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

In the Matter of the Accusation Against: **THOMAS ANDREW GONDA, JR., M.D.** **2220 Mountain Blvd, Suite 240** **Oakland, CA 94611-2905** **Physician's and Surgeon's Certificate No. G 60409,** Respondent.	Case No. 800-2019-063160 **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 June 22, 1987, the Medical Board issued Physician's and Surgeon's Certificate Number G 60409 to Thomas Andrew Gonda, Jr., 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 February 28, 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 provides that a licensee who is found guilty under the Medical Practice Act may have his or her license revoked, suspended for a period not to exceed one year, placed on probation and required to pay the costs of probation monitoring, or such other action taken in relation to discipline as the Board deems proper.

5. Section 2234 of the Code, states:

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:

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

(b) Gross negligence.

(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.

(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.

(d) Incompetence.

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

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

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

COST RECOVERY

6. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to 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, with failure of the licensee to comply subjecting the license to not being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be included in a stipulated settlement.

DEFINITIONS

7. Alprazolam, also known by the trade name Xanax, is a psychotropic triazolo analogue of the 1,4 benzodiazepine class of central nervous system-active compounds. Xanax is used for the management of anxiety disorders or for the short-term relief of the symptoms of anxiety. It is a dangerous drug as defined in section 4022 of the Code and a schedule IV controlled substance and narcotic as defined by section 11057, subdivision (d) of the Health and Safety Code.

8. Zolpidem, known by the trade name Ambien, is a non-benzodiazepine hypnotic of the imidazopyridine class. It is a dangerous drug as defined in the Code section 4022 and a schedule IV controlled substance as defined by section 11057 of the Health and Safety Code. It is indicated for the short-term treatment of insomnia. It is a central nervous system depressant and should be used cautiously in combination with other central nervous system depressants.

CAUSE FOR DISCIPLINE

(Unprofessional Conduct: Repeated Negligent Acts)

9. Respondent has subjected his license to disciplinary action under section 2234(c) [repeated negligent acts] for unprofessional conduct, in that the care and treatment of Patient 1 included departures from the standard of care constituting repeated negligent acts. The circumstances are as follows:

10. Respondent began treating Patient 1 on October 15, 2014. The female patient was 29-years-old at the time and recovering from psychiatric symptoms stemming from a motor vehicle accident on September 1, 2014. Patient 1 complained of back and neck pain, anxiety, insomnia, reduced appetite, fatigue, and cognitive symptoms. Patient 1 also reported a family psychiatric history of bipolar disorder, depression, anxiety, schizophrenia, post-traumatic stress, alcohol abuse, and other substance abuse.

11. Respondent commenced prescribing zolpidem to Patient 1 on June 15, 2015, and continued to prescribe this medication on a regular basis until March 26, 2022. The average doses of zolpidem prescribed by Respondent to Patient 1 were 22.6 mg. in 2016, 19.3 mg. in 2017, 13.4 mg. in 2018, 10.5 mg. in 2019, and 10.8 mg. in 2020. Physicians are recommended to use the lowest effective dose of zolpidem and not to exceed 12.5 mg. in the extended-release formulation or 10 mg. in the immediate-release formulation.

12. Respondent began prescribing alprazolam to Patient 1 on February 12, 2016, and continued to prescribe this medication on a regular basis until March 26, 2022. Respondent wrote Patient 1 multiple prescriptions for alprazolam in each of these years, prescribing an average dose of 6.3 mg. in 2016, 2.2 mg. in 2017, 9.3 mg. in 2018, 4.9 mg. in 2019, and 4.1 mg. in 2020. The manufacturer's labeling indicates a maximum dose of 10 mg. daily for alprazolam. Between December 29, 2018 and March 1, 2019, there were several instances noted in CURES[1] when Patient 1 had early refills only 5-6 days after her prior fill.

13. The medical records indicate that Respondent did not query the CURES database until March 18, 2020, even though checking CURES was mandated in California starting in October 2018. After Respondent checked CURES for Patient 1 in March 2020, Respondent did not check CURES again until December 28, 2021.

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[1] CURES "is California's prescription drug monitoring program. By statute, every prescription of a Schedule II, III, or IV controlled substance must be logged in CURES, along with the patient's name, address, telephone number, gender, date of birth, drug name, quantity, number of refills, and information about the prescribing physician and pharmacy. [Citation.]" (*Lewis v. Superior Court* (2017) 3 Cal.5th 561, 565 (*Lewis*).) The Board is authorized to access the CURES database (*id.* at p. 567), which is maintained by the California Department of Justice (*id.* at p. 566).

14. On November 10, 2018, while continuing as a treatment provider for Patient 1 – prescribing alprazolam and zolpidem – Respondent purchased a home with Patient 1. Respondent claims that each party contributed to the purchase: Respondent purchased 80 percent and Patient 1 purchased 20 percent of the residential property.

15. Respondent's care and treatment of Patient 1 constitutes unprofessional conduct through repeated negligence, including but not limited to the following:

A. Respondent failed to properly monitor Patient 1's treatment with controlled substances that he was prescribing – alprazolam and zolpidem.

B. Respondent jointly purchased a residential property with a patient he was actively treating, compromising his objectivity and effectiveness in his psychiatric care and treatment of Patient 1.

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 Number G 60409, issued to Thomas Andrew Gonda, Jr., M.D.;

2. Revoking, suspending or denying approval of Thomas Andrew Gonda, Jr., M.D.'s authority to supervise physician assistants and advanced practice nurses;

3. Ordering Thomas Andrew Gonda, Jr., 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;

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

DATED: DEC 08 2022

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