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

In the Matter of the Accusation Against: **AUBREY ANCIL KING, M.D.** **154 A. W. Foothill Blvd. # 315** **Upland, CA 91786-3847** **Physician's and Surgeon's Certificate No. G 56023,** Respondent.	Case No. 800-2019-062209 **A C C U S A T I O N**

PARTIES

1. William Prasifka (Complainant) brings this Accusation solely in his official capacity as the Executive Director of the Medical Board of California, Department of Consumer Affairs (Board).

2. On or about September 16, 1985, the Medical Board issued Physician's and Surgeon's Certificate No. G 56023 to Aubrey Ancil King, 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 September 30, 2023, unless renewed.

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JURISDICTION

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

4. Section 2227 of the Code states, in pertinent part:

> (a) A licensee whose matter has been heard by an administrative law judge of the Medical Quality Hearing Panel as designated in Section 11371 of the Government Code, or whose default has been entered, and who is found guilty, or who has entered into a stipulation for disciplinary action with the board, may, in accordance with the provisions of this chapter:
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> (1) Have his or her license revoked upon order of the board.
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> (2) Have his or her right to practice suspended for a period not to exceed one year upon order of the board.
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> (3) Be placed on probation and be required to pay the costs of probation monitoring upon order of the board.
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> (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.
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> (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.
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> ...

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

> The board shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:
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> ...
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> (b) Gross negligence.
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> (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) 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.
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> (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.

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COST RECOVERY

6. Business and Professions Code section 125.3 states that:

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

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

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

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

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

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(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 to be available upon appropriation by the Legislature.

(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.

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

FIRST CAUSE FOR DISCIPLINE
(Gross Negligence)

7. Respondent has subjected his Physician's and Surgeon's Certificate No. G 56023 to disciplinary action under sections 2227 and 2234, as defined by section 2234, subdivision (b), of the Code, in that he committed gross negligence in his care and treatment of Patient A and Patient B,[1] as more particularly alleged hereafter:

Patient A

8. On or about September 6, 2019, Patient A saw Respondent, who was working in a locum tenens position as a psychiatrist at a behavioral health and child welfare agency. Respondent met with Patient A and Patient A's caregiver for approximately 90 minutes. Patient A, a 16-year-old male, reported experiencing temper outbursts manifesting verbally, irritability, anger, difficulty sleeping, difficulty concentrating, and anxiety. Respondent documented that there were no changes to Patient A's diagnoses and that his plan was to prescribe Remeron[2] and Concerta.[3]

9. On or about September 6, 2019, in a separate medical record, Respondent signed a document that stated that he recommended that Patient A take Remeron and Concerta to treat "[m]ajor depressive [dis]order, recurrent severe without psychotic features."

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[1] The names of the patients have been omitted to protect their privacy.

[2] Remeron, brand name for mirtazapine, is an anti-depressant which may be used off-label as a sedative.

[3] Concerta, brand name for methylphenidate, is a stimulant used to treat Attention Deficit Hyperactivity Disorder or narcolepsy. Methylphenidate is a Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision (d).

10. On or about October 2, 2019, Patient A and his mother saw Respondent for a follow-up appointment. Patient A reported feeling overwhelmed at school with anxiety, crying, and unhappiness. According to the mental status examination portion of the medical record, Patient A had visual hallucinations when agitated. Respondent documented that Patient A met criteria for dysthymic disorder and ADHD, predominantly the inattentive type. Respondent's treatment plan was to continue Remeron, increase Concerta to 36 mg, and add 50 mg of Zoloft.[4]

11. On or about October 30, 2019, Patient A and his mother saw Respondent for another follow-up appointment. Patient A reported experiencing verbal temper outbursts, irritability, depressed mood, fatigue, difficulty sleeping, and anxious distress. Respondent noted a change in Patient A's diagnoses to add bipolar disorder. His treatment plan was to continue Remeron and discontinue Zoloft and Concerta. Respondent also added 50 to 100 mg of Seroquel,[5] and 1 mg of Risperdal,[6] both taken at bedtime.

12. On or about October 30, 2019, in a separate medical record, Respondent signed a document that stated that he recommended that Patient A take Remeron, Seroquel, and Risperdal. According to the form, the medications were to treat Patient A's symptoms associated with depression, insomnia, and bipolar disorder.

13. On or about November 7, 2019, Patient A saw S.K., M.D., who took over for Respondent. Patient A reported to S.K., M.D., that there was difficulty in filling the prescriptions for Seroquel and Risperdal and that the medications were finally started two days prior. After starting Seroquel and Risperdal, Patient A experienced severe nasal congestion disrupting sleep and swollen hands. S.K., M.D., also noted that Patient A had a history of early exposure to domestic violence, physical abuse by family members, sexual molestation by an older child, and bullying at school. S.K., M.D., discontinued Remeron, Seroquel, and Risperdal, and prescribed

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[4] Zoloft, brand name for sertraline, is a selective serotonin reuptake inhibitor (SSRI) and an anti-depressant.

[5] Seroquel, brand name for quetiapine, is an anti-psychotic.

[6] Rispderdal, brand name for risperidone, is an anti-psychotic.

clonidine[7] for insomnia with consideration to add an anti-depressant in the future.

14. Respondent committed gross negligence in his care and treatment of Patient A which includes, but is not limited to, the following:

a. Respondent prescribed psychotropic medication to Patient A without adhering to the ethical principles of beneficence and nonmaleficence by prescribing and changing multiple psychotropic medications over a short period of time without substantiating Patient A's diagnoses;

b. Respondent prescribed Patient A a stimulant medication without consideration for Patient A's past and current physical health;

c. Respondent failed to follow consensus guidelines for the safe initiation and monitoring for adverse effects when prescribing antipsychotic medications to Patient A; and

d. Respondent initiated two antipsychotic medications simultaneously in Patient A's treatment without valid justification.

Patient B

15. On or about October 9, 2019, Patient B presented to Respondent for an hour-long appointment. Patient B, a 16-year-old female, presented to Respondent with depressed mood and anxiety. Patient B had a family history of bipolar depression, a personal history of depression, anxiety, two psychiatric hospitalizations in 2017 and March 2019, and a history of self-harm. Patient B had previously tried Adderall[8] and Concerta which were unhelpful. Patient B's current medications included 300 mg of Wellbutrin XR,[9] 5 mg of Abilify,[10] 100 mg of Neurontin.[11]

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[7] Clonidine is a sedative and anti-hypertensive drug.

[8] Adderall, brand name for mixed amphetamine salts, is a stimulant and a Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision (d).

[9] Wellbutrin XR, brand name buproprion, is an anti-depressant.

[10] Abilify, brand name for aripiprazole, is an anti-psychotic.

[11] Neurontin, brand name for gabapentin, is an anti-convulsant and nerve pain medication.

Lexapro[12] was also prescribed but Patient B had stopped taking it. Patient B also reported using marijuana daily. Respondent diagnosed Patient B with bipolar disorder and panic attacks. His medication treatment plan was to discontinue Wellbutrin XR, increase Abilify to 10 mg and Neurontin to 300 mg, and add Zoloft, Trileptal,[13] and Invega.[14]

16. On or about October 31, 2019, Patient B saw S.K., M.D., who took over for Respondent. Patient B reported to S.K., M.D., that when Respondent changed her medications per Respondent's treatment plan, she experienced diarrhea, shakes, sweating, and abdominal pain. As a result, Patient B reverted to taking her original medications, Wellbutrin, Abilify, and Neurontin.

17. Respondent committed gross negligence in his care and treatment of Patient B which includes, but is not limited to, the following:

a. Respondent failed to adhere to basic principles of evidence-based prescribing of psychotropic medication for Patient B;

b. Respondent prescribed Patient B psychotropic medication without adhering to the ethical principles of beneficence and nonmaleficence;

c. Respondent failed to follow consensus guidelines for the safe initiation and monitoring for adverse effects when prescribing antipsychotic medications for Patient B; and

d. Respondent changed Patient B's psychotropic medications by abruptly discontinuing Wellbutrin, increasing Abilify and Neurontin, and adding Zoloft, Trileptal, and Invega medications at the same time.

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[12] Lexapro, brand name escitalopram, is a SSRI anti-depressant.

[13] Trileptal, brand name oxcarbazepine, is an anti-convulsant.

[14] Invega, brand name for paliperidone, is an anti-psychotic.

SECOND CAUSE FOR DISCIPLINE
(Repeated Negligent Acts)

18. Respondent has further subjected his Physician's and Surgeon's Certificate No. G 56023 to disciplinary action under sections 2227 and 2234, as defined by section 2234, subdivision (c), of the Code, in that he committed repeated negligent acts in his care and treatment of Patient A and Patient B, as more particularly alleged in paragraphs 8 through 17, above, which are hereby incorporated by reference and re-alleged as if fully set forth herein.

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 56023, issued to Respondent Aubrey Ancil King, M.D.;

2. Revoking, suspending or denying approval of Respondent Aubrey Ancil King, M.D.'s authority to supervise physician assistants and advanced practice nurses;

3. Ordering Respondent Aubrey Ancil King, 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: NOV 09 2022

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

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