

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

In the Matter of the Accusation Against:

Michael Van Nguyen, M.D.

Physician's and Surgeon's
Certificate No. A 148744

Case No.: 800-2017-034710

Respondent.

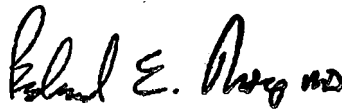
DECISION

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 12, 2022.

IT IS SO ORDERED: December 13, 2021.

MEDICAL BOARD OF CALIFORNIA



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

1 ROB BONTA
Attorney General of California
2 JANE ZACK SIMON
Supervising Deputy Attorney General
3 LYNNE K. DOMBROWSKI
Deputy Attorney General
4 State Bar No. 128080
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5 San Francisco, CA 94102-7004
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7 *Attorneys for Complainant*

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

12 In the Matter of the Accusation Against:

Case No. 800-2017-034710

13 **MICHAEL VAN NGUYEN, M.D.**
14 **275 W. MacArthur Blvd.**
Oakland, CA 94611-5641

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

15 **Physician's and Surgeon's Certificate**
16 **No. A 148744**

17 Respondent.

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

22 **PARTIES**

23 1. William Prasifka (Complainant) is the Executive Director of the Medical Board of
24 California (Board). He brought this action solely in his official capacity and is represented in this
25 matter by Rob Bonta, Attorney General of the State of California, by Lynne K. Dombrowski,
26 Deputy Attorney General.

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1 2. Respondent Michael Van Nguyen, M.D. (Respondent) is represented in this
2 proceeding by attorney Michael Rothschild Esq., whose address is: Rothschild Wishek & Sands
3 LLP, 765 University Avenue, Sacramento, CA 95825, Email address: mrothschild@rwsllaw.com.

4 3. On or about April 17, 2017, the Board issued Physician's and Surgeon's Certificate
5 No. A 148744 to Michael Van Nguyen, M.D. (Respondent). The Physician's and Surgeon's
6 Certificate was in full force and effect at all times relevant to the charges brought in Accusation
7 No. 800-2017-034710, and will expire on April 30, 2023, unless renewed.

8 **JURISDICTION**

9 4. Accusation No. 800-2017-034710 was filed before the Board, and is currently
10 pending against Respondent. The Accusation and all other statutorily required documents were
11 properly served on Respondent on May 20, 2021. Respondent timely filed his Notice of Defense
12 contesting the Accusation.

13 5. A copy of Accusation No. 800-2017-034710 is attached as Exhibit A and is
14 incorporated herein by reference.

15 **ADVISEMENT AND WAIVERS**

16 6. Respondent has carefully read, fully discussed with counsel, and understands the
17 charges and allegations in Accusation No. 800-2017-034710. Respondent has also carefully read,
18 fully discussed with his counsel, and understands the effects of this Stipulated Settlement and
19 Disciplinary Order.

20 7. 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 8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
27 every right set forth above.

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1 CULPABILITY

2 9. Respondent admits the truth of each and every charge and allegation in Accusation
3 No. 800-2017-034710.

4 10. Respondent agrees that his Physician's and Surgeon's Certificate is subject to
5 discipline and he agrees to be bound by the Board's probationary terms as set forth in the
6 Disciplinary Order below.

7 CONTINGENCY

8 11. This stipulation shall be subject to approval by the Medical Board of California.
9 Respondent understands and agrees that counsel for Complainant and the staff of the Medical
10 Board of California may communicate directly with the Board regarding this stipulation and
11 settlement, without notice to or participation by Respondent or his counsel. By signing the
12 stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek
13 to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails
14 to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary
15 Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal
16 action between the parties, and the Board shall not be disqualified from further action by having
17 considered this matter.

18 12. Respondent agrees that if he ever petitions for early termination or modification of
19 probation, or if an accusation and/or petition to revoke probation is filed against him before the
20 Board, all of the charges and allegations contained in Accusation No. 800-2017-034710 shall be
21 deemed true, correct and fully admitted by Respondent for purposes of any such proceeding or
22 any other licensing proceeding involving Respondent in the State of California.

23 13. The parties understand and agree that Portable Document Format (PDF) and facsimile
24 copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile
25 signatures thereto, shall have the same force and effect as the originals.

26 14. In consideration of the foregoing admissions and stipulations, the parties agree that
27 the Board may, without further notice or opportunity to be heard by the Respondent, issue and
28 enter the following Disciplinary Order:

1 **DISCIPLINARY ORDER**

2 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 148744 issued
3 to Respondent Michael Van Nguyen, M.D. is revoked. However, the revocation is stayed and
4 Respondent is placed on probation for five (5) years on the following terms and conditions:

5 1. ALCOHOL - ABSTAIN FROM USE. Respondent shall abstain completely from the
6 use of products or beverages containing alcohol.

7 If Respondent has a confirmed positive biological fluid test for alcohol, Respondent shall
8 receive a notification from the Board or its designee to immediately cease the practice of
9 medicine. The Respondent shall not resume the practice of medicine until the final decision on an
10 accusation and/or a petition to revoke probation is effective. An accusation and/or petition to
11 revoke probation shall be filed by the Board within 30 days of the notification to cease practice.
12 If the Respondent requests a hearing on the accusation and/or petition to revoke probation, the
13 Board shall provide the Respondent with a hearing within 30 days of the request, unless the
14 Respondent stipulates to a later hearing. The case is heard by an Administrative Law Judge
15 alone, who shall forward a Proposed Decision to the Board within 15 days of submission of the
16 matter. Within 15 days of receipt by the Board of the Administrative Law Judge's proposed
17 decision, the Board shall issue its Decision, unless good cause can be shown for the delay. If the
18 case is heard by the Board, the Board shall issue its decision within 15 days of submission of the
19 case, unless good cause can be shown for the delay. Good cause includes, but is not limited to,
20 non-adoption of the proposed decision, requests for reconsideration, remands and other
21 interlocutory orders issued by the Board. The cessation of practice shall not apply to the
22 reduction of the probationary time period.

23 If the Board does not file an accusation or petition to revoke probation within 30 days of the
24 issuance of the notification to cease practice or does not provide Respondent with a hearing
25 within 30 days of such a request, the notification of cease practice shall be dissolved.

26 2. BIOLOGICAL FLUID TESTING. Respondent shall immediately submit to biological
27 fluid testing, at Respondent's expense, upon request of the Board or its designee. "Biological
28 fluid testing" may include, but is not limited to, urine, blood, breathalyzer, hair follicle testing, or

1 similar drug screening approved by the Board or its designee. Prior to practicing medicine,
2 Respondent shall contract with a laboratory or service approved in advance by the Board or its
3 designee that will conduct random, unannounced, observed, biological fluid testing. The contract
4 shall require results of the tests to be transmitted by the laboratory or service directly to the Board
5 or its designee within four hours of the results becoming available. Respondent shall maintain
6 this laboratory or service contract during the period of probation.

7 A certified copy of any laboratory test result may be received in evidence in any
8 proceedings between the Board and Respondent.

9 If Respondent fails to cooperate in a random biological fluid testing program within the
10 specified time frame, Respondent shall receive a notification from the Board or its designee to
11 immediately cease the practice of medicine. The Respondent shall not resume the practice of
12 medicine until the final decision on an accusation and/or a petition to revoke probation is
13 effective. An accusation and/or petition to revoke probation shall be filed by the Board within 30
14 days of the notification to cease practice. If the Respondent requests a hearing on the accusation
15 and/or petition to revoke probation, the Board shall provide the Respondent with a hearing within
16 30 days of the request, unless the Respondent stipulates to a later hearing. If the case is heard by
17 an Administrative Law Judge alone, who shall forward a Proposed Decision to the Board within
18 15 days of submission of the matter. Within 15 days of receipt by the Board of the
19 Administrative Law Judge's proposed decision, the Board shall issue its Decision, unless good
20 cause can be shown for the delay. If the case is heard by the Board, the Board shall issue its
21 decision within 15 days of submission of the case, unless good cause can be shown for the delay.
22 Good cause includes, but is not limited to, non-adoption of the proposed decision, requests for
23 reconsideration, remands and other interlocutory orders issued by the Board. The cessation of
24 practice shall not apply to the reduction of the probationary time period.

25 If the Board does not file an accusation or petition to revoke probation within 15 days of the
26 issuance of the notification to cease practice or does not provide Respondent with a hearing
27 within 30 days of such a request, the notification of cease practice shall be dissolved.

28 ///

1 3. COMMUNITY SERVICE - FREE SERVICES. Within 60 calendar days of the
2 effective date of this Decision, Respondent shall submit to the Board or its designee for prior
3 approval a community service plan in which Respondent shall, within the first 2 years of
4 probation, provide 40 hours of free services (e.g., medical or nonmedical) to a community or non-
5 profit organization. If the term of probation is designated for 2 years or less, the community
6 service hours must be completed not later than 6 months prior to the completion of probation.

7 Prior to engaging in any community service, Respondent shall provide a true copy of the
8 Decision to the chief of staff, director, office manager, program manager, officer, or the chief
9 executive officer at every community or non-profit organization where Respondent provides
10 community service and shall submit proof of compliance to the Board or its designee within 15
11 calendar days. This condition shall also apply to any change(s) in community service.

12 Community service performed prior to the effective date of the Decision shall not be accepted in
13 fulfillment of this condition.

14 4. PROFESSIONALISM PROGRAM (ETHICS COURSE). Within 60 calendar
15 days of the effective date of this Decision, Respondent shall enroll in a professionalism program,
16 that meets the requirements of Title 16, California Code of Regulations (CCR) section 1358.1.
17 Respondent shall participate in and successfully complete that program. Respondent shall
18 provide any information and documents that the program may deem pertinent. Respondent shall
19 successfully complete the classroom component of the program not later than six (6) months after
20 Respondent's initial enrollment, and the longitudinal component of the program not later than the
21 time specified by the program, but no later than one (1) year after attending the classroom
22 component. The professionalism program shall be at Respondent's expense and shall be in
23 addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

24 A professionalism program taken after the acts that gave rise to the charges in the
25 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board
26 or its designee, be accepted towards the fulfillment of this condition if the program would have
27 been approved by the Board or its designee had the program been taken after the effective date of
28 this Decision.

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

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

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

13 6. SUPERVISION OF PHYSICIAN ASSISTANTS AND ADVANCED PRACTICE
14 NURSES. During probation, Respondent is prohibited from supervising physician assistants and
15 advanced practice nurses.

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

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

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

24 9. GENERAL PROBATION REQUIREMENTS.

25 Compliance with Probation Unit

26 Respondent shall comply with the Board's probation unit.

27 Address Changes

28 Respondent shall, at all times, keep the Board informed of Respondent's business and

1 residence addresses, email address (if available), and telephone number. Changes of such
2 addresses shall be immediately communicated in writing to the Board or its designee. Under no
3 circumstances shall a post office box serve as an address of record, except as allowed by Business
4 and Professions Code section 2021, subdivision (b).

5 Place of Practice

6 Respondent shall not engage in the practice of medicine in Respondent's or patient's place
7 of residence, unless the patient resides in a skilled nursing facility or other similar licensed
8 facility.

9 License Renewal

10 Respondent shall maintain a current and renewed California physician's and surgeon's
11 license.

12 Travel or Residence Outside California

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

16 In the event Respondent should leave the State of California to reside or to practice,
17 Respondent shall notify the Board or its designee in writing 30 calendar days prior to the dates of
18 departure and return.

19 10. INTERVIEW WITH THE BOARD OR ITS DESIGNEE. Respondent shall be
20 available in person upon request for interviews either at Respondent's place of business or at the
21 probation unit office, with or without prior notice throughout the term of probation.

22 11. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board
23 or its designee in writing within 15 calendar days of any periods of non-practice lasting more than
24 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is
25 defined as any period of time Respondent is not practicing medicine as defined in Business and
26 Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct
27 patient care, clinical activity or teaching, or other activity as approved by the Board. If
28 Respondent resides in California and is considered to be in non-practice, Respondent shall

1 comply with all terms and conditions of probation. All time spent in an intensive training
2 program which has been approved by the Board or its designee shall not be considered non-
3 practice and does not relieve Respondent from complying with all the terms and conditions of
4 probation. Practicing medicine in another state of the United States or Federal jurisdiction while
5 on probation with the medical licensing authority of that state or jurisdiction shall not be
6 considered non-practice. A Board-ordered suspension of practice shall not be considered as a
7 period of non-practice.

8 In the event Respondent's period of non-practice while on probation exceeds 18 calendar
9 months, Respondent shall successfully complete the Federation of State Medical Boards' Special
10 Purpose Examination, or, at the Board's discretion, a clinical competence assessment program
11 that meets the criteria of Condition 18 of the current version of the Board's "Manual of Model
12 Disciplinary Orders and Disciplinary Guidelines" prior to resuming the practice of medicine.

13 Respondent's period of non-practice while on probation shall not exceed two (2) years.

14 Periods of non-practice will not apply to the reduction of the probationary term.

15 Periods of non-practice for a Respondent residing outside of California will relieve
16 Respondent of the responsibility to comply with the probationary terms and conditions with the
17 exception of this condition and the following terms and conditions of probation: Obey All Laws;
18 General Probation Requirements; Quarterly Declarations; Abstain from the Use of Alcohol and/or
19 Controlled Substances; and Biological Fluid Testing.

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

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

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

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

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

18 16. FUTURE ADMISSIONS CLAUSE. If Respondent should ever apply or reapply
19 for a new license or certification, or petition for reinstatement of a license, by any other health
20 care licensing action agency in the State of California, all of the charges and allegations contained
21 in Accusation No. 800-2017-034710 shall be deemed to be true, correct, and admitted by
22 Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or
23 restrict license.

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1 ACCEPTANCE

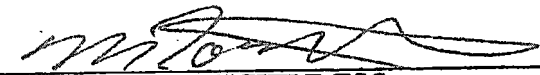
2 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
3 discussed it with my attorney, Michael Rothschild Esq.. I understand the stipulation and the
4 effect it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated
5 Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be
6 bound by the Decision and Order of the Medical Board of California.

7
8 DATED: 10/20/21


MICHAEL VAN NGUYEN, M.D.
Respondent

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15 I have read and fully discussed with Respondent Michael Van Nguyen, M.D. the terms and
16 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
17 I approve its form and content.

18
19 DATED: 10/21/21


MICHAEL ROTHSCHILD ESQ.
Attorney for Respondent

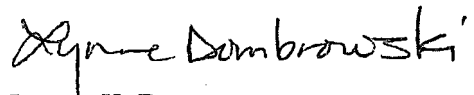
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ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Medical Board of California.

DATED: 10/27/2021

Respectfully submitted,
ROB BONTA
Attorney General of California
JANE ZACK SIMON
Supervising Deputy Attorney General


LYNNE K. DOMBROWSKI
Deputy Attorney General
Attorneys for Complainant

SF2021400128

Exhibit A

Accusation No. 800-2017-034710

1 ROB BONTA
Attorney General of California
2 JANE ZACK SIMON
Supervising Deputy Attorney General
3 LYNNE K. DOMBROWSKI
Deputy Attorney General
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E-mail: Lynne.Dombrowski@doj.ca.gov
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12 In the Matter of the Accusation Against:

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13 **Michael Van Nguyen, M.D.**
14 **275 W. MacArthur Blvd.**
Oakland, CA 94611-5641

ACCUSATION

15 **Physician's and Surgeon's Certificate**
16 **No. A 148744,**

17 Respondent.

18
19 **PARTIES**

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

23 2. On or about April 17, 2017, the Medical Board issued Physician's and Surgeon's
24 Certificate Number A 148744 to Michael Van Nguyen, M.D. (Respondent). The Physician's and
25 Surgeon's Certificate was in full force and effect at all times relevant to the charges brought
26 herein and will expire on April 30, 2023, unless renewed.

27 ///

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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 2228.1 of the Code states:

28 (a) On and after July 1, 2019, except as otherwise provided in subdivision (c),
the board shall require a licensee to provide a separate disclosure that includes the
licensee's probation status, the length of the probation, the probation end date, all
practice restrictions placed on the licensee by the board, the board's telephone
number, and an explanation of how the patient can find further information on the
licensee's probation on the licensee's profile page on the board's online license
information Internet Web site, to a patient or the patient's guardian or health care
surrogate before the patient's first visit following the probationary order while the
licensee is on probation pursuant to a probationary order made on and after July 1,
2019, in any of the following circumstances:

(1) A final adjudication by the board following an administrative hearing or
admitted findings or prima facie showing in a stipulated settlement establishing any
of the following:

1 (A) The commission of any act of sexual abuse, misconduct, or relations with a
patient or client as defined in Section 726 or 729.

2 (B) Drug or alcohol abuse directly resulting in harm to patients or the extent
3 that such use impairs the ability of the licensee to practice safely.

4 (C) Criminal conviction directly involving harm to patient health.

5 (D) Inappropriate prescribing resulting in harm to patients and a probationary
period of five years or more.

6 (2) An accusation or statement of issues alleged that the licensee committed any
7 of the acts described in subparagraphs (A) to (D), inclusive, of paragraph (1), and a
stipulated settlement based upon a nolo contendere or other similar compromise that
8 does not include any prima facie showing or admission of guilt or fact but does
include an express acknowledgment that the disclosure requirements of this section
9 would serve to protect the public interest.

10 (b) A licensee required to provide a disclosure pursuant to subdivision (a) shall
obtain from the patient, or the patient's guardian or health care surrogate, a separate,
11 signed copy of that disclosure.

12 (c) A licensee shall not be required to provide a disclosure pursuant to
subdivision (a) if any of the following applies:

13 (1) The patient is unconscious or otherwise unable to comprehend the
disclosure and sign the copy of the disclosure pursuant to subdivision (b) and a
14 guardian or health care surrogate is unavailable to comprehend the disclosure and
sign the copy.

15 (2) The visit occurs in an emergency room or an urgent care facility or the visit
16 is unscheduled, including consultations in inpatient facilities.

17 (3) The licensee who will be treating the patient during the visit is not known to
18 the patient until immediately prior to the start of the visit.

19 (4) The licensee does not have a direct treatment relationship with the patient.

20 (d) On and after July 1, 2019, the board shall provide the following
information, with respect to licensees on probation and licensees practicing under
21 probationary licenses, in plain view on the licensee's profile page on the board's
online license information Internet Web site.

22 (1) For probation imposed pursuant to a stipulated settlement, the causes
23 alleged in the operative accusation along with a designation identifying those causes
by which the licensee has expressly admitted guilt and a statement that acceptance of
24 the settlement is not an admission of guilt.

25 (2) For probation imposed by an adjudicated decision of the board, the causes
for probation stated in the final probationary order.

26 (3) For a licensee granted a probationary license, the causes by which the
27 probationary license was imposed.

28 (4) The length of the probation and end date.

1 (5) All practice restrictions placed on the license by the board.

2 (e) Section 2314 shall not apply to this section.

3 6. Section 2234 of the Code states:

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

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

9 (b) Gross negligence.

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

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

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

22 (d) Incompetence.

23 (e) The commission of any act involving dishonesty or corruption that is
24 substantially related to the qualifications, functions, or duties of a physician and
25 surgeon.

26 (f) Any action or conduct that would have warranted the denial of a certificate.

27 (g) The failure by a certificate holder, in the absence of good cause, to attend
28 and participate in an interview by the board. This subdivision shall only apply to a
certificate holder who is the subject of an investigation by the board.

7. Section 2236 of the Code states:

(a) The conviction of any offense substantially related to the qualifications,
functions, or duties of a physician and surgeon constitutes unprofessional conduct
within the meaning of this chapter.¹ The record of conviction shall be conclusive
evidence only of the fact that the conviction occurred.

(b) The district attorney, city attorney, or other prosecuting agency shall notify
the Medical Board of the pendency of an action against a licensee charging a felony
or misdemeanor immediately upon obtaining information that the defendant is a
licensee. The notice shall identify the licensee and describe the crimes charged and

¹ Chapter 5, the Medical Practice Act.

1 the facts alleged. The prosecuting agency shall also notify the clerk of the court in
2 which the action is pending that the defendant is a licensee, and the clerk shall record
3 prominently in the file that the defendant holds a license as a physician and surgeon.

4 (c) The clerk of the court in which a licensee is convicted of a crime shall,
5 within 48 hours after the conviction, transmit a certified copy of the record of
6 conviction to the board. The division may inquire into the circumstances surrounding
7 the commission of a crime in order to fix the degree of discipline or to determine if
8 the conviction is of an offense substantially related to the qualifications, functions, or
9 duties of a physician and surgeon.

10 (d) A plea or verdict of guilty or a conviction after a plea of nolo contendere is
11 deemed to be a conviction within the meaning of this section and Section 2236.1.
12 The record of conviction shall be conclusive evidence of the fact that the conviction
13 occurred.

14 8. Section 2239 of the Code states:

15 (a) The use or prescribing for or administering to himself or herself, of any
16 controlled substance; or the use of any of the dangerous drugs specified in Section
17 4022, or of alcoholic beverages, to the extent, or in such a manner as to be dangerous
18 or injurious to the licensee, or to any other person or to the public, or to the extent that
19 such use impairs the ability of the licensee to practice medicine safely or more than
20 one misdemeanor or any felony involving the use, consumption, or
21 self-administration of any of the substances referred to in this section, or any
22 combination thereof, constitutes unprofessional conduct. The record of the
23 conviction is conclusive evidence of such unprofessional conduct.

24 (b) A plea or verdict of guilty or a conviction following a plea of nolo
25 contendere is deemed to be a conviction within the meaning of this section. The
26 Medical Board may order discipline of the licensee in accordance with Section 2227
27 or the Medical Board may order the denial of the license when the time for appeal has
28 elapsed or the judgment of conviction has been affirmed on appeal or when an order
granting probation is made suspending imposition of sentence, irrespective of a
subsequent order under the provisions of Section 1203.4 of the Penal Code allowing
such person to withdraw his or her plea of guilty and to enter a plea of not guilty, or
setting aside the verdict of guilty, or dismissing the accusation, complaint,
information, or indictment.

FIRST CAUSE FOR DISCIPLINE

**(Unprofessional Conduct: Felony Conviction Involving Consumption of Alcoholic Beverage
to be Dangerous or Injurious to Licensee, Other Persons, or the Public; Conviction of
Offense Substantially Related to the Qualifications, Functions, Duties of a Physician)**

23 9. Respondent Michael Van Nguyen, M.D. is subject to disciplinary action for
24 unprofessional conduct under Business and Professions Code sections 2234, through section 2236
25 and/or section 2239 in that Respondent was convicted of a felony offense involving his use,
26 consumption, or self-administration of alcoholic beverages to the extent and in a manner that was
27 dangerous or injurious to himself or other persons or to the public and/or that such offense is
28

1 substantially related to the qualifications, functions, and duties of a physician. The circumstances
2 of which are described as follows:

3 10. On or about March 25, 2019, the Medical Board received from Respondent's attorney
4 a Criminal Action Reporting Form, pursuant to Section 802.1 of the California Business and
5 Professions Code, which stated that, on March 20, 2019, a felony information was filed against
6 Respondent in Alameda County Superior Court, Case No. 18-CR-003091. The Information
7 alleged two felony counts against Respondent arising from his driving a vehicle on or about July
8 5, 2017 while under the influence of an alcoholic beverage, which proximately caused bodily
9 injury to two persons. Count One alleged a felony violation under California Vehicle Code
10 section 23153(a), including special allegations of a serious felony of personally inflicted great
11 bodily injury under Penal Code sections 12022.7(a) and 1192.7(c)(8), and a violent felony under
12 Penal Code section 667.5(c), and of proximately caused bodily injury to two victims under Penal
13 Code Sections 667.5(c) and 1170(h)(3). Count Two alleged a felony violation under California
14 Vehicle Code section 23153(b) for driving a vehicle while having 0.08% or more, by weight, of
15 alcohol in his blood, and proximately causing bodily injury to one victim and special allegations
16 of personally inflicted great bodily injury, a serious felony and a violent felony under Penal Code
17 sections 1192.7(c)(8) and 667.5(c)(8); and a violation of Vehicle Code section 23558 for
18 proximately caused bodily injury to two victims.

19 11. On or about September 4, 2020, Respondent entered a plea of no contest to Count
20 Two, a felony violation of Vehicle Code section 23153(b) for driving a vehicle with a 0.08% or
21 more blood alcohol level and causing injury, and was found guilty. In return for Respondent's
22 plea of no contest, it was agreed that the allegations in Count One would be dismissed and the
23 alleged enhancements would be stricken.

24 12. On or about October 7, 2020, there was an entry of judgment and formal sentencing
25 of Respondent in the Alameda County Superior Court criminal complaint matter. Respondent
26 was found guilty of a felony violation of Vehicle Code section 23153(b) and the remaining
27 balance of the allegations of the criminal complaint were dismissed. Respondent was placed on a
28 formal probation for three years with no jail time with the standard DUI terms, including:

1 prohibition of driving with any alcohol in his system; completion of 18-months of a Drinking
2 Driver Program; completion of a Mothers Against Drunk Driving (MADD) Victim Impact Panel
3 Class; and payment of fines and fees along with payment of restitution, which was reported as
4 already paid.

5 13. On or about October 21, 2020, the Alameda County Superior Court issued an
6 Amended Minute Order to state that the criminal matter may be reduced from a felony to a
7 misdemeanor after successful completion of probation, pursuant to Penal Code section 17b.

8 14. Respondent's criminal felony conviction arises from a July 5, 2017 collision at a
9 street intersection in Oakland with overhead traffic control devices controlling all directions of
10 traffic. Respondent's vehicle collided into the rear passenger side of a vehicle that was making a
11 turn in the intersection. As a result of the collision, the two passengers in the rear seat were
12 ejected from the other vehicle. One passenger sustained serious life-threatening injuries but
13 survived after multiple surgeries and rehabilitation. The other passenger sustained non-life-
14 threatening injuries and lacerations.

15
16 **PRAYER**

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

19 1. Revoking or suspending Physician's and Surgeon's Certificate Number A 148744,
20 issued to Michael Van Nguyen, M.D.;

21 2. Revoking, suspending or denying approval of Michael Van Nguyen, M.D.'s authority
22 to supervise physician assistants and advanced practice nurses;

23 3. Ordering Michael Van Nguyen, M.D., if placed on probation, to pay the Board the
24 costs of probation monitoring; and

25 ///

26 ///

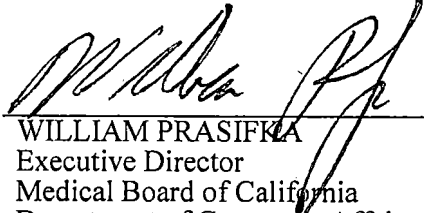
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4. Taking such other and further action as deemed necessary and proper.

DATED: MAY 20 2021



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