

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

In the Matter of the Accusation Against:)

ANDREW HOK-SAN THIO, M.D.)

**Physician's and Surgeon's
Certificate No. G 75296)**

Respondent)
_____)

Case No. 09-2013-229413


DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary 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 January 13, 2016.

IT IS SO ORDERED: December 14, 2015.

MEDICAL BOARD OF CALIFORNIA

By: 
**Howard Krauss, M.D., Chair
Panel B**

1 KAMALA D. HARRIS
Attorney General of California
2 ALEXANDRA M. ALVAREZ
Supervising Deputy Attorney General
3 MATTHEW M. DAVIS
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8 *Attorneys for Complainant*

10 **BEFORE THE**
11 **MEDICAL BOARD OF CALIFORNIA**
12 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

13 In the Matter of the Accusation Against:

14 **ANDREW HOK-SAN THIO, M.D.**
15 **41670 Ivy Street, Suite B**
Murrieta, CA 92562

16 **Physician and Surgeon's Certificate No.**
17 **G 75296,**

Respondent.

Case No. 09-2013-229413

OAH No. 2015010766

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

18
19 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the
20 above-entitled proceedings that the following matters are true:

21 **PARTIES**

22 1. Kimberly Kirchmeyer (hereinafter "complainant") is the Executive
23 Director of the Medical Board of California and is represented herein by Kamala D. Harris,
24 Attorney General of the State of California, by Matthew M. Davis, Deputy Attorney General.

25 2. Respondent Andrew Hok-San Thio, M.D. (hereinafter "respondent"), is
26 represented herein by Raymond J. McMahon, Esq., whose address is 100 Spectrum Center Drive,
27 Suite 520, Irvine, CA 92618.

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1 **JURISDICTION**

2 3. On September 29, 1992, the Medical Board of California (Board) issued
3 Physician's and Surgeon's Certificate No. G 75296 to respondent. The Physician's and
4 Surgeon's Certificate was in full force and effect at all times relevant to the charges and
5 allegations in Accusation No. 09-2013-229413 and will expire on November 30, 2016, unless
6 renewed.

7 4. On September 5, 2014, complainant Kimberly Kirchmeyer, in her
8 official capacity as the Executive Director of the Board, filed Accusation No. 09-2013-229413
9 against respondent. On September 5, 2014, respondent was served with a true and correct
10 copy of Accusation No. 09-2013-229413, together with true and correct copies of all other
11 statutorily required documents, at his address of record on file with the Board which was: 41670
12 Ivy Street, Suite B, Murrieta, CA 92562. A true and correct copy of Accusation No. 09-2013-
13 229413 is attached hereto as Attachment "A" and incorporated by reference as if fully set forth
14 herein. On September 12, 2014, respondent filed a Notice of Defense and requested a hearing on
15 the charges and allegations contained in Accusation No. 09-2013-229413.

16 **ADVISEMENT AND WAIVERS**

17 5. Respondent has carefully read, fully discussed with counsel, and fully
18 understands the charges and allegations in Accusation No. 09-2013-229413. Respondent also has
19 carefully read, fully discussed with counsel, and fully understands the effects of this Stipulated
20 Settlement and Disciplinary Order.

21 6. Respondent is fully aware of his legal rights in this matter, including the
22 right to a hearing on the charges and allegations in Accusation No. 09-2013-229413; the right to
23 confront and cross-examine the witnesses against him; the right to present evidence and to testify
24 on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses
25 and the production of documents; the right to reconsideration and court review of an adverse
26 decision; and all other rights accorded by the California Administrative Procedure Act, the
27 California Code of Civil Procedure and other applicable laws, having been fully advised of same
28 by his attorney of record, Raymond J. McMahon, Esq.

1 7. Respondent, having the benefit of counsel, hereby voluntarily, knowingly,
2 and intelligently waives and gives up each and every right set forth above.

3 **CULPABILITY**

4 8. Respondent does not contest that, at an administrative hearing, complainant
5 could establish a *prima facie* case with respect to the charges and allegations in Accusation No.
6 09-2013-229413, a true and correct copy of which is attached hereto as Attachment "A," and that
7 he has thereby subjected his Physician's and Surgeon's Certificate No. G 75296 to disciplinary
8 action. Respondent further agrees to be bound by the Board's imposition of discipline as set forth
9 in the Disciplinary Order below.

10 9. Respondent agrees that if he ever petitions for early termination or
11 modification of probation, or if an accusation and/or petition to revoke probation is filed against
12 him before the Medical Board of California, all of the charges and allegations contained in
13 Accusation No. 09-2013-229413 shall be deemed true, correct and fully admitted by respondent
14 for purposes of any such proceeding or any other licensing proceeding involving respondent in
15 the State of California.

16 **CONTINGENCY**

17 10. The parties agree that this Stipulated Settlement and Disciplinary Order
18 shall be submitted to the Board for its consideration in the above-entitled matter and, further, that
19 the Board shall have a reasonable period of time in which to consider and act on this Stipulated
20 Settlement and Disciplinary Order after receiving it. By signing this stipulation, respondent fully
21 understands and agrees that he may not withdraw his agreement or seek to rescind this stipulation
22 prior to the time the Board considers and acts upon it.

23 11. The parties agree that this Stipulated Settlement and Disciplinary Order
24 shall be null and void and not binding upon the parties unless approved and adopted by the Board,
25 except for this paragraph, which shall remain in full force and effect. Respondent fully
26 understands and agrees that in deciding whether or not to approve and adopt this Stipulated
27 Settlement and Disciplinary Order, the Board may receive oral and written communications from
28 its staff and/or the Attorney General's office. Communications pursuant to this paragraph shall

1 not disqualify the Board, any member thereof, and/or any other person from future participation
2 in this or any other matter affecting or involving respondent. In the event that the Board, in its
3 discretion, does not approve and adopt this Stipulated Settlement and Disciplinary Order, with the
4 exception of this paragraph, it shall not become effective, shall be of no evidentiary value
5 whatsoever, and shall not be relied upon or introduced in any disciplinary action by either party
6 hereto. Respondent further agrees that should the Board reject this Stipulated Settlement and
7 Disciplinary Order for any reason, respondent will assert no claim that the Board, or any member
8 thereof, was prejudiced by its/his/her review, discussion and/or consideration of this Stipulated
9 Settlement and Disciplinary Order or of any matter or matters related hereto.

10 **ADDITIONAL PROVISIONS**

11 12. This Stipulated Settlement and Disciplinary Order is intended by the
12 parties herein to be an integrated writing representing the complete, final and exclusive
13 embodiment of the agreements of the parties in the above-entitled matter.

14 13. The parties agree that copies of this Stipulated Settlement and Disciplinary
15 Order, including copies of the signatures of the parties, may be used in lieu of original documents
16 and signatures and, further, that such copies and signatures shall have the same force and effect as
17 originals.

18 14. In consideration of the foregoing admissions and stipulations, the parties
19 agree the Board may, without further notice to or opportunity to be heard by respondent, issue
20 and enter the following Disciplinary Order:

21 **DISCIPLINARY ORDER**

22 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No.
23 G 75296 issued to respondent Andrew Hok-San Thio, M.D., (respondent) is revoked. However,
24 the revocation is stayed and respondent is placed on probation for thirty-five (35) months from
25 the effective date of this decision on the following terms and conditions:

26 **1. Prescribing Practices Course**

27 Within 60 calendar days of the effective date of this Decision, respondent shall
28 enroll in a course in prescribing practices equivalent to the Prescribing Practices Course at the

1 Physician Assessment and Clinical Education Program, University of California, San Diego
2 School of Medicine (Program), approved in advance by the Board or its designee. Respondent
3 shall provide the program with any information and documents that the Program may deem
4 pertinent. Respondent shall participate in and successfully complete the classroom component of
5 the course not later than six (6) months after respondent's initial enrollment. Respondent shall
6 successfully complete any other component of the course within one (1) year of enrollment. The
7 prescribing practices course shall be at respondent's expense and shall be in addition to the
8 Continuing Medical Education (CME) requirements for renewal of licensure.

9 A prescribing practices course taken after the acts that gave rise to the charges in
10 the Accusation, but prior to the effective date of the Decision may, in the sole discretion of the
11 Board or its designee, be accepted towards the fulfillment of this condition if the course would
12 have been approved by the Board or its designee had the course been taken after the effective date
13 of this Decision.

14 Respondent shall submit a certification of successful completion to the Board or its
15 designee not later than 15 calendar days after successfully completing the course, or not later than
16 15 calendar days after the effective date of the Decision, whichever is later.

17 2. Medical Record Keeping Course

18 Within 60 calendar days of the effective date of this Decision, respondent shall
19 enroll in a course in medical record keeping equivalent to the Medical Record Keeping Course
20 offered by the Physician Assessment and Clinical Education Program, University of California,
21 San Diego School of Medicine (Program), approved in advance by the Board or its designee.
22 Respondent shall provide the program with any information and documents that the Program may
23 deem pertinent. Respondent shall participate in and successfully complete the classroom
24 component of the course not later than six (6) months after respondent's initial enrollment.
25 Respondent shall successfully complete any other component of the course within one (1) year of
26 enrollment. The medical record keeping course shall be at respondent's expense and shall be in
27 addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

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1 A medical record keeping course taken after the acts that gave rise to the charges
2 in the Accusation, but prior to the effective date of the Decision may, in the sole discretion of the
3 Board or its designee, be accepted towards the fulfillment of this condition if the course would
4 have been approved by the Board or its designee had the course been taken after the effective date
5 of this Decision.

6 Respondent shall submit a certification of successful completion to the Board or its
7 designee not later than 15 calendar days after successfully completing the course, or not later than
8 15 calendar days after the effective date of the Decision, whichever is later.

9 3. Clinical Training Program

10 Within 60 calendar days of the effective date of this Decision, respondent shall
11 enroll in a clinical training or educational program equivalent to the Physician Assessment and
12 Clinical Education Program (PACE) offered at the University of California - San Diego School of
13 Medicine ("Program"). Respondent shall successfully complete the Program not later than six (6)
14 months after respondent's initial enrollment unless the Board or its designee agrees in writing to
15 an extension of that time.

16 The Program shall consist of a Comprehensive Assessment program comprised of
17 a two-day assessment of respondent's physical and mental health; basic clinical and
18 communication skills common to all clinicians; and medical knowledge, skill and judgment
19 pertaining to respondent's area of practice in which respondent was alleged to be deficient, and at
20 minimum, a 40 hour program of clinical education in the area of practice in which respondent was
21 alleged to be deficient and which takes into account data obtained from the assessment,
22 Decision(s), Accusation(s), and any other information that the Board or its designee deems
23 relevant. Respondent shall pay all expenses associated with the clinical training program.

24 Based on respondent's performance and test results in the assessment and clinical
25 education, the Program will advise the Board or its designee of its recommendation(s) for the
26 scope and length of any additional educational or clinical training, treatment for any medical
27 condition, treatment for any psychological condition, or anything else affecting respondent's
28 practice of medicine. Respondent shall comply with Program recommendations.

1 At the completion of any additional educational or clinical training, respondent
2 shall submit to and pass an examination. Determination as to whether respondent successfully
3 completed the examination or successfully completed the program is solely within the program's
4 jurisdiction.

5 If respondent fails to enroll, participate in, or successfully complete the clinical
6 training program within the designated time period, respondent shall receive a notification from
7 the Board or its designee to cease the practice of medicine within three (3) calendar days after
8 being so notified. The respondent shall not resume the practice of medicine until enrollment or
9 participation in the outstanding portions of the clinical training program have been completed. If
10 the respondent did not successfully complete the clinical training program, the respondent shall
11 not resume the practice of medicine until a final decision has been rendered on the accusation
12 and/or a petition to revoke probation. The cessation of practice shall not apply to the reduction of
13 the probationary time period.

14 4. Solo Practice Prohibition

15 Respondent is prohibited from engaging in the solo practice of medicine.
16 Prohibited solo practice includes, but is not limited to, a practice where: 1) respondent merely
17 shares office space with another physician but is not affiliated for purposes of providing patient
18 care, or 2) respondent is the sole physician practitioner at that location.

19 If respondent fails to establish a practice with another physician or secure
20 employment in an appropriate practice setting within 60 calendar days of the effective date of this
21 Decision, respondent shall receive a notification from the Board or its designee to cease the
22 practice of medicine within three (3) calendar days after being so notified. The respondent shall
23 not resume practice until an appropriate practice setting is established.

24 If, during the course of the probation, the respondent's practice setting changes
25 and the respondent is no longer practicing in a setting in compliance with this Decision, the
26 respondent shall notify the Board or its designee within 5 calendar days of the practice setting
27 change. If respondent fails to establish a practice with another physician or secure employment in
28 an appropriate practice setting within 60 calendar days of the practice setting change, respondent

1 shall receive a notification from the Board or its designee to cease the practice of medicine within
2 three (3) calendar days after being so notified. The respondent shall not resume practice until an
3 appropriate practice setting is established.

4 **5. Notification**

5 Within seven (7) days of the effective date of this Decision, the respondent shall
6 provide a true copy of this Decision and Accusation to the Chief of Staff or the Chief Executive
7 Officer at every hospital where privileges or membership are extended to respondent, at any other
8 facility where respondent engages in the practice of medicine, including all physician and locum
9 tenens registries or other similar agencies, and to the Chief Executive Officer at every insurance
10 carrier which extends malpractice insurance coverage to respondent. Respondent shall submit
11 proof of compliance to the Board or its designee within 15 calendar days.

12 This condition shall apply to any change(s) in hospitals, other facilities or
13 insurance carrier.

14 **6. Supervision of Physician Assistants**

15 During probation, respondent is prohibited from supervising physician assistants.

16 **7. Obey All Laws**

17 Respondent shall obey all federal, state and local laws, all rules governing the
18 practice of medicine in California and remain in full compliance with any court ordered criminal
19 probation, payments, and other orders.

20 **8. Quarterly Declarations**

21 Respondent shall submit quarterly declarations under penalty of perjury on forms
22 provided by the Board, stating whether there has been compliance with all the conditions of
23 probation.

24 Respondent shall submit quarterly declarations not later than 10 calendar days
25 after the end of the preceding quarter.

26 **9. General Probation Requirements**

27 Compliance with Probation Unit

28 Respondent shall comply with the Board's probation unit and all terms and

1 conditions of this Decision.

2 Address Changes

3 Respondent shall, at all times, keep the Board informed of respondent's business
4 and residence addresses, email address (if available), and telephone number. Changes of such
5 addresses shall be immediately communicated in writing to the Board or its designee. Under no
6 circumstances shall a post office box serve as an address of record, except as allowed by Business
7 and Professions Code section 2021(b).

8 Place of Practice

9 Respondent shall not engage in the practice of medicine in respondent's or
10 patient's place of residence, unless the patient resides in a skilled nursing facility or other similar
11 licensed facility.

12 License Renewal

13 Respondent shall maintain a current and renewed California physician's and
14 surgeon's license.

15 Travel or Residence Outside California

16 Respondent shall immediately inform the Board or its designee, in writing, of
17 travel to any areas outside the jurisdiction of California which lasts, or is contemplated to last,
18 more than thirty (30) calendar days.

19 In the event respondent should leave the State of California to reside or to practice
20 respondent shall notify the Board or its designee in writing 30 calendar days prior to the dates of
21 departure and return.

22 **10. Interview with the Board or its Designee**

23 Respondent shall be available in person upon request for interviews either at
24 respondent's place of business or at the probation unit office, with or without prior notice
25 throughout the term of probation.

26 **11. Non-practice While on Probation**

27 Respondent shall notify the Board or its designee in writing within 15 calendar
28

1 days of any periods of non-practice lasting more than 30 calendar days and within 15 calendar
2 days of respondent's return to practice. Non-practice is defined as any period of time respondent
3 is not practicing medicine in California as defined in Business and Professions Code sections
4 2051 and 2052 for at least 40 hours in a calendar month in direct patient care, clinical activity or
5 teaching, or other activity as approved by the Board. All time spent in an intensive training
6 program which has been approved by the Board or its designee shall not be considered non-
7 practice. Practicing medicine in another state of the United States or Federal jurisdiction while on
8 probation with the medical licensing authority of that state or jurisdiction shall not be considered
9 non-practice. A Board-ordered suspension of practice shall not be considered as a period of non-
10 practice.

11 In the event respondent's period of non-practice while on probation exceeds 18
12 calendar months, respondent shall successfully complete a clinical training program that meets
13 the criteria of Condition 18 of the current version of the Board's "Manual of Model Disciplinary
14 Orders and Disciplinary Guidelines" prior to resuming the practice of medicine.

15 Respondent's period of non-practice while on probation shall not exceed two (2)
16 years. Periods of non-practice will not apply to the reduction of the probationary term.
17 Periods of non-practice will relieve respondent of the responsibility to comply with the
18 probationary terms and conditions with the exception of this condition and the following terms
19 and conditions of probation: Obey All Laws; and General Probation Requirements.

20 **12. Completion of Probation**

21 Respondent shall comply with all financial obligations (e.g., restitution, probation
22 costs) not later than 120 calendar days prior to the completion of probation. Upon successful
23 completion of probation, respondent's certificate shall be fully restored.

24 **13. Violation of Probation**

25 Failure to fully comply with any term or condition of probation is a violation of
26 probation. If respondent violates probation in any respect, the Board, after giving respondent
27 notice and the opportunity to be heard, may revoke probation and carry out the disciplinary order
28 that was stayed. If an Accusation, or Petition to Revoke Probation, or an Interim Suspension

1 Order is filed against respondent during probation, the Board shall have continuing jurisdiction
2 until the matter is final, and the period of probation shall be extended until the matter is final.

3 **14. License Surrender**

4 Following the effective date of this Decision, if respondent ceases practicing due
5 to retirement or health reasons or is otherwise unable to satisfy the terms and conditions of
6 probation, respondent may request to surrender his or her license. The Board reserves the right to
7 evaluate respondent's request and to exercise its discretion in determining whether or not to grant
8 the request, or to take any other action deemed appropriate and reasonable under the
9 circumstances. Upon formal acceptance of the surrender, respondent shall within 15 calendar
10 days deliver respondent's wallet and wall certificate to the Board or its designee and respondent
11 shall no longer practice medicine. Respondent will no longer be subject to the terms and
12 conditions of probation. If respondent re-applies for a medical license, the application shall be
13 treated as a petition for reinstatement of a revoked certificate.

14 **15. Probation Monitoring Costs**

15 Respondent shall pay the costs associated with probation monitoring each and
16 every year of probation, as designated by the Board, which may be adjusted on an annual basis.
17 Such costs shall be payable to the Medical Board of California and delivered to the Board or its
18 designee no later than January 31 of each calendar year.

19 **ACCEPTANCE**

20 I, Andrew Hok-San Thio, M.D., have carefully read this Stipulated Settlement and
21 Disciplinary Order and, having the benefit of counsel, enter into it freely, voluntarily,
22 intelligently, and with full knowledge of its force and effect on my Physician's and Surgeon's
23 Certificate No. G 75296. I fully understand that, after signing this stipulation, I may not
24 withdraw from it, that it shall be submitted to the Medical Board of California for its
25 consideration, and that the Board shall have a reasonable period of time to consider and act on
26 this stipulation after receiving it. By entering into this stipulation, I fully understand that, upon
27 acceptance by the Board, my Physician's and Surgeon's Certificate No. G 75296 will be revoked,
28 with the revocation stayed, and I shall be placed on probation and required to comply with all of

1 the terms and conditions of the Disciplinary Order set forth above. I also fully understand that
2 any failure to comply with the terms and conditions of the Disciplinary Order set for above shall
3 constitute unprofessional conduct and a violation or violations of probation, will subject to my
4 Physician's and Surgeon's Certificate No. G 75296 to further disciplinary action and, in addition,
5 that the Board, after giving me notice and opportunity to be heard, may carry out the disciplinary
6 order that was stayed, i.e., revocation of my Physician's and Surgeon's Certificate No. G 75296.

7 DATED: 10/22/15

8 A. Thio
9 ANDREW HOK-SAN THIO, M.D.
Respondent

10 I have read and fully discussed with respondent Andrew Hok-San Thio, M.D., the
11 terms and conditions and other matters contained in the above Stipulated Settlement and
12 Disciplinary Order. I approve its form and content.

13
14 DATED: October 22, 2015

15 R. J. McMahon
16 RAYMOND J. McMAHON, ESQ.
Attorney for Respondent

17 ENDORSEMENT

18 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
19 submitted for consideration by the Medical Board of California of the Department of Consumer
20 Affairs.

21 DATED: October 22, 2015

22 Respectfully Submitted,

23 KAMALA D. HARRIS
Attorney General of California
24 ALEXANDRA M. ALVAREZ
Supervising Deputy Attorney General

25 M. Davis
26 MATTHEW M. DAVIS
27 Deputy Attorney General
28 Attorneys for Complainant

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Attachment "A"
Accusation No. 09-2013-229413

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO September 5 20 14
BY R. FIDIAS ANALYST

1 KAMALA D. HARRIS
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Attorneys for Complainant

8
9 **BEFORE THE**
MEDICAL BOARD OF CALIFORNIA
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. 09-2013-229413

12 **ANDREW HOK-SAN THIO, M.D.**
13 41670 Ivy Street, Suite B
14 Murrieta, CA 92562

ACCUSATION

15 Physician and Surgeon's Certificate No.
G 75296,

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

20 1. Kimberly Kirchmeyer (Complainant) brings this Accusation solely in her official
21 capacity as the Executive Director of the Medical Board of California, Department of Consumer
22 Affairs.

23 2. On or about September 29, 1992, the Board issued Physician's and Surgeon's
24 Certificate No. G 75296 to ANDREW HOK-SAN THIO, M.D. (respondent). The Physician's
25 and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought
26 herein and will expire on August 31, 2016, unless renewed.

27 ///

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1 **JURISDICTION**

2 3. This Accusation is brought before the Medical Board of California, Department of
3 Consumer Affairs, under the authority of the following laws. All sections referenced are to the
4 Business and Professions Code (Code) unless otherwise indicated.

5 4. Section 2227 of the Code states:

6 “(a) A licensee whose matter has been heard by an administrative law judge of the
7 Medical Quality Hearing Panel as designated in Section 11371 of the Government Code, or
8 whose default has been entered, and who is found guilty, or who has entered into a stipulation for
9 disciplinary action with the board, may, in accordance with the provisions of this chapter:

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

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

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

15 “(4) Be publicly reprimanded by the board. The public reprimand may include a
16 requirement that the licensee complete relevant educational courses approved by the board.

17 “(5) Have any other action taken in relation to discipline as part of an order of
18 probation, as the board or an administrative law judge may deem proper.

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

25 5. Section 2234 of the Code states:

26 “The board shall take action against any licensee who is charged with unprofessional
27 conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not
28 limited to, the following:

1 “(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting
2 the violation of, or conspiring to violate any provision of this chapter [Chapter 5, the Medical
3 Practice Act].

4 “(b) Gross negligence.

5 “(c) Repeated negligent acts. To be repeated, there must be two or more negligent
6 acts or omissions. An initial negligent act or omission followed by a separate and distinct
7 departure from the applicable standard of care shall constitute repeated negligent acts.

8 “(1) An initial negligent diagnosis followed by an act or omission medically
9 appropriate for that negligent diagnosis of the patient shall constitute a single negligent act.

10 “(2) When the standard of care requires a change in the diagnosis, act, or omission
11 that constitutes the negligent act described in paragraph (1), including, but not limited to, a
12 reevaluation of the diagnosis or a change in treatment, and the licensee's conduct departs from the
13 applicable standard of care, each departure constitutes a separate and distinct breach of the
14 standard of care.

15 “...

16 “...

17 “...

18 “...”

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

22 7. Unprofessional conduct under Business and Professions Code section 2234 is conduct
23 which breaches the rules or ethical code of the medical profession, or conduct which is
24 unbecoming to a member in good standing of the medical profession, and which demonstrates an
25 unfitness to practice medicine. (*Shea v. Board of Medical Examiners* (1978) 81 Cal.App.3d 564,
26 575.)

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1 **FIRST CAUSE FOR DISCIPLINE**

2 (Gross Negligence)

3 8. Respondent has subjected his Physician and Surgeon's Certificate Number G 75296
4 to disciplinary action under sections 2227 and 2234, as defined in section 2234, subdivision (b),
5 of the Code, in that he committed gross negligence in his care and treatment of patient L.K., as
6 more particularly alleged hereinafter:

7 9. On or about April 28, 2008, patient L.K., a then fifty-two year old female, presented
8 to respondent with complaints of radiating low back pain. Portions of respondent's medical
9 record for this visit are not legible. Respondent performed a lumbar epidural steroid injection
10 without reviewing and/or documenting the review of patient L.K.'s previous imaging studies.
11 Respondent performed the lumbar epidural steroid injection without fluoroscopic guidance.

12 10. On or about May 19, 2008, respondent performed another lumbar epidural steroid
13 injection on patient L.K. Respondent did not review and/or document the review of patient
14 L.K.'s previous imaging studies. Respondent performed the lumbar epidural steroid injection
15 without fluoroscopic guidance. Respondent's chart note for this visit does not contain a physical
16 examination and portions of the note are not legible.

17 11. On or about June 16, 2008, respondent performed a third lumbar epidural steroid
18 injection on patient L.K. Respondent did not review and/or document the review of patient
19 L.K.'s previous imaging studies. Respondent performed the lumbar epidural steroid injection
20 without fluoroscopic guidance. Respondent's chart note for this visit does not contain a physical
21 examination.

22 12. On or about July 18, 2008, respondent performed a lumbar facet joint steroid
23 injection on patient L.K.

24 13. On or about August 26, 2008, respondent performed another lumbar facet joint
25 steroid injection on patient L.K.

26 14. On or about September 9, 2008, respondent performed a third lumbar facet joint
27 steroid injection on patient L.K.

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1 15. On or about September 30, 2008, respondent saw patient L.K. for a clinical visit.
2 Portions of respondent's chart for this visit are not legible.

3 16. On or about October 24, 2008, respondent performed a thoracic facet joint steroid
4 injection on patient L.K.

5 17. On or about November 7, 2008, respondent performed another thoracic facet joint
6 steroid injection on patient L.K.

7 18. On or about November 21, 2008, respondent performed a third thoracic facet joint
8 steroid injection on patient L.K.

9 19. Between on or about April 28, 2008, and November 21, 2008, respondent injected
10 patient L.K. with steroids on nine occasions.

11 20. On or about February 3, 2009, respondent saw patient L.K. for a clinical visit.
12 Portions of respondent's chart for this visit are not legible.

13 21. On or about February 12, 2009, respondent saw patient L.K. for a clinical visit.
14 Portions of respondent's chart for this visit are not legible.

15 22. On or about April 6, 2009, respondent recommended patient L.K. undergo a trial
16 dorsal column stimulator (DCS) for her diagnosis of low back pain-not otherwise specified.
17 Portions of respondent's chart for this visit are not legible.

18 23. On or about April 28, 2009, respondent performed a bilateral DCS trial lead insertion
19 under fluoroscopic guidance on patient L.K.

20 24. On or about May 21, 2009, respondent saw patient L.K. for a clinical visit. Portions
21 of respondent's chart for this visit are not legible.

22 25. On or about June 22, 2009, respondent saw patient L.K. for a clinical visit. Portions
23 of respondent's chart for this visit are not legible.

24 26. On or about July 28, 2009, respondent performed a bilateral DCS and implanted an
25 implantable pulse generator (IPG) under fluoroscopic guidance. Postoperatively, patient L.K.
26 complained of severe pain in her left thigh and no motor strength to her right lower extremity.
27 Patient L.K. was transferred by ambulance to Inland Valley Medical Center where she underwent
28 an emergent thoracic and lumbar spine decompression and removal of the implanted DCS.

27. Respondent committed gross negligence in his care and treatment of patient L.K. which included, but was not limited to, the following:

(a) Respondent improperly injected patient L.K. with steroids for a seventh time in a twelve month period on or about October 24, 2008;

(b) Respondent improperly injected patient L.K. with steroids for an eighth time in a twelve month period on or about November 7, 2008;

(c) Respondent improperly injected patient L.K. with steroids for a ninth time in a twelve month period on or about November 21, 2008;

(d) Respondent performed a trial DCS without an appropriate medical indication;

(e) Respondent performed a trial DCS without obtaining appropriate spinal imaging;

(f) Respondent implanted a DCS without an appropriate medical indication; and

(g) Respondent implanted a DCS without obtaining appropriate spinal imaging.

SECOND CAUSE FOR DISCIPLINE

(Repeated Negligent Acts)

28. Respondent has subjected his Physician and Surgeon's Certificate Number G 75296 to disciplinary action under sections 2227 and 2234, as defined in section 2234, subdivision (c), of the Code, in that he committed repeated negligent acts in his care and treatment of patients L.K. and C.A., as more particularly alleged hereinafter:

Patient L.K.

29. Paragraphs 10 through 27, above, are hereby incorporated by reference and realleged as if fully set forth herein.

30. Respondent committed repeated negligent acts in his care and treatment of patient L.K. which included, but was not limited to, the following:

(a) Respondent failed to maintain adequate and accurate medical records for patient L.K.'s clinical visit on or about April 28, 2008;

(b) Respondent failed to review and/or document review of patient L.K.'s spinal imaging prior to performing a lumbar epidural spinal injection on or about April 28, 2008;

1 (c) Respondent failed to utilize imaging guidance while performing a lumbar
2 epidural spinal injection on or about April 28, 2008

3 (d) Respondent failed to maintain adequate and accurate medical records for patient
4 L.K.'s clinical visit on or about May 19, 2008;

5 (e) Respondent failed to review and/or document review of patient L.K.'s spinal
6 imaging prior to performing a lumbar epidural spinal injection on or about May 19, 2008;

7 (f) Respondent failed to utilize imaging guidance while performing a lumbar
8 epidural spinal injection on or about May 19, 2008;

9 (g) Respondent failed to review and/or document review of patient L.K.'s spinal
10 imaging prior to performing a lumbar epidural spinal injection on or about June 16, 2008;

11 (h) Respondent failed to utilize imaging guidance while performing a lumbar
12 epidural spinal injection on or about June 16, 2008;

13 (c) Respondent failed to maintain adequate and accurate medical records for patient
14 L.K.'s clinical visit on or about September 30, 2008;

15 (d) Respondent failed to maintain adequate and accurate medical records for patient
16 L.K.'s clinical visit on or about February 3, 2009;

17 (e) Respondent failed to maintain adequate and accurate medical records for patient
18 L.K.'s clinical visit on or about February 12, 2009;

19 (f) Respondent failed to maintain adequate and accurate medical records for patient
20 L.K.'s clinical visit on or about April 6, 2009;

21 (g) Respondent failed to maintain adequate and accurate medical records for patient
22 L.K.'s clinical visit on or about May 21, 2009; and

23 (h) Respondent failed to maintain adequate and accurate medical records for patient
24 L.K.'s clinical visit on or about June 22, 2009.

25 **Patient C.A.**

26 31. On or about April 26, 2010, patient C.A., a then fifty-three year old female, presented
27 to respondent for chronic pain management. Patient C.A. presented with opioid, benzodiazepine
28 and muscle relaxant dependence, and post lumbar fusion surgery at L2-5, L2-S1 with

1 instrumentation.

2 32. Between on or about April 26, 2010, and January 17, 2013, respondent provided pain
3 management treatment to patient C.A. Respondent's treatments included lowering patient C.A.'s
4 opioid doses, changing pain medications, providing lumbar and thoracic epidural steroid
5 injections and utilization of a DCS.

6 33. On or about May 1, 2010, respondent inserted a trial lead for a DCS in patient C.A.'s
7 lumbar spine in order to determine whether patient C.A. could tolerate permanent implantation.

8 34. On or about May 25, 2010, respondent implanted the DCS in patient C.A.'s lumbar
9 spine.

10 35. On or about July 27, 2010, respondent removed the DCS from patient C.A.'s lumbar
11 spine due to infection of the surgical site.

12 36. On or about August 6, 2011, respondent performed a bilateral T9-12 facet injection
13 on patient C.A. with fluoroscopic guidance and conscious sedation.

14 37. On or about September 17, 2011, respondent performed a left L4-S1 selective
15 epidural steroid injection on patient C.A. with fluoroscopic guidance and conscious sedation.

16 38. On or about October 1, 2011, respondent performed a second left L4-S1 selective
17 epidural steroid injection on patient C.A. with fluoroscopic guidance and conscious sedation.

18 39. On or about October 15, 2011, respondent performed a third left L4-S1 selective
19 epidural steroid injection on patient C.A. with fluoroscopic guidance and conscious sedation.

20 40. On or about April 2, 2012, respondent referred patient C.A. to a spine surgeon for
21 additional back surgery.

22 41. On or about June 6, 2012, patient C.A. underwent a lateral discectomy L2-5, lateral
23 interbody fusion L2-5, decompression laminectomy L2-5, decompression L2-S1, , posterior
24 fusion L2-S1 and posterior spinal instrumentation L2-S1. The surgery did not relieve patient
25 C.A.'s pain.

26 42. On or about November 12, 2012, respondent discussed weaning off narcotics with
27 patient C.A.

28 43. On or about November 18, 2012, patient C.A. presented to the Loma Linda Medical

1 Center emergency room with complaints of constipation, excessive somnolence and lethargy.
2 Patient C.A.'s medical workup was unremarkable and she was referred back to respondent for
3 continued pain management.

4 44. On or about November 24, 2012, patient C.A. again presented at the Loma Linda
5 Medical Center emergency room with complaints of constipation, abdominal pain and nausea.
6 Patient C.A.'s medical workup was unremarkable and it was determined that patient C.A.'s
7 symptoms were related to her high dose opioid regiment. Patient C.A. was again referred back to
8 respondent for continued pain management.

9 45. On or about December 10, 2012, respondent again counseled patient C.A. about
10 weaning off narcotics. Patient C.A. indicated she was willing to participate in Loma Linda
11 University Medical Center Rehabilitation program, but wanted to wait until after the holidays.
12 Respondent's chart note for this visit does not mention patient C.A.'s two previous visits to the
13 Loma Linda Medical Center emergency room.

14 46. On or about December 16, 2012, patient C.A. again presented at the Loma Linda
15 Medical Center emergency room for a work up for COPD, pulmonary embolism, chronic pain
16 and opioid dependence. Patient C.A.'s medical workup indicated she suffered from
17 COPD and opioid dependence. Patient C.A. was again referred back to respondent for
18 continued pain management.

19 47. On January 17, 2013, patient C.A. presented to respondent for the last time.

20 48. On January 23, 2013, patient C.A. voluntarily entered a drug rehabilitation program at
21 Sharp Mesa Vista Hospital in San Diego. Patient C.A. completed the program on or about
22 February 28, 2013.

23 49. In or about March 2013, patient C.A. was involuntarily admitted to Keystone
24 Treatment Center in Canton, South Dakota where she underwent five weeks of inpatient drug
25 detoxification followed by five weeks of outpatient detoxification.

26 50. As of on or about September 11, 2013, patient C.A. was drug free and functioning in
27 her daily activities pain free.

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1 51. On or about November 6, 2013, patient C.A. died at her sister's house in Menifee,
2 CA, from Centrilobular Pulmonary Emphysema.

3 52. Between on or about January 4, 2011 and January 17, 2013, on twenty different
4 clinical visits, respondent failed to document a good faith focused history to evaluate the clinical
5 effects of patient C.A.'s medications, continued indications for their continued use, and side
6 effects.

7 53. Between on or about January 4, 2011 and January 17, 2013, on twenty-two different
8 clinical visits, respondent failed to document a good faith focused physical exam of patient C.A.

9 54. Respondent committed repeated negligent acts in his care and treatment of patient
10 C.A. which included, but was not limited to, the following:

11 (a) On or about January 4, 2011, respondent failed to document a good faith
12 focused history to evaluate the clinical effects of patient C.A.'s medications, continued
13 indications for their continued use, and side effects;

14 (b) On or about January 4, 2011, respondent failed to document a good faith
15 problem focused physical exam for patient C.A.;

16 (c) On or about January 31, 2011, respondent failed to document a good faith
17 focused history to evaluate the clinical effects of patient C.A.'s medications, continued
18 indications for their continued use, and side effects;

19 (d) On or about January 31, 2011, respondent failed to document a good faith
20 problem focused physical exam for patient C.A.;

21 (e) On or about February 28, 2011, respondent failed to document a good faith
22 problem focused physical exam for patient C.A.;

23 (f) On or about March 28, 2011, respondent failed to document a good faith
24 focused history to evaluate the clinical effects of patient C.A.'s medications, continued
25 indications for their continued use, and side effects;

26 (g) On or about March 28, 2011, respondent failed to document a good faith
27 problem focused physical exam for patient C.A.;

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1 (h) On or about April 25, 2011, respondent failed to document a good faith focused
2 history to evaluate the clinical effects of patient C.A.'s medications, continued indications
3 for their continued use, and side effects;

4 (i) On or about April 25, 2011, respondent failed to document a good faith
5 problem focused physical exam for patient C.A.;

6 (j) On or about May 23, 2011, respondent failed to document a good faith focused
7 history to evaluate the clinical effects of patient C.A.'s medications, continued indications
8 for their continued use, and side effects;

9 (k) On or about May 23, 2011, respondent failed to document a good faith problem
10 focused physical exam for patient C.A.;

11 (l) On or about June 20, 2011, respondent failed to document a good faith focused
12 history to evaluate the clinical effects of patient C.A.'s medications, continued indications
13 for their continued use, and side effects;

14 (m) On or about June 20, 2011, respondent failed to document a good faith problem
15 focused physical exam for patient C.A.;

16 (n) On or about July 18, 2011, respondent failed to document a good faith focused
17 history to evaluate the clinical effects of patient C.A.'s medications, continued indications
18 for their continued use, and side effects;

19 (o) On or about July 18, 2011, respondent failed to document a good faith problem
20 focused physical exam for patient C.A.;

21 (p) On or about November 3, 2011, respondent failed to document a good faith
22 focused history to evaluate the clinical effects of patient C.A.'s medications, continued
23 indications for their continued use, and side effects;

24 (q) On or about November 3, 2011, respondent failed to document a good faith
25 problem focused physical exam for patient C.A.;

26 (r) On or about December 5, 2011, respondent failed to document a good faith
27 focused history to evaluate the clinical effects of patient C.A.'s medications, continued
28 indications for their continued use, and side effects;

1 (s) On or about December 5, 2011, respondent failed to document a good faith
2 problem focused physical exam for patient C.A.;

3 (t) On or about January 9, 2012, respondent failed to document a good faith
4 focused history to evaluate the clinical effects of patient C.A.'s medications, continued
5 indications for their continued use, and side effects;

6 (u) On or about January 9, 2012, respondent failed to document a good faith
7 problem focused physical exam for patient C.A.;

8 (v) On or about February 6, 2012, respondent failed to document a good faith
9 focused history to evaluate the clinical effects of patient C.A.'s medications, continued
10 indications for their continued use, and side effects;

11 (w) On or about February 6, 2012, respondent failed to document a good faith
12 problem focused physical exam for patient C.A.;

13 (x) On or about March 5, 2012, respondent failed to document a good faith focused
14 history to evaluate the clinical effects of patient C.A.'s medications, continued indications
15 for their continued use, and side effects;

16 (y) On or about March 5, 2012, respondent failed to document a good faith
17 problem focused physical exam for patient C.A.;

18 (z) On or about April 2, 2012, respondent failed to document a good faith focused
19 history to evaluate the clinical effects of patient C.A.'s medications, continued indications
20 for their continued use, and side effects;

21 (aa) On or about April 2, 2012, respondent failed to document a good faith problem
22 focused physical exam for patient C.A.;

23 (bb) On or about April 30, 2012, respondent failed to document a good faith focused
24 history to evaluate the clinical effects of patient C.A.'s medications, continued indications
25 for their continued use, and side effects;

26 (cc) On or about April 30, 2012, respondent failed to document a good faith
27 problem focused physical exam for patient C.A.;

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1 (dd) On or about July 24, 2012, respondent failed to document a good faith focused
2 history to evaluate the clinical effects of patient C.A.'s medications, continued indications
3 for their continued use, and side effects;

4 (ee) On or about July 24, 2012, respondent failed to document a good faith problem
5 focused physical exam for patient C.A.;

6 (ff) On or about August 20, 2012, respondent failed to document a good faith
7 focused history to evaluate the clinical effects of patient C.A.'s medications, continued
8 indications for their continued use, and side effects;

9 (gg) On or about August 20, 2012, respondent failed to document a good faith
10 problem focused physical exam for patient C.A.;

11 (hh) On or about September 17, 2012, respondent failed to document a good faith
12 focused history to evaluate the clinical effects of patient C.A.'s medications, continued
13 indications for their continued use, and side effects;

14 (ii) On or about September 17, 2012, respondent failed to document a good faith
15 problem focused physical exam for patient C.A.;

16 (jj) On or about October 15, 2012, respondent failed to document a good faith
17 focused history to evaluate the clinical effects of patient C.A.'s medications, continued
18 indications for their continued use, and side effects;

19 (kk) On or about October 15, 2012, respondent failed to document a good faith
20 problem focused physical exam for patient C.A.;

21 (ll) On or about November 12, 2012, respondent failed to document a good faith
22 focused history to evaluate the clinical effects of patient C.A.'s medications, continued
23 indications for their continued use, and side effects;

24 (mm) On or about November 12, 2012, respondent failed to document a good faith
25 problem focused physical exam for patient C.A.;

26 (nn) On or about December 17, 2012, respondent failed to document a good faith
27 focused history to evaluate the clinical effects of patient C.A.'s medications, continued
28 indications for their continued use, and side effects;

1 (oo) On or about December 17, 2012, respondent failed to document a good faith
2 problem focused physical exam for patient C.A., and

3 (pp) On or about January 7, 2013, respondent failed to document a good faith
4 problem focused physical exam for patient C.A.

5 **THIRD CAUSE FOR DISCIPLINE**

6 (Failure to Maintain Adequate and Accurate Medical Records)

7 55. Respondent has further subjected his Physician and Surgeon's Certificate Number
8 G 75296 to disciplinary action under section 2227 and 2234, as defined in section 2266, of the
9 Code, in that he failed to maintain adequate and accurate records in connection with his care and
10 treatment of patients L.K. and C.A. as more particularly alleged hereinafter.

11 56. Paragraphs 10 through 54, above, are hereby incorporated by reference and realleged
12 as if fully set forth herein.

13 **FOURTH CAUSE FOR DISCIPLINE**

14 (General Unprofessional Conduct)

15 57. Respondent has further subjected his Physician's and Surgeon's Certificate No.
16 G 75296 to disciplinary action under section sections 2227 and 2234, as defined by section 2234,
17 of the Code, in that he has engaged in conduct which breaches the rules or ethical code of the
18 medical profession, or conduct which is unbecoming to a member in good standing of the medical
19 profession, and which demonstrates an unfitness to practice medicine, as more particularly as
20 more particularly alleged hereinafter:

21 58. Paragraphs 10 through 56, above, are hereby incorporated by reference and realleged
22 as if fully set forth herein.

23 **PRAYER**

24 WHEREFORE, Complainant requests that a hearing be held on the matters herein
25 alleged, and that following the hearing, the Medical Board of California issue a decision:

26 1. Revoking or suspending Physician's and Surgeon's Certificate Number
27 G 75296, issued to respondent ANDREW HOK-SAN THIO, M.D.;

1 2. Revoking, suspending or denying approval of respondent ANDREW HOK-
2 SAN THIO, M.D.'s authority to supervise physician assistants, pursuant to section 3527 of the
3 Code;

4 3. Ordering respondent ANDREW HOK-SAN THIO, M.D., to pay the Medical
5 Board of California, if placed on probation, the costs of probation monitoring; and,

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

7
8 DATED: September 5, 2014


KIMBERLY KIRCHMEYER
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant