

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

In the Matter of the Accusation Against:

Erna Wei Wong, M.D.

Physician's & Surgeon's
Certificate No. G 49296

Respondent.

Case No. 800-2022-086760

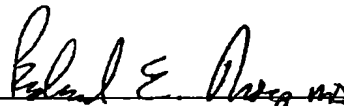
DECISION

The attached Proposed Decision 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 September 11, 2024.

IT IS SO ORDERED: August 12, 2024.

MEDICAL BOARD OF CALIFORNIA


Richard E. Thorp, M.D., Chair
Panel B

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

In the Matter of the Accusation Against:

ERNA WEI WONG, M.D., Respondent,

Physician's and Surgeon's Certificate No. G 49296

Case No. 800-2022-086760

OAH No. 2024010972

PROPOSED DECISION

Abraham M. Levy, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter by video/telephone conference on July 17, 2024.

Karolyn M. Westfall, Deputy Attorney General, represented complainant Reji Varghese, Executive Director of the Medical Board of California (Board).

Erna Wei Wong, M.D., respondent, represented herself.

Documentary and testimonial evidence was received, the record was closed, and the matter submitted for decision on July 17, 2024.

SUMMARY

Based on clear and convincing evidence, it is found that respondent suffers from a cognitive impairment that renders her unable to practice medicine safely. Due to the nature of her cognitive impairment, the lack of self-insight into her condition, her refusal to treat for this condition, and the lack of sound judgment she has displayed over several years, the only disposition consistent with the public health and safety is revocation of her license.

PROTECTIVE ORDER

A protective order has been issued on complainant's motion sealing Exhibits 9-11, 13-15, 17-25, and 27-29. It is not practical to redact these documents. A reviewing court, parties to this matter, and a government agency decision maker or designee under Government Code section 11517 may review materials subject to the protective order provided that this material is protected from disclosure to the public.

FACTUAL FINDINGS

License History, Background and Jurisdiction

1. The Board issued to respondent Physician's and Surgeon's Certificate No. G 49296 on November 22, 1982, which is currently in full force and effect. Unless renewed, it will expire on July 31, 2024.

2. On March 16, 2022, the Board received a complaint from respondent's son regarding her behavior. He reported that respondent suffers from bipolar disorder,

refuses to treat for this condition, was hospitalized on two occasions under Welfare and Institutions Code section 5150 (5150), and she is taking a non-U.S. Food and Drug Administration Drug (FDA) medication drug to treat it. Her son also reported that respondent was selling fraudulent COVID vaccine cards;¹ she was forwarding misinformation about treatment for COVID; she was peddling Immusist, a non-FDA approved drug, as a miracle cure-all drug; she was prescribing opiates and Xanax to strangers within a week of meeting them; she fills their prescriptions at CVS or other hospitals; and she poses as a consulting doctor at private and public hospitals.

3. The Board referred the case to the Division of Investigations, Health Quality Investigation Unit (HQIU). The investigation was initially assigned to Investigator Kayla Bergert. It was later reassigned to Investigator Arthur Mier.

4. The investigators obtained respondent's medical and psychiatric records, Controlled Substance Utilization Review System (CURES) reports for respondent as a patient and prescribing physician, and forwarded these materials to Mark Kalish, M.D., who conducted a psychiatric evaluation of respondent and prepared several reports, which were received in evidence, and Rodrigo Rodriguez, Jr., M.D., who performed a neurological examination of respondent.

¹ Complainant's son attached to his complaint a copy of a 2021 "COVID-19 Vaccination Record Card" vaccine card for the "Moderna" vaccine for a JA signed by respondent on two occasions: (Exhibit 8, A77.) (On the undersigned's motion, the person's name has been redacted.) It is unclear how respondent, who was retired at that time, would have obtained this vaccine and administered it to this person, or why she did this.

Relevant Documentary Evidence

5. The evidence consists of respondent's psychiatric and medical records, CURES reports, police reports,² police service logs, a warning letter the FDA had issued about Immusist, and other materials.

6. These records document a series of instances where respondent displayed very grandiose, delusional and concerning behavior, her family's concerns about her behavior, and repeated calls to police regarding her well-being. On two occasions respondent was placed on 5150 holds. This evidence shows the following:

POLICE REPORTS REGARDING RESPONDENT'S BEHAVIOR

7. On January 19, 2020, respondent reported her car was stolen. Respondent's son told police respondent "has mental health concerns leading to these issues.[allowing a person she did not know well to use her car]."

8. Per a police department report dated February 19, 2020, in connection with the police investigation into her reported stolen car, respondent told police she lent her van to an acquaintance because she wanted to help him, and he was in need of work and a vehicle. This person she said refused to return her car. Respondent told the police on February 6, 2020, that she was in Las Vegas for a few weeks, and she had found a cure for the Corona virus and was working on securing 22 million dollars to help get the cure to China. She also told the police that she had found a cure for AIDS in 2003 and several other maladies. Respondent also told the officer she would follow

² The reports were received pursuant to *Lake v. Reed* (1997) 16 Cal.4th 448, 461-464, which sets forth how peace officer reports may be received.

up with the police regarding her report of her stolen car after she resolved her issues with the Corona virus.

9. On February 24, 2020, police conducted a welfare check on respondent after a bank employee said respondent wanted to kill herself because she told this employee she has a lot of debt.

10. On July 15, 2020, police went to respondent's residence for a welfare check on her. Her son (a son other than the son who filed a complaint with the Board) was worried about comments she had made. Her son told police that respondent has had mental health issues the last four years, and he believed she was bipolar. Respondent was upset her car was repossessed, she called family members to tell them goodbye, and said she would run her car off the road. After speaking with police, respondent agreed to go to the hospital for a voluntary mental health assessment.

11. On August 11, 2020, an unidentified person called police with respondent on the call, and respondent told the dispatcher she was better off dead than alive. The unidentified person on the call told police respondent has mental health issues and was hospitalized on a voluntary hold. Respondent told police she was "too far in debt."

12. On August 17, 2020, respondent called police to report she was a victim of fraud. She said she was a "caretaker" for a person in New York, and that person had defrauded her. The police found it difficult to talk to respondent. She continuously interrupted them with stories about being victimized in Nevada, Irvine, and Anaheim, and she said she was placed on a 5150 hold.

13. On November 20, 2021, respondent's son contacted police to report that respondent was selling vaccine cards and selling bad scripts. He told police he believes she has a "god complex."

**MEDICAL AND PSYCHIATRIC RECORDS DOCUMENTING RESPONDENT'S
BEHAVIOR**

14. On August 13, 2016, respondent's son called respondent's medical provider because he was concerned about changes he observed in respondent's behavior.

15. On October 26, 2016, respondent went to her doctor with her son for an evaluation. Her son was concerned about respondent's behavior and mood swings. These behaviors included lending or giving her retirement monies to friends for entrepreneurial endeavors, and allowing a homeless person to stay at her son's home while he was away without his permission. Respondent told her provider she was taking Immusist, and it is an "all encompassing" help to her health.

16. Immusist is a drug the FDA has not approved as safe and effective. Complainant submitted into the record an October 16, 2020, Warning Letter the FDA issued to James Gates, the managing partner of Immusist, LLC.³ In this letter, the FDA advised Mr. Gates that contrary to representations he was making on the internet about Immusist, Immusist is not recognized as a safe and effective drug for the treatment of the diseases Mr. Gates identified, and the drug does not cure or mitigate diseases, including certain cancers, diabetes, and rheumatoid arthritis. The FDA warned Mr. Gates that continued representations regarding the effectiveness of this drug could result in legal action.

³ Respondent in her testimony mentioned Mr. Gates as someone who found a cure for AIDS.

17. At her October 26, 2016, medical appointment, respondent said she found a "bipolar homeless person" she was trying to help by taking him in and taking him to the ER. She said the homeless person was not helped, and that psychiatry departments around the country lack resources. Respondent's thyroid levels were low, and she was evaluated for a possible thyroid disorder. She repeated she was taking Immusist and "stopped it all," meaning she declined further treatment for the thyroid condition.

18. On November 29, 2018, respondent went with her daughter to see respondent's medical provider to evaluate respondent's "stress." Respondent's daughter expressed to the provider that respondent's family had seen troubling changes in respondent's behavior, and she thought respondent had a bipolar disorder. Respondent told the provider "that many people will receive a million dollars each from another philanthropist trust fund that would be coming soon." Respondent said she would contact the psychiatry department for further help with her stress. To rule out a physical basis for changes in her behavior, a CT scan was taken of respondent's head on December 10, 2018. The CT scan was normal.

19. On July 15, 2020, respondent went to the emergency room (ER) (as she told police she would do on this date) for an evaluation due to reported suicidal ideation. Per the intake note for this visit, her son said respondent's family tried to get respondent to seek treatment for mania and bipolar disorder, but she refused. Per her son, respondent has been giving away large amounts of money to homeless persons and has liquidated her assets to purchase a medication that allegedly cures cancer and other diseases. Respondent was selling this drug to strangers. Her son noted respondent "disappears" to Las Vegas for months at a time.

20. Respondent told the ER physician that she had stopped taking all medications except for Immusist. She said she had invested much of her earnings into this product and recommended it to her patients. She was placed on a 5150 hold.

21. Respondent's discharge diagnosis from the 5150 hold was bipolar 1 disorder, Manic Episode, with associated features. She was given two doses of Depakote to address this condition, but she stopped taking the medication.

22. On July 23, 2020, in a follow-up telephone appointment, respondent said she felt Immusist would treat her bipolar condition, and she did not want prescription medication to treat it.

23. On August 28, 2020, in another follow-up telephone appointment, respondent told the provider that she was taking a "natural blend of supplements" that can cure HIV and COVID and a variety of ailments. She said she does not feel she is delusional and has evidence to support her claims.

24. On March 26, 2021, respondent was taken to the ER after a fall. She injured herself while using an 8-inch auger to drill for gold in her backyard. She fell three feet backwards doing this and hurt her back and hand. Respondent was discharged after being evaluated for the physical trauma.

25. On March 30, 2021, respondent had a follow-up appointment with psychiatry regarding this auger incident. She told the provider that gold was in her backyard according to a friend who is an expert geologist who explored the area. Respondent then raised a series of topics in a rambling and incoherent manner. As an example, she said she was waiting for funding from the United Nations to take care of "the border issue."

26. The provider called respondent's son to talk to him about her mental health. He confirmed respondent's incoherent and delusional behavior.

27. Respondent was placed on a 5150 hold because she was found to be gravely disabled due to a mental health condition, namely a bipolar disorder. The provider found that respondent manifested severe deterioration in routine functioning by repeated and escalating loss of cognitive or volitional control over her actions and was not receiving care for her health and safety. The 5150 hold was soon lifted after she said she would willingly seek treatment and take medication.

28. On May 5, 2021, respondent had another telephone appointment with psychiatry. She said she wanted her medical and psychiatric records changed because she felt she has not engaged in grandiose and delusional behavior and because her records include this information, she would not be able to run for Governor or President. She told the provider she was going to Ghana to teach children to farm and how to mine for gold; she needed to find an alternate fuel source; and she went to Baltimore to help someone but was unable to help that person. She also said she was working with someone in Florida to set up a company, Wong Enterprises, that would "include schools, medical health spas, concierge [services] for 2nd opinions [for people] coming from other countries," and to sell Immusist.

29. In a telehealth appointment with psychiatry on October 6, 2021, respondent told the social worker she was appointed to be the next director of the World Health Organization (WHO).

CURES REPORTS

30. As a prescribing physician, for the periods documented in two CURES reports between May 23, 2018, and May 23, 2022, and May 1, 2022, and September 22,

2023, respondent prescribed to nine persons oxycodone, acetaminophen with codeine, hydrocodone bitartrate with acetaminophen, alprazolam, carisoprodol, amphetamine salt, hydromorphone, diazepam.^{4,5} During this time, respondent provided one individual, PD, with prescriptions for large quantities of alprazolam, oxycodone, and hydrocodone bitartrate with acetaminophen.

As an example of the large number of opioids and benzodiazepines she was prescribing to this person, respondent prescribed to PD on May 13, 2022, 170 pills of 30 mg hydrocodone for a 30 day supply, on May 16, 2022, 90 pills of hydrocodone bitartrate with acetaminophen for a 30 day supply, on April 22, 2022, she prescribed to him 60 pills of alprazolam for a 30 day supply.

⁴ Oxycodone, acetaminophen with codeine, hydrocodone bitartrate with acetaminophen, and hydromorphone are Schedule II controlled substances pursuant to Health and Safety Code section 11055, subdivision (b), and dangerous drugs pursuant to Business and Professions Code section 4022. Alprazolam, the generic name for Xanax, is a benzodiazepine and Schedule IV controlled substance pursuant to Health and Safety Code section 11057, subdivision (d), and dangerous drug pursuant to section 4022. Carisoprodol, the generic name for Soma, is a muscle relaxant and Schedule IV controlled substance and dangerous drug pursuant to section 4022.

⁵ Respondent retired her Drug Enforcement Agency number in July 2023, per HQIU's supplemental report. No further information was provided regarding the circumstances of her retirement. The retirement of her number does not change the analysis below regarding the need to revoke her license due to the possibility she may regain her number.

31. As a patient, from May 23, 2018, to May 23, 2022, respondent was prescribed on two occasions, November 4, 2020, and July 11, 2021, hydrocodone bitartrate with acetaminophen. As discussed below, Dr. Kalish looked at this report to rule out that respondent's behavior was due to the use of these controlled substances.

FDA WARNING LETTER REGARDING IMMUSIST

32. As noted, Immusist is a drug that the FDA has not approved as safe and effective as the FDA states in the Warning Letter it issued to Mr. Gates.

Board Order Compelling Psychiatric and Physical Evaluations, and Dr. Kalish's Reports and Conclusions

33. On September 23, 2022, the Board ordered respondent to submit to mental and physical examinations pursuant to Business and Professions Code section 820. Mark Kalish, M.D., a Board-certified psychiatrist, was assigned to conduct a psychiatric evaluation of respondent to evaluate whether she can safely practice medicine due to a psychiatric condition. The physical examination was normal.

34. At Dr. Kalish's request, to rule out a neurological condition, respondent underwent a neurological evaluation with Rodrigo Rodriguez, Jr., M.D. Dr. Rodriguez found that respondent's behavior was not due to an underlying neurologic condition. Dr. Rodrigo did comment, however, that during his examination respondent appeared grandiose and borderline delusional, which suggested to him that she has an underlying psychiatric disorder.

35. Dr. Kalish conducted a psychiatric examination of respondent on November 11, 2022. After administering a psychological evaluation to respondent, the Minnesota Multiphasic Personality Inventory (MMPI), and examining respondent, Dr.

Kalish asked for respondent's medical records before he could reach a definitive diagnosis of respondent.⁶ He was provided respondent's medical records in March 2023, but these records did not include respondent's psychiatric records. He was provided these in September 2023.

36. After Dr. Kalish reviewed respondent's medical and psychiatric records, he diagnosed respondent with bipolar 1 disorder. This diagnosis, he noted, was consistent with the diagnosis provided by multiple providers. He commented that it is unusual for a person respondent's age to develop bipolar disorder, but he said it does occur. Before he made his formal diagnosis, Dr. Kalish wanted to rule out, as much as possible, other causes for her mental health problems, which as noted included a neurological condition or abuse of dangerous drugs and or controlled substances. He was able to rule these conditions out.

37. Dr. Kalish testified that, in his opinion, respondent is unable to safely practice medicine because she suffers from a psychiatric condition, which significantly affects her ability to safely practice, and she is presently unable to practice medicine safely. He reached this conclusion because respondent has no insight into her condition, and she has refused to follow recommended treatment with medications. He said her lack of insight into her delusions "is the danger"; she has a fixed delusion as a part of her bipolar disorder, and there is little chance she will get treatment for this condition. Without such treatment the risk of recurrent manic episodes is substantial. As factors in his conclusion regarding her ability to practice medicine

⁶ The results of the MMPI were essentially normal but showed that respondent had a strong need for others to see her in a positive light. Dr. Kalish discounted the value of the test results based on the records, and other information, he reviewed.

safely, Dr. Kalish cited respondent's delusional use and distribution of Immusist. He is also concerned about respondent's distribution of controlled substances, as documented in the two CURES reports showing her prescription of controlled substances.

38. In reaching his conclusion that respondent suffers from an underlying psychiatric condition, Dr. Kalish ruled out a physical basis for the condition based on Dr. Rodriguez's evaluation of respondent, and also ruled out that her behavior was due to her use of drugs. A CURES report he reviewed of respondent as a patient indicated she was not taking controlled substances. Also, a urine screen she agreed to take was negative for any controlled substances or illegal drugs.

Respondent's Testimony

39. Respondent's testimony is summarized as follows:

40. Respondent stands by her record as a physician having served at Kaiser as a pediatrician for many years until she retired in 2015. She does not feel she poses a threat to the public health and safety. She does not believe she has a bipolar disorder and is not treating for this condition, or any mental health condition. Respondent said she is no longer taking Immusist because it is unavailable. She said she can function well and take care of her mother, her daughter who has medical problems, and her grandchildren.

Respondent stressed that the hearing was not fair and balanced, and her accusers should have testified. She stressed also that PD, the person to whom she prescribed large doses of opioids and a alprazolam, per the CURES report, should have been called as a witness. With regard to her treatment of PD, as an example of the

good care she gave him, she said in her closing statement that she once got up at 3:00 a.m. and went to the pharmacy to get him Xanax because he had run out of the drug.

In response to a series of questions on cross-examination, respondent said she does not believe she has a bipolar disorder based on her research; she was appointed to be head of the WHO by a woman whom she said did not have the authority to appoint her. She was asked whether she told the HQUI investigator she invented a machine to detect diseases. She did not deny she said this. Respondent did not deny that Immusist cures AIDS, based on what Mr. Gates "found," and the use of Immusist in Uganda. She said she has provided medical advice to "friends who ask her for advice in Las Vegas." She did not deny she issued vaccine cards. (As noted above, respondent signed on two occasions a COVID-19 vaccine card for a JA in 2021.⁷) Respondent did not deny she was hospitalized as a result of digging for gold in her backyard.

41. Respondent's testimony was often rambling. The logic of her testimony was hard to follow. She went from one topic to another without pause.

Testimony of Greg Gilbert

42. Respondent called Greg Gilbert to testify on her behalf. Mr. Gilbert represented he has a Ph.D.⁸ and is a medical provider who runs "clinics." Respondent identified him as a medical doctor or provider. Mr. Gilbert is a disbarred attorney, who after the State Bar Court suspended his license to practice law on April 17, 2019,

⁷ It appears she falsely issued these cards because it seems unlikely she had access to the vaccines. She had no affiliation with a clinic, hospital, or provider.

⁸ Mr. Gilbert is not licensed by any health care agency in California.

represented respondent on a petition for an interim suspension order (ISO) to suspend her license on December 7, 2022.⁹

Mr. Gilbert wanted to discuss his conversation with Dr. Kalish about errors in his report, and that Dr. Kalish had not confirmed certain aspects of his report. Respondent also asked Mr. Gilbert to discuss conversations he had with the Deputy Attorney General, who prosecuted the ISO petition. Mr. Gilbert offered no meaningful or relevant testimony.

Parties' Arguments

43. Complainant argued in closing that no credible evidence refutes Dr. Kalish's testimony. Based on his testimony, respondent's prognosis is poor because she refuses to treat for bipolar disorder. The only acceptable disposition is revocation of her license.

44. Respondent objected to the proceeding because her accuser did not testify. She said there is no evidence she is incompetent. She cited the instance where she got Xanax for PD at 3:00 a.m.

⁹ On a procedural ground, that petition was denied without prejudice.

LEGAL CONCLUSIONS

1. Pursuant to Business and Professions Code section 2227,¹⁰ the Board has jurisdiction to enforce and administer the law, rules and regulations against physicians.

2. Section 822 authorizes the board to revoke or suspend a physician's certificate, or place him or her on probation, if it determines that the physician's "ability to practice his [or her] . . . profession safely is impaired because the licentiate is mentally ill, or physically ill affecting competency..... " Subdivision (d) permits the Board to take "such other action in relation to the licentiate as the licensing agency in its discretion deems proper."

3. Complainant bears the burden of proof of establishing that respondent is impaired and cannot practice medicine safely due to this impairment. The standard of proof is clear and convincing evidence. (*Ettinger v. Board of Medical Quality Assurance* (1982) 135 Cal.App.3d 853, 856.) Clear and convincing evidence requires a finding of high probability, or evidence so clear as to leave no substantial doubt; sufficiently strong evidence to command the unhesitating assent of every reasonable mind. (*Katie V. v. Superior Court* (2005) 130 Cal.App.4th 586, 594.)

¹⁰ All subsequent references are to the Business and Professions Code unless otherwise stated.

Evaluation and Disposition

4. Clear and convincing evidence established that respondent has a mental health impairment that affects her competency to practice medicine, and she cannot now practice medicine safely pursuant to Section 822.

This conclusion is based on Dr. Kalich's persuasive testimony, which was fully supported by respondent's medical and psychiatric records, police service logs and police reports, the CURES report documenting the controlled substances she has prescribed, and the FDA Warning Letter for Immusist.

These records amply document respondent has had a series of episodes of delusional and grandiose behavior with impaired judgment and a total lack of self-insight. As Dr. Kalish put it, her lack of insight into her delusions "is the danger." Without treatment respondent will likely have recurring manic episodes. Respondent's delusional use and distribution of Immusist is one example of the impact her mental health condition has on the public health and safety. Her prescription of opioids, benzodiazepines, and a muscle relaxant, is another example of the danger her continued practice of medicine poses. Her medical advice and treatment to people she has just met is a further example of this danger.

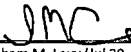
In terms of the disposition, it is first recognized this is not a disciplinary case; it is an impairment case. The case involves an impaired doctor, whose impairment was not self-induced. But because respondent refuses to treat for her impairment, and considering the nature and degree of her delusional thinking, behavior, and the concerning medical advice and treatment she has given, the only disposition that would ensure the public health and safety is revocation of her certificate.

Pursuant to Section 822, the Board shall not reinstate her certificate until it has received competent evidence of the absence or control of the condition which has caused respondent's behavior, and until the Board is satisfied that, with due regard for the public health and safety, respondent's right to practice her profession may be safely reinstated.

ORDER

Physician's and Surgeon's Certificate No. G 49296 issued to respondent Erna Wei Wong, M.D., is revoked.

DATE: July 29, 2024


Abraham M. Levy (Jul 29, 2024 16:21 PDT)

ABRAHAM M. LEVY

Administrative Law Judge

Office of Administrative Hearings