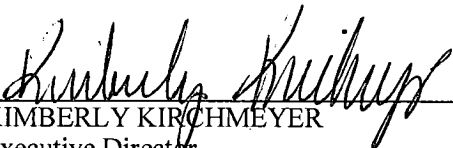
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4. Taking such other and further action as deemed necessary and proper.

DATED: November 2, 2017


KIMBERLY KIRCHMEYER
Executive Director
Medical Board of California
State of California
Complainant

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