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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. 800-2019-053374
XING-JIAN REN, M.D. **7565 Mission Valley Road, Suite 200** **San Diego, California 92108** **Physician's and Surgeon's Certificate No. A 54295,** Respondent.	**A C C U S A T I O N**

Complainant alleges:

PARTIES

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

2. On or about June 7, 1995, the Board issued Physician's and Surgeon's Certificate No. A 54295 to Xing-Jian Ren, 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 June 30, 2023, unless renewed.

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.

STATUTORY PROVISIONS

4. Section 2227 of the Code states:

(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:

(1) Have his or her license revoked upon order of the board.

(2) Have his or her right to practice suspended for a period not to exceed one year upon order of the board.

(3) Be placed on probation and be required to pay the costs of probation monitoring upon order of the board.

(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.

(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.

(b) Any matter heard pursuant to subdivision (a), except for warning letters, medical review or advisory conferences, professional competency examinations, continuing education activities, and cost reimbursement associated therewith that are agreed to with the board and successfully completed by the licensee, or other matters made confidential or privileged by existing law, is deemed public, and shall be made available to the public by the board pursuant to Section 803.1.

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:

(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 constituted repeated negligent acts.

...

6. Section 2238 of the Code states:

A violation of any federal statute or federal regulation or any of the statutes or regulations of this state regulating dangerous drugs or controlled substances constitutes unprofessional conduct.

7. 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.

GENERAL STATUTES

8. At all times relevant to the acts or omissions alleged herein between and including January 1, 2017 and December 31, 2021, Health and Safety Code section 11165, subdivision (a) stated, in pertinent part:[1]

(a) To assist health care practitioners in their efforts to ensure appropriate prescribing, ordering, administering, furnishing, and dispensing of controlled substances, law enforcement and regulatory agencies in their efforts to control the diversion and resultant abuse of Schedule II, Schedule III, and Schedule IV controlled substances, and for statistical analysis, education, and research, the Department of Justice shall, contingent upon the availability of adequate funds in the CURES Fund, maintain the Controlled Substance Utilization Review and Evaluation System (CURES) for the electronic monitoring of, and Internet access to information regarding, the prescribing and dispensing of Schedule II, Schedule III, and Schedule IV controlled substances by all practitioners authorized to prescribe, order, administer, furnish, or dispense these controlled substances.

...

9. As in effect at all times between and including October 2, 2018 and December 31, 2021, Health and Safety Code section 11165.4 stated, in pertinent part:

(a) (1) (A) (i) A health care practitioner authorized to prescribe, order, administer, or furnish a controlled substance shall consult the CURES database to review a patient's controlled substance history before prescribing a Schedule II, Schedule III, or Schedule IV controlled substance to the patient for the first time and at least once every four months thereafter if the substance remains part of the treatment of the patient.

[1] Effective January 1, 2021, subdivision (a) of section 11165 of the Health and Safety Code was amended to add references to Schedule V controlled substances. (See Stats. 2019, c. 677, § 6.)

(ii) If a health care practitioner authorized to prescribe, order, administer, or furnish a controlled substance is not required, pursuant to an exemption described in subdivision (c), to consult the CURES database the first time he or she prescribes, orders, administers, or furnishes a controlled substance to a patient, he or she shall consult the CURES database to review the patient's controlled substance history before subsequently prescribing a Schedule II, Schedule III, or Schedule IV controlled substance to the patient and at least once every four months thereafter if the substance remains part of the treatment of the patient.

(B) For purposes of this paragraph, first time means the initial occurrence in which a health care practitioner, in his or her role as a health care practitioner, intends to prescribe, order, administer, or furnish a Schedule II, Schedule III, or Schedule IV controlled substance to a patient and has not previously prescribed a controlled substance to the patient.

(2) A health care practitioner shall obtain a patient's controlled substance history from the CURES database no earlier than 24 hours, or the previous business day, before he or she prescribes, orders, administers, or furnishes a Schedule II, Schedule III, or Schedule IV controlled substance to the patient.

...

(d) (1) A health care practitioner who fails to consult the CURES database, as described in subdivision (a), shall be referred to the appropriate state professional licensing board solely for administrative sanctions, as deemed appropriate by that board.

...

COST RECOVERY

10. 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.

PERTINENT DRUG INFORMATION

11. Opioids are Schedule II controlled substances pursuant to Health and Safety Code section 11055, and are a dangerous drug pursuant to Code section 4022. The Drug Enforcement Administration (DEA) has identified opioids as a drug of abuse. (Drugs of Abuse, DEA Resource Guide (2017 Edition), at pp. 38-39.)

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12. Benzodiazepines are Schedule IV controlled substances pursuant to Health and Safety Code section 11057, and are a dangerous drug pursuant to Code section 4022. The risk of respiratory depression, drug overdose, and death is increased with the concomitant use of benzodiazepines and opioids. The DEA has identified benzodiazepines as a drug of abuse. (Drugs of Abuse, DEA Resource Guide (2017 Edition), at p. 59.)

13. Soma, a muscle relaxant, is a Schedule IV controlled substance pursuant to Health and Safety Code section 11057, subdivision (d), and a dangerous drug pursuant to Code section 4022. Soma is a brand name for carisoprodol. The risk of respiratory depression, drug overdose, and death is increased with the concomitant use of Soma, opioids, benzodiazepines, and sedatives. According to the DEA, Office of Diversion Control, published comment on carisoprodol, dated March 2014, "[c]arisoprodol abuse has escalated in the last decade in the United States... According to Diversion Drug Trends, published by the [DEA] on the trends in diversion of controlled and non-controlled pharmaceuticals, carisoprodol continues to be one of the most commonly diverted drugs. Diversion and abuse of carisoprodol is prevalent throughout the country. ... Diversion methods include doctor shopping for the purposes of obtaining multiple prescriptions and forging prescriptions."

14. Ambien, a sedative, is a Schedule IV controlled substance pursuant to Health and Safety Code section 11057, subdivision (d), and a dangerous drug pursuant to Code section 4022. Ambien is a brand name for zolpidem tartrate. Ambien is used for the short-term treatment of insomnia, typically two to three (2 to 3) weeks. Ambien has central nervous system depressant effects.

PERTINENT CASE INFORMATION

15. On September 14, 2021, Respondent, with his attorney present, was interviewed by a Division of Investigation investigator and a district medical consultant working on behalf of the Board. During the interview, Respondent answered a number of general background questions. Respondent also answered questions about specific patients seen by him and a physician assistant whom he supervised, which are relevant to the charges and allegations brought in Accusation No. 800-2019-053374.

16. For a comparison of opioid doses, morphine equivalent dose was developed to equate the many different opioids into one standard value. This standard value is based on morphine and its potency. A morphine equivalency is commonly referred to as MED, MEDD, MME, or MEq.

17. The Controlled Substance Utilization Review and Evaluation System (CURES) is a program operated by the California Department of Justice (DOJ) to assist health care practitioners in their efforts to ensure appropriate prescribing of controlled substances, and law enforcement and regulatory agencies in their efforts to control diversion and abuse of controlled substances. (Health & Saf. Code, § 11165.) California law requires dispensing pharmacies to report to the DOJ the dispensing of Schedule II, III, IV and V controlled substances as soon as reasonably possible after the prescriptions are filled. (Health & Saf. Code, § 11165, subd. (d).)

FIRST CAUSE FOR DISCIPLINE

(Gross Negligence)

18. Respondent has subjected his Physician's and Surgeon's Certificate No. A 54295 to disciplinary action under sections 2227 and 2234, as defined in section 2234, subdivision (b), of the Code, in that Respondent committed gross negligence in his care and treatment of Patients A and B,[2] as more particularly alleged hereinafter:

19. **Patient A**

(a) Between in or around February 2017 to June 2021, Respondent[3] rendered care as a primary care physician to Patient A, an adult, female patient with a history of ailments including, but not limited to: chronic neck and back pains, chronic abdominal pain, anxiety, depression, and insomnia. During that timeframe, Respondent also coordinated care of Patient A's pulmonary sarcoidosis and thyroid cancer with cardiology, pulmonary, and endocrinology specialties.[4]

(b) In or around March 2017, Patient A was evaluated by a pain management specialist who recommended weaning her off of opiate therapy.

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[2] To protect the privacy of the patients involved in this matter, patient names have not been included in this pleading. Respondent is aware of the identities of Patients A and B.

[3] Respondent has board certifications in Internal Medicine and Geriatrics. Respondent has no fellowship or other specialty training in the field of Pain Medicine.

[4] A physician assistant (PA) supervised by Respondent also provided care to Patient A.

(c) In or around February 2018, Patient A was evaluated by a rheumatology specialist who also recommended weaning her off of opiate therapy.

(d) Between in or around March 2017 to 2021, Respondent issued recurring prescriptions of opiates to Patient A and at high morphine equivalency dosage levels. During that same timeframe, Respondent diagnosed Patient A with narcotic/opioid dependence.

(e) Between in or around 2017 to 2021, Respondent treated Patient A's anxiety, depression, and insomnia issues with medication management, and he issued recurring prescriptions of benzodiazepines[5], antidepressants[6], and sedatives.[7]

(f) During Respondent's care and treatment of Patient A's mental health and insomnia issues he did not consult with and/or refer her to mental health providers for managing her persistent anxiety; he did not perform a comprehensive anxiety evaluation before prescribing alprazolam to her; he did not adequately document the medical justification for discontinuing alprazolam and replacing it with diazepam, a stronger benzodiazepine; he did not attempt to use a serotonergic antidepressant (SSRI) or a serotonin norepinephrine reuptake inhibitor (SNRI) to reduce her benzodiazepine dependency; and he did not recognize her benzodiazepine dependency and refer her to a drug treatment program.

(g) Between in or around March 2017 to October 2018, Respondent routinely prescribed Soma to Patient A for concurrent use with other central nervous system (CNS) depressant medications that he routinely prescribed to this patient.

(h) Between in or around February 2017 to June 2021, Respondent did not consult the CURES database to review Patient A's controlled substance history.

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[5] Diazepam and alprazolam.
[6] Trazodone.
[7] Ambien.

(i) Between in or around February 2017 to June 2021, Respondent did not obtain routine urine toxicology testing of Patient A.

(j) On or about July 12, 2020, Patient A was hospitalized in an intensive care unit (ICU) due to acute hypoxic respiratory failure. Patient A was hospitalized for more than a week in the ICU and was later discharged with chronic home oxygen therapy. Respondent, despite Patient A becoming chronically oxygen dependent, did not reduce Patient A's opiate dosage after her discharge from the ICU.

(k) Respondent's medical records pertaining to his care and treatment of Patient A did not adequately document relevant physical examinations nor the "5 A's" of pain management (i.e., analgesia, affect, activities of daily living, adverse effects, and aberrant drug-related behaviors.).

(l) Respondent's medical records pertaining to his care and treatment of Patient A did not document that he ever performed an independent assessment of Patient A's opiate needs.

(m) Respondent did not evaluate and/or document evaluating in the medical records pertaining to his care and treatment of Patient A, what the potential gastrointestinal side effects of long-term opiate therapy would be on this patient.

(n) Respondent, despite recommendations from both rheumatology and pain management specialists to wean Patient A off of opiate drug therapy, did not taper down her oxycodone dosage to minimize gastrointestinal and pulmonary complications during the four (4) years of pain management therapy for this patient.

20. Respondent committed gross negligence in his care and treatment of Patient A including, but not limited to, the following:

(a) Respondent improperly initiated and monitored Patient A's use of opiate pain medications;

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(b) Respondent improperly managed Patient A's generalized anxiety disorder; and

(c) Respondent improperly prescribed Soma for concurrent use with other CNS depressant medications, which increased Patient A's risk of accidental fatal drug overdose.

21. **Patient B**

(a) Between in or around May 2017 to May 2019, Respondent rendered care as a primary care physician to Patient B, an adult, female patient with a history of ailments including, but not limited to: chronic neck and low back pains, anxiety, depression, and attention deficit hyperactivity disorder (ADHD).

(b) During Respondent's care and treatment of Patient B's chronic pain issues, Respondent did not perform and/or document performing in the medical records pertaining to his care and treatment of Patient B, a relevant musculoskeletal examination of this patient.

(c) Respondent did not monitor and/or document monitoring in the medical records pertaining to his care and treatment of Patient B, the benefits and side-effects of the opiates being taken by this patient.

(d) Respondent did not evaluate and/or document evaluating in the medical records pertaining to his care and treatment of Patient B, the use of less potent narcotics other than hydrocodone.

(e) Respondent did not evaluate and/or document evaluating in the medical records pertaining to his care and treatment of Patient B, the decision to escalate this patient's hydrocodone dosage from 20 mg daily to 60 mg daily.

(f) Between in or around May 2017 to May 2019, Respondent did not consult the CURES database to review Patient B's controlled substance history.

(g) Between in or around May 2017 to May 2019, Respondent did not obtain routine urine toxicology testing of Patient B.

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22. Respondent committed gross negligence in his care and treatment of Patient B including, but not limited to, the following:

(a) Respondent improperly initiated and monitored Patient B's use of opiate pain medications.

SECOND CAUSE FOR DISCIPLINE

(Repeated Negligent Acts)

23. Respondent has further subjected his Physician's and Surgeon's Certificate No. A 54295 to disciplinary action under sections 2227 and 2234, as defined in section 2234, subdivision (c), of the Code, in that Respondent committed repeated negligent acts in his care and treatment of Patients A and B, as more particularly alleged hereinafter:

24. **Patient A**

(a) Paragraphs 19 and 20, above, are hereby incorporated by reference and realleged as if fully set forth herein.

(b) Respondent did not evaluate and/or document evaluating in the medical records pertaining to his care and treatment of Patient A, the use of safer pharmacotherapy like serotoninergic medications (SSRI and SNRI), gabapentin, and pregabalin.

(c) Respondent did not refer and/or document a referral in the medical records pertaining to his care and treatment of Patient A, the need for her to seek mental health treatment for anxiety and insomnia.

(d) Respondent did not perform an independent assessment of chronic insomnia and/or document an assessment in the medical records pertaining to his care and treatment of Patient A, before refilling her prescription for Ambien.

(e) Respondent did not evaluate and/or document evaluating in the medical records pertaining to his care and treatment of Patient A, the use of safer alternatives (e.g., melatonin and antihistamines) to manage her insomnia.

(f) Respondent issued recurring prescriptions of Ambien to Patient A for concurrent use with opiates and benzodiazepines.

(g) Respondent did not evaluate and/or document evaluating in the medical records pertaining to his care and treatment of Patient A, the use of safer non-addictive muscle relaxants prior to issuing recurring prescriptions of Soma to this patient.

(h) Respondent's medical records pertaining to his care and treatment of Patient A did not adequately document a medical indication for prescribing Soma for a prolonged period of time (i.e., 18 months) to this patient.

(i) Respondent's medical records pertaining to his care and treatment of Patient A did not adequately document a medical indication for why he issued recurring prescriptions of opiates and benzodiazepines for concurrent use by this patient.

(j) Respondent's medical records pertaining to his care and treatment of Patient A did not document that he had obtained informed consent and/or a signed pain management agreement with this patient.

25. Respondent committed repeated negligent acts in his care and treatment of Patient A including, but not limited to, the following:

(a) Paragraphs 19 and 20, above, are hereby incorporated by reference and realleged as if fully set forth herein;

(b) Respondent failed to evaluate and/or document evaluating in Patient A's medical records the use of safer pharmacotherapy like serotoninergic medications (SSRI and SNRI), gabapentin, and pregabalin;

(c) Respondent failed to refer and/or document referring in Patient A's medical records the need for her to seek mental health treatment for anxiety and insomnia;

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(d) Respondent failed to perform an independent assessment of chronic insomnia and/or document an assessment in Patient A's medical records before refilling her prescription for Ambien;

(e) Respondent failed to evaluate and/or document evaluating in Patient A's medical records the use of safer alternatives (e.g., melatonin and antihistamines) to manage her insomnia;

(f) Respondent issued recurring prescriptions of Ambien to Patient A for concurrent use with opiates and benzodiazepines;

(g) Respondent failed to evaluate and/or document evaluating in Patient A's medical records the use of safer non-addictive muscle relaxants prior to issuing recurring prescriptions of Soma to this patient;

(h) Respondent failed to adequately document in Patient A's medical records a medical indication for prescribing Soma for a prolonged period of time to this patient;

(i) Respondent failed to adequately document in Patient A's medical records a medical indication for why he issued recurring prescriptions of opiates and benzodiazepines for concurrent use by this patient; and

(j) Respondent failed to document in Patient A's medical records that he had obtained informed consent and/or a signed pain management agreement with this patient.

26. **Patient B**

(a) Paragraphs 21 and 22, above, are hereby incorporated by reference and realleged as if fully set forth herein.

(b) Respondent did not evaluate and/or document evaluating in the medical records pertaining to his care and treatment of Patient B, the use of safer alternative drugs such as non-steroidal anti-inflammatory drugs (NSAIDS) and/or topical therapies to manage her chronic pain.

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(c) Respondent did not refer Patient B to physical therapy, chiropractic manipulation, or acupuncture, and/or document a referral in the medical records pertaining to his care and treatment of this patient.

(d) On or about May 18, 2017, Respondent issued a recurring prescription of Soma to Patient B at her initial office visit with Respondent.

(e) Respondent did not evaluate and/or document evaluating in the medical records pertaining to his care and treatment of Patient B, the use of safer non-addictive muscle relaxants prior to issuing recurring prescriptions of Soma to this patient.

(f) Respondent's medical records pertaining to his care and treatment of Patient B did not adequately document a medical indication for prescribing Soma for a prolonged period of time to this patient.

(g) Respondent's medical records pertaining to his care and treatment of Patient B did not document that he had obtained informed consent and/or a signed pain management agreement with this patient.

27. Respondent committed repeated negligent acts in his care and treatment of Patient B including, but not limited to, the following:

(a) Paragraphs 21 and 22, above, are hereby incorporated by reference and realleged as if fully set forth herein;

(b) Respondent failed to evaluate and/or document evaluating in Patient B's medical records the use of safer alternative drugs such as non-steroidal anti-inflammatory drugs (NSAIDS) and/or topical therapies to manage her chronic pain;

(c) Respondent failed to refer and/or document a referral in Patient B's medical records for this patient to physical therapy, chiropractic manipulation, and/or acupuncture;

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(d) Respondent failed to evaluate and/or document evaluating in Patient B's medical records the use of safer non-addictive muscle relaxants prior to issuing recurring prescriptions of Soma to this patient;

(e) Respondent failed to adequately document in Patient B's medical records a medical indication for prescribing Soma for a prolonged period of time to this patient; and

(f) Respondent failed to document in Patient B's medical records that he had obtained informed consent and/or a signed pain management agreement with this patient.

THIRD CAUSE FOR DISCIPLINE

(Failure to Consult CURES)

28. Respondent has further subjected his Physician's and Surgeon's Certificate No. A 54295 to disciplinary action under section 2227 of the Code and section 11165.4, subdivision (d), paragraph (1) of the Health and Safety Code, as well as sections 2227 and 2234, as defined by section 2238, of the Code, in that on one or more occasions on or after October 2, 2018, he failed to consult the CURES database to review Patient A's or Patient B's controlled substance history before prescribing to either of them a Schedule II, Schedule III, or Schedule IV controlled substance(s) for the first time, or at least once every four months if the controlled substance(s) remained part of the respective patient's treatment, as more particularly alleged in paragraphs 19(h) and 21(f), above, which are hereby incorporated by reference as if fully set forth herein.

FOURTH CAUSE FOR DISCIPLINE

(Failure to Maintain Adequate and Accurate Records)

29. Respondent has further subjected his Physician's and Surgeon's Certificate No. A 54295 to disciplinary action under sections 2227 and 2234, as defined by section 2266, of the Code, in that he failed to maintain adequate and accurate records relating to the provision of services to Patient A or Patient B, or both, as more particularly alleged in paragraphs 18 through 28, above, which are hereby incorporated by reference as if fully set forth herein.

FIFTH CAUSE FOR DISCIPLINE

(Violation of the Medical Practice Act)

30. Respondent has further subjected his Physician's and Surgeon's Certificate No. A 54295 to disciplinary action under sections 2227 and 2234, as defined by section 2234, subdivision (a), of the Code, in that he violated or attempted to violate, directly or indirectly, one or more provisions of the Medical Practice Act as more particularly alleged in paragraphs 18 through 29, above, which are hereby incorporated by reference 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 Number A 54295, issued to Respondent Xing-Jian Ren, M.D.;

2. Revoking, suspending or denying approval of Respondent Xing-Jian Ren, M.D.'s authority to supervise physician assistants pursuant to section 3527 of the Code, and advanced practice nurses;

3. Ordering Respondent Xing-Jian Ren, 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: MAR 0 2 2022

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

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