

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

In the Matter of the Accusation
Against

Chivano Chhieng, M.D.

Case No. 800-2017-030449

Physician's and Surgeon's
Certificate No. A71847

Respondent.

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 14 2020

IT IS SO ORDERED JUL 07 2020

MEDICAL BOARD OF CALIFORNIA

By: 

William Prasifka
Executive Director

1 XAVIER BECERRA
Attorney General of California
2 MATTHEW M. DAVIS
Supervising Deputy Attorney General
3 LEANNA E. SHIELDS
Deputy Attorney General
4 State Bar No. 239872
600 West Broadway, Suite 1800
5 San Diego, CA 92101
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6 San Diego, CA 92186-5266
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8 *Attorneys for Complainant*

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

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In the Matter of the Accusation Against:

Case No. 800-2017-030449

14

CHIVANO CHHIENG, M.D.
P.O. Box 315307
15 Tamuning, GU 96931

OAH No. 2020040475

16

Physician's and Surgeon's Certificate No. A
17 71847

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

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Respondent.

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

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PARTIES

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1. William Prasifka (Complainant) is the Executive Director of the Medical Board of
California (Board).¹ This action was brought by then Complainant, Christine J. Lally, solely in
her official capacity as the Interim Executive Director of the Board. Complainant is represented
in this matter by Xavier Becerra, Attorney General of the State of California, by LeAnna E.
Shields, Deputy Attorney General.

¹ William Prasifka became the Executive Director of the Medical Board of California on
June 15, 2020.

1 2. Respondent Chivano Chhieng, M.D. (Respondent) is represented in this proceeding
2 by attorney Nathan Mubasher, Esq., whose address is 2621 Green River Road, Suite 105 PMB
3 403, Corona, CA 92882.

4 3. On or about June 1, 2000, the Board issued Physician's and Surgeon's Certificate No.
5 A 71847 to Respondent. The Physician's and Surgeon's Certificate was in full force and effect at
6 all times relevant to the charges brought in Accusation No. 800-2017-030449 and will expire on
7 June 30, 2022, unless renewed.

8 JURISDICTION

9 4. On January 17, 2020, Accusation No. 800-2017-030449 was filed before the Board,
10 and is currently pending against Respondent. On January 17, 2020, a true and correct copy of
11 Accusation No. 800-2017-030449 and all other statutorily required documents were properly
12 served on Respondent. Respondent timely filed his Notice of Defense contesting the Accusation.
13 A true and correct copy of Accusation No. 800-2017-030449 is attached as Exhibit A and
14 incorporated by reference as if fully set forth herein.

15 ADVISEMENT AND WAIVERS

16 5. Respondent has carefully read, fully discussed with counsel, and fully understands the
17 charges and allegations in Accusation No. 800-2017-030449. Respondent also has carefully read,
18 fully discussed with counsel, and fully understands the effects of this Stipulated Surrender of
19 License and Order.

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

26 7. Having the benefit of counsel, Respondent voluntarily, knowingly, and intelligently
27 waives and gives up each and every right set forth above.

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1 CULPABILITY

2 8. Respondent does not contest that, at an administrative hearing, Complainant could
3 establish a prima facie case with respect to all the charges and allegations contained in Accusation
4 No. 800-2017-030449, that he has thereby subjected his Physician's and Surgeon's Certificate
5 No. A 71847 to disciplinary action, and hereby surrenders his Physician's and Surgeon's
6 Certificate No. A 71847 for the Board's formal acceptance.

7 9. Respondent agrees that if he files a petition for reinstatement or relicensure, or an
8 accusation and/or petition to revoke probation is filed against him before the Medical Board of
9 California, all of the charges and allegations contained in Accusation No. 800-2017-030449 shall
10 be deemed true, correct, and fully admitted by Respondent for purposes of any such proceeding or
11 any other licensing proceeding involving Respondent in the State of California.

12 10. Respondent understands that by signing this stipulation he enables the Board to issue
13 an order accepting the surrender of his Physician's and Surgeon's Certificate No. A 71847
14 without notice to, or opportunity to be heard by, Respondent.

15 11. With Respondent's early acknowledgment that cause exists for the Board's action,
16 Complainant finds good cause under Business and Professions Code section 2307, subdivision
17 (b)(1), and thereby agrees that Respondent may file a petition for reinstatement two years after
18 the effective date of the Board's Decision.

19 CONTINGENCY

20 12. Business and Professions Code section 2224, subdivision (b), provides, in pertinent
21 part, that the Medical Board "shall delegate to its executive director the authority to adopt a ...
22 stipulation for surrender of a license."

23 13. Respondent understands that, by signing this stipulation, he enables the Executive
24 Director of the Board to issue an order, on behalf of the Board, accepting the surrender of his
25 Physician's and Surgeon's Certificate No. A 71847, without further notice to, or opportunity to be
26 heard by, Respondent.

27 14. This Stipulated Surrender of License and Disciplinary Order shall be subject to the
28 approval of the Executive Director on behalf of the Board. The parties agree that this Stipulated

1 Surrender of License and Disciplinary Order shall be submitted to the Executive Director for his
2 consideration in the above-entitled matter and, further, that the Executive Director shall have a
3 reasonable period of time in which to consider and act on this Stipulated Surrender of License and
4 Disciplinary Order after receiving it. By signing this stipulation, Respondent fully understands
5 and agrees that he may not withdraw his agreement or seek to rescind this stipulation prior to the
6 time the Executive Director, on behalf of the Medical Board, considers and acts upon it.

7 15. The parties agree that this Stipulated Surrender of License and Disciplinary Order
8 shall be null and void and not binding upon the parties unless approved and adopted by the
9 Executive Director on behalf of the Board, except for this paragraph, which shall remain in full
10 force and effect. Respondent fully understands and agrees that in deciding whether or not to
11 approve and adopt this Stipulated Surrender of License and Disciplinary Order, the Executive
12 Director and/or the Board may receive oral and written communications from its staff and/or the
13 Attorney General's Office. Communications pursuant to this paragraph shall not disqualify the
14 Executive Director, the Board, any member thereof, and/or any other person from future
15 participation in this or any other matter affecting or involving Respondent. In the event that the
16 Executive Director on behalf of the Board does not, in his discretion, approve and adopt this
17 Stipulated Surrender of License and Disciplinary Order, with the exception of this paragraph, it
18 shall not become effective, shall be of no evidentiary value whatsoever, and shall not be relied
19 upon or introduced in any disciplinary action by either party hereto. Respondent further agrees
20 that should this Stipulated Surrender of License and Disciplinary Order be rejected for any reason
21 by the Executive Director on behalf of the Board, Respondent will assert no claim that the
22 Executive Director, the Board, or any member thereof, was prejudiced by its/his/her review,
23 discussion and/or consideration of this Stipulated Surrender of License and Disciplinary Order or
24 of any matter or matters related hereto.

25 **ADDITIONAL PROVISIONS**

26 16. This Stipulated Surrender of License and Disciplinary Order is intended by the parties
27 herein to be an integrated writing representing the complete, final and exclusive embodiment of
28 the agreements of the parties in the above-entitled matter.

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ACCEPTANCE

I have carefully read the above Stipulated Surrender of License and Order and have fully discussed it with my attorney Nathan Mubasher, Esq., and I fully understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate No. A 71847. 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: 06/22/2020 *Chivano Chhieng MD*
CHIVANO CHHIENG, M.D.
Respondent

I have read and fully discussed with Respondent Chivano Chhieng, 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: 06/22/2020 *Nathan Mubasher*
NATHAN MUBASHER, ESQ.
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: 6/25/20 Respectfully submitted,

XAVIER BECERRA
Attorney General of California
MATTHEW M. DAVIS
Supervising Deputy Attorney General

[Signature]
LEANNA E. SHIELDS
Deputy Attorney General
Attorneys for Complainant

Exhibit A

Accusation No. 800-2017-030449

1 XAVIER BECERRA
Attorney General of California
2 MATTHEW M. DAVIS
Supervising Deputy Attorney General
3 LEANNA E. SHIELDS
Deputy Attorney General
4 State Bar No. 239872
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8 *Attorneys for Complainant*

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

13

In the Matter of the Accusation Against:

Case No. 800-2017-030449

14

CHIVANO CHHIENG, M.D.
P.O. Box 315307
15 Tamuning, GU 96931

ACCUSATION

16

Physician's and Surgeon's Certificate
17 No. A 71847,

18

Respondent.

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PARTIES

21

1. Christine J. Lally (Complainant) brings this Accusation solely in her official capacity
22 as the Interim Executive Director of the Medical Board of California, Department of Consumer
23 Affairs (Board).

24

2. On or about June 1, 2000, the Medical Board issued Physician's and Surgeon's
25 Certificate No. A 71847 to Chivano Chhieng, M.D. (Respondent). The Physician's and
26 Surgeon's Certificate was in full force and effect at all times relevant to the charges brought
27 herein and will expire on June 30, 2020, unless renewed.

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1 JURISDICTION

2 3. This Accusation is brought before the Board, under the authority of the following
3 laws. All section references are to the Business and Professions Code (Code) unless otherwise
4 indicated.

5 4. Section 2227 of the Code states:

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

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

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

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

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

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

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

27 5. Section 2234 of the Code states, in pertinent part:

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

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

(b) Gross negligence.

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

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

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

6 ...

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

10 **FIRST CAUSE FOR DISCIPLINE**

11 **(Gross Negligence)**

12 7. Respondent has subjected his Physician's and Surgeon's Certificate No. A 71847 to
13 disciplinary action under sections 2227 and 2234, as defined by section 2234, subdivision (b), of
14 the Code, in that he has committed gross negligence in his care and treatment of one or more
15 patients, as more particularly alleged hereinafter.

16 **Patient A¹**

17 8. On or about May 30, 2016, Patient A, a 49-year-old male presented to the S.R.S.
18 Urgent Care with complaints of chest pain radiating to his left shoulder and jaw area, shortness of
19 breath, nausea and cold sweat. Patient A's medical history was significant for hypertension,
20 hypercholesterolemia and chronic kidney disease.

21 9. Patient A was seen by Respondent who ordered an echocardiogram (EKG) and lab
22 tests. Respondent reviewed Patient A's EKG and noted ST-segment depressions in the
23 anterolateral leads, but failed to notice ST-segment elevations in the inferior leads.

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28 ¹ Patient identities have been withheld for patient privacy purposes. Respondent is aware of the identities of
the patients referred to herein.

1 10. Respondent placed an order for Critical Care Transport (CCT) to take Patient A to the
2 emergency department at a nearby hospital. CCT provided an estimated response time of
3 approximately forty-five (45) minutes.

4 11. When CCT arrived to transport Patient A to the emergency department, Respondent
5 reviewed Patient A's EKG again and this time Respondent noticed two ST-segment elevations in
6 the inferior leads in addition to the ST-segment depressions previously noted in the anterolateral
7 leads. The ST-segment elevations were so elevated that they created a convex tracing that
8 merged with the T-wave, creating the classic tombstone pattern, characteristic for ST-elevation
9 myocardial infarction (STEMI).

10 12. Despite noting the STEMI, Respondent allowed CCT to transport Patient A to the
11 emergency department, rather than upgrading the transportation status to a 911 lights and siren
12 level.

13 13. After Patient A departed S.R.S. Urgent Care by CCT to the emergency department,
14 Patient A's blood tests returned revealing several abnormal results, including, but not limited to,
15 elevated troponin² levels of 11.64 ng/mL. Respondent was notified of Patient A's test results,
16 including his elevated troponin level, but determined it was not necessary to notify the receiving
17 physician at the emergency department of Patient A's elevated troponin level.

18 14. Respondent committed gross negligence in his care and treatment of Patient A, which
19 included, but is not limited to:

20 A. Paragraphs 8 through 13, above, are hereby incorporated by reference and
21 realleged as if fully set forth herein;

22 B. Respondent failed to notice, upon initial review of Patient A's EKG, that
23 Patient A was experiencing STEMI;

24 C. Respondent failed to send Patient A to the emergency department with the
25 appropriate transportation status, choosing to send Patient A by way of CCT rather
26 than by 911 lights and siren; and

27
28 ² Troponin is a protein released into the blood after a heart attack. A value greater than 1.50
ng/mL is indicative of an acute myocardial infarction.

1 D. Respondent failed to notify the receiving emergency department physician of
2 Patient A's elevated troponin levels and other abnormal blood results.

3 **SECOND CAUSE FOR DISCIPLINE**

4 **(Repeated Negligent Acts)**

5 15. Respondent has further subjected his Physician's and Surgeon's Certificate No.
6 A 71847 to disciplinary action under sections 2227 and 2234, as defined by section 2234,
7 subdivision (c), of the Code, in that he has committed repeated negligent acts in his care and
8 treatment of one or more patients, as more particularly alleged hereinafter.

9 **Patient A**

10 16. Respondent committed repeated negligent acts in his care and treatment of Patient A,
11 which included, but is not limited to:

12 A. Paragraphs 8 through 14, above, are hereby incorporated by reference and
13 realleged as if fully set forth herein; and

14 B. Respondent failed to upgrade Patient A's transportation from CCT to 911 lights
15 and siren status after noticing the two ST-segment elevations in Patient A's EKG.

16 **Patient B**

17 17. On or about May 5, 2015, Patient B, a 36-year-old male presented to the S.R.S.
18 Urgent Care with complaints of rash and throat swelling.

19 18. Patient B was seen by Respondent who diagnosed Patient B with acute urticaria³ with
20 throat closing and ordered diphenhydramine,⁴ methylprednisolone,⁵ and epinephrine.⁶

21 Respondent verbally ordered the diphenhydramine and methylprednisolone be administered to

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24 ³ Urticarial, also known as hives, are a common sign of a severe allergic reaction called
anaphylaxis.

25 ⁴ Diphenhydramine, brand name Benadryl, is an antihistamine used for treating allergic reactions.

26 ⁵ Methylprednisolone is a corticosteroid medication used for treating severe allergic reactions and
27 immune system disorders.

28 ⁶ Epinephrine, also known as adrenaline, is a medication used to narrow the blood vessels and
open the airways in the lungs.

1 Patient B intravenously, and verbally ordered the epinephrine be administered to Patient B
2 intramuscularly.

3 19. The nurse administering the medications to Patient B heard Respondent order all
4 three medications be administered intravenously and attempted to clarify with Respondent
5 whether he intended the epinephrine be administered intramuscularly or subcutaneously. The
6 nurse heard Respondent state the epinephrine was to be administered intravenously and
7 proceeded to administer the epinephrine to Patient B intravenously.

8 20. Respondent committed repeated negligent acts in his care and treatment of Patient B,
9 which included, but is not limited to:

10 A. Paragraphs 17 through 19, above, are hereby incorporated by reference and
11 realleged as if fully set forth herein; and

12 B. Respondent failed to ensure accurate communication regarding the proper
13 administration of medications to Patient B, specifically, that the epinephrine was to be
14 administered intramuscularly, not intravenously.

15 **Patient C**

16 21. On or about December 3, 2016, Patient C, a 33-year-old male presented to the S.R.S.
17 Urgent Care with complaints of a wrist injury causing pain and swelling to his right wrist due to
18 an accident while riding a dirt bike.

19 22. Patient C was seen by Respondent who performed a physical exam and ordered
20 imaging studies. Respondent documented Patient C had no deformity, normal range of motion,
21 and minimal swelling. Imaging studies revealed Patient C had numerous fractures in his right
22 wrist. Respondent immobilized Patient C's wrist in a neutral position using a splint and sling and
23 ordered Patient C to follow up with an orthopedic specialist.

24 23. Respondent subsequently reported the swelling in Patient C's wrist was moderate to
25 severe, and that it was diffusely swollen resulting in a limited range of motion.

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1 24. Respondent committed repeated negligent acts in his care and treatment of Patient C,
2 which included, but is not limited to:

3 A. Paragraphs 21 through 23, above, are hereby incorporated by reference and
4 realleged as if fully set forth herein; and

5 B. Respondent failed to adequately and accurately document his physical
6 examination of Patient C, specifically, the swelling and range of motion of Patient
7 C's wrist.

8 **THIRD CAUSE FOR DISCIPLINE**

9 **(Failure to Maintain Adequate and/or Accurate Records)**

10 25. Respondent has further subjected his Physician's and Surgeon's Certificate No.
11 A 71847 to disciplinary action under sections 2227 and 2234, as defined by section 2266, of the
12 Code, in that he failed to adequately and/or accurately document his care and treatment of Patient
13 C, as more particularly alleged in paragraphs 21 through 24, above, which are hereby
14 incorporated by reference and realleged as if fully set forth herein.

15 **FOURTH CAUSE FOR DISCIPLINE**

16 **(Violations of the Medical Practice Act)**

17 26. Respondent has further subjected his Physician's and Surgeon's Certificate No.
18 A 71847 to disciplinary action under sections 2227 and 2234, as defined by section 2234,
19 subdivision (a), of the Code, in that he has committed a violation or violations of the Medical
20 Practice Act, as more particularly alleged in paragraphs 7 through 25, above, which are hereby
21 incorporated by reference and realleged as if fully set forth herein.

22 **PRAYER**

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

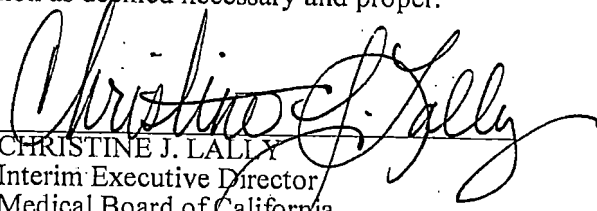
25 1. Revoking or suspending Physician's and Surgeon's Certificate No. A 71847, issued
26 to Respondent Chivano Chhieng, M.D.;

27 2. Revoking, suspending or denying approval of Respondent Chivano Chhieng, M.D.'s
28 authority to supervise physician assistants and advanced practice nurses;

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- 3. Ordering Respondent Chivano Chhieng, M.D., if placed on probation, to pay the Board the costs of probation monitoring; and
- 4. Taking such other and further action as deemed necessary and proper.

DATED: January 17, 2020


CHRISTINE J. LALLY
Interim Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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