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

In the Matter of the Accusation Against Xiaoling Zhu, M.D. Physician's and Surgeon's Certificate No. A 98460 Respondent.	Case No. 800-2019-061224

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 JUL 22 2021.

IT IS SO ORDERED JUL 15 2021.

MEDICAL BOARD OF CALIFORNIA

William Prasifka
Executive Director

ROB BONTA
Attorney General of California
JANE ZACK SIMON
Supervising Deputy Attorney General
THOMAS OSTLY
Deputy Attorney General
State Bar No. 209234
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San Francisco, CA 94102-7004
Telephone: (415) 510-3871
Attorneys for Complainant

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

In the Matter of the Accusation Against: **XIAOLING ZHU, M.D.** **225 El Pinto** **Danville, CA 94526-1414** **Physician's ad Surgeon's Certificate No. A 98460** Respondent.	Case No. 800-2019-061224 **STIPULATED SURRENDER OF LICENSE AND ORDER**

In the interest of a prompt and speedy settlement of this matter, consistent with the public interest and the responsibility of the Medical Board of California of the Department of Consumer Affairs, the parties hereby agree to the following Stipulated Surrender and Disciplinary Order which will be submitted to the Board for approval and adoption as the final disposition of the Accusation.

PARTIES

1. William Prasifka (Complainant) is the Executive Director of the Medical Board of California (Board). He brought this action solely in his official capacity and is represented in this matter by Rob Bonta, Attorney General of the State of California, by Thomas Ostly, Deputy Attorney General .

2. Xiaoling Zhu, M.D. (Respondent) is represented in this proceeding by attorney Robert Hodges, whose address is: 3480 Buskirk Ave #250, Pleasant Hill, CA 94523.

3. On or about December 29, 2006, the Board issued Physician's ad Surgeon's Certificate No. A 98460 to Xiaoling Zhu, M.D. (Respondent). The Physician's ad Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2019-061224 and is currently suspended pursuant to an Interim Suspension Order issued on May 6, 2021.

JURISDICTION

4. Accusation No. 800-2019-061224 was filed before the Board, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on May 31, 2021. A copy of Accusation No. 800-2019-061224 is attached as Exhibit A and incorporated by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 800-2019-061224. Respondent also has carefully read, fully discussed with counsel, and understands the effects of this Stipulated Surrender of License and Order.

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

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

CULPABILITY

8. Respondent understands that the charges and allegations in Accusation No. 800-2019-061224, if proven at a hearing, constitute cause for imposing discipline upon her Physician's and Surgeon's Certificate.

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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 her right to contest that cause for discipline exists based on those charges.

10. Respondent understands that by signing this stipulation she enables the Board to issue an order accepting the surrender of her Physician's ad 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 her counsel. By signing the stipulation, Respondent understands and agrees that she may not withdraw her 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 ad Surgeon's Certificate No. A 98460, issued to Respondent Xiaoling Zhu, M.D., is surrendered and accepted by the Board.

1. The surrender of Respondent's Physician's ad Surgeon's Certificate and the acceptance of the surrendered license by the Board shall constitute the imposition of discipline

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against Respondent. This stipulation constitutes a record of the discipline and shall become a part of Respondent's license history with the Board.

2. 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.

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

4. If Respondent ever files an application for licensure or a petition for reinstatement in the State of California, the Board shall treat it as a petition for reinstatement. Respondent understands that she may not petition for reinstatement as a physician and surgeon for a period of two (2) years from the effective date of her surrender. Respondent must comply with all the laws, regulations and procedures for reinstatement of a revoked or surrendered license in effect at the time the petition is filed, and all of the charges and allegations contained in Accusation No. 800-2019-061224 shall be deemed to be true, correct and admitted by Respondent when the Board determines whether to grant or deny the petition.

5. If Respondent should ever apply or reapply for a new license or certification, or petition for reinstatement of a license, by any other health care licensing agency in the State of California, all of the charges and allegations contained in Accusation, No. 800-2019-061224 shall be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or restrict licensure.

ACCEPTANCE

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

DATED: 6/18/2021

XIAOLING ZHU, M.D.
Respondent

I have read and fully discussed with Respondent Xiaoling Zhu, M.D. the terms and conditions and other matters contained in this Stipulated Surrender of License and Order. I approve its form and content.

DATED: 6/18/2021

Robert W. Hodges
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: June 21, 2021

Respectfully submitted,

ROB BONTA
Attorney General of California
JANE ZACK SIMON
Supervising Deputy Attorney General

/s/ Thomas Ostly

THOMAS OSTLY
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 800-2019-061224

ROB BONTA
Attorney General of California
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BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:	Case No. 800-2019-061224
Xiaoling Zhu, M.D. **225 El Pinto** **Danville, CA 94526-1414** **Physician's ad Surgeon's Certificate** **No. A 98460,** Respondent.	**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 December 29, 2006, the Medical Board issued Physician's and Surgeon's Certificate Number A 98460 to Xiaoling Zhu, M.D. (Respondent). The Physician's and Surgeon's Certificate is renewed and current, with an expiration date of July 31, 2022. An Interim Suspension Order was issued on May 5, 2021 and Respondent's Physician's and Surgeon's license is suspended and will remain suspended until a final decision has been issued by the Medical Board.

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 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
>
> . . . .
>
> (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.

5. Section 2239 of the Code states:

> (a) The use or prescribing for or administering to himself or herself, of any controlled substance; or the use of any of the dangerous drugs specified in Section 4022, or of alcoholic beverages, to the extent, or in such a manner as to be dangerous or injurious to the licensee, or to any other person or to the public, or to the extent that such use impairs the ability of the licensee to practice medicine safely or more than one misdemeanor or any felony involving the use, consumption, or self-administration of any of the substances referred to in this section, or any combination thereof, constitutes unprofessional conduct. The record of the conviction is conclusive evidence of such unprofessional conduct.

6. Section 2266 of the Code states: The failure of a physician and surgeon to maintain adequate and accurate records relating to the provision of services to their patients constitutes unprofessional conduct.

7. Section 2280 of the Code states:

> No licensee shall practice medicine while under the influence of any narcotic drug or alcohol to such extent as to impair his or her ability to conduct the practice of medicine with safety to the public and his or her patients. Violation of this section constitutes unprofessional conduct and is a misdemeanor.

8. Section 822 of the Code provides that the Board may take action if a licentiate's ability to practice his or her profession safely is impaired because or mental or physical illness.

9. Section 2228.1 of the Code provides, in pertinent part, that the Board shall require a

licensee who is disciplined based on drug or alcohol abuse to the extent that such use impairs the ability of the licensee to practice safely 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

10. In October 2019, Respondent provided psychiatric treatment to a child, who was accompanied by his mother to the appointment. Respondent was late for the scheduled appointment, her eyes were heavy and lidded, her speech was slurred, and she exhibited significant confusion about the patient's condition. That confusion included, among other things, Respondent referring to the patient by the wrong gender and referencing the efficacy of medication the patient was not taking. The patient's mother reported that Respondent was under the influence during the appointment.

11. Respondent was arrested on August 29, 2019 for driving under the influence (DUI). The arrest report noted poor driving and Respondent's blood sample taken after the DUI stop tested positive for multiple controlled substances. Two of the substances detected in her blood were prescribed by Respondent to other persons in her household. Prescription bottles for controlled substances prescribed by Respondent to her husband were found in her car. During the traffic stop and investigation Respondent only admitted to police she had taken one medication.

12. CURES[1] reports from July 23, 2017 through July 23, 2020 reveal that three persons to whom Respondent prescribed were identified as Respondent's employee and relatives. The

[1] The Controlled Substance Utilization Review and Evaluation System (CURES) is a program operated by the California Department of Justice. It tracks controlled substances prescriptions.

CURES report also showed all four individuals obtained prescriptions from various pharmacies in Truckee, CA. The prescriptions were for the same substances found in Respondent's blood sample during her DUI stop.

13. Multiple pharmacies expressed concern to Respondent over her prescribing practices, including prescribing opiates and benzodiazepines together and Respondent prescribing to family members. At least one pharmacy refused to fill Respondent's future prescriptions.

14. During her interview with the Board investigator, Respondent denied any illicit or recreational drug use, and Respondent did not disclose any form of treatment for drug dependency.

15. Respondent underwent an evaluation by a Board-appointed psychiatrist. The evaluator noted that Respondent prescribed large amounts of controlled substances to her family and an employee, and that those prescriptions were for the same drugs Respondent uses. The evaluator further noted that Respondent received prescriptions for many of the same drugs, including opioids and benzodiazepines, that she prescribed to her family and employee, that she took steps to obtain unauthorized refills of her medications, and demonstrated a pattern of using medications without appropriate medical oversight. The evaluator noted that Respondent had not obtained treatment for her substance use, and did not demonstrate insight into her inappropriate use of prescription medication or her inappropriate prescribing to others. The evaluator concluded that Respondent has an Opioid Use Disorder and Sedative Hypnotic or Anxiolytic Use Disorder that, unless appropriately treated, impairs her ability to safely practice medicine.

FIRST CAUSE FOR BOARD ACTION

(Impaired Ability to Safely Practice)

16. The allegations of paragraphs 10 through 15 are incorporated by reference as if set out in full. Respondent's certificate is subject to action by the Board pursuant to sections 2227 and 822 of the Code in that Respondent is impaired in her ability to safely practice medicine as a result of mental illness and/or substance abuse.

FIRST CAUSE FOR DISCIPLINE

(Unprofessional Conduct: Dangerous Use of Drugs and Alcohol)

17. The allegations of paragraphs 10 through 15 are incorporated by reference as if set out in full. Respondent's certificate is subject to Board action for unprofessional conduct pursuant to sections 2234 and/or 2239 of the Code in that her history of drug abuse, obtaining illicit drugs for self-use, and diversion of drugs by use of her prescribing privileges, constitute unprofessional conduct and the use of controlled substances in a manner dangerous to herself and the public.

SECOND CAUSE FOR DISCIPLINE

(Unprofessional Conduct: Dishonest Acts)

18. The allegations of paragraphs 10 through 15 are incorporated by reference as if set out in full. Respondent's certificate is subject to Board action for unprofessional conduct pursuant to sections 2234 and/or 2234(e) of the Code for false statements made to the Board investigator regarding her use of narcotics.

THIRD CAUSE FOR DISCIPLINE

(Unprofessional Conduct: Practice While Impaired)

19. The allegations of paragraphs 10 through 15 are incorporated by reference as if set out in full. Respondent's certificate is subject to Board action for unprofessional conduct pursuant to sections 2234 and/or 2280 of the Code for practicing while impaired.

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 A 98460, issued to Xiaoling Zhu, M.D.;

2. Revoking, suspending or denying approval of Xiaoling Zhu, M.D.'s authority to supervise physician assistants and advanced practice nurses;

3. Ordering Xiaoling Zhu, M.D., if placed on probation, to pay the Board the costs of probation monitoring; and

4. Ordering Respondent, if placed on probation, to provide disclosure/patient notification in accordance with Business and Professions Code sections 2228.1; and,

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

DATED: MAY 28 2021

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

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