

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

In the Matter of the Accusation
Against:

Hailing Fei, M.D.

Physician's and Surgeon's
Certificate No. A 78381

Respondent.

Case No. 800-2019-052660

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 OCT 20 2023
AUG 03 2023

IT IS SO ORDERED _____.

MEDICAL BOARD OF CALIFORNIA



Reji Varghese
Executive Director

1 ROB BONTA
Attorney General of California
2 GREG W. CHAMBERS
Supervising Deputy Attorney General
3 HARRIET NEWMAN
Deputy Attorney General
4 State Bar No. 189784
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Attorneys for Complainant
7

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

12 In the Matter of the Accusation Against:

Case No. 800-2019-052660

13 **HAILING FEI, M.D.**

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

14 **39 Birch Street, Ste A**
Redwood City, CA 94062

15 **Physician's and Surgeon's Certificate**
No. A 78381

16 Respondent.
17

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

20 **PARTIES**

21 1. Reji Varghese (Complainant) is the Executive Director of the Medical Board of
22 California (Board). He brought this action solely in his official capacity and is represented in this
23 matter by Rob Bonta, Attorney General of the State of California, by Harriet Newman, Deputy
24 Attorney General.

25 2. Hailing Fei, M.D. (Respondent) is represented in this proceeding by attorney Joseph
26 Picchi, whose address is: 2300 Contra Costa Blvd., Suite 350, Pleasant Hill, CA 94523.

27 3. On or about March 20, 2002, the Board issued Physician's and Surgeon's Certificate
28 No. A 78381 to Hailing Fei, M.D. (Respondent). The Physician's and Surgeon's Certificate was in

1 full force and effect at all times relevant to the charges brought in Accusation No. 800-2019-
2 052660 and will expire on July 31, 2023, unless renewed.

3 **JURISDICTION**

4 4. Accusation No. 800-2019-052660 was filed before the Board, and is currently
5 pending against Respondent. The Accusation and all other statutorily required documents were
6 properly served on Respondent on December 29, 2021. Respondent timely filed his Notice of
7 Defense contesting the Accusation. A copy of Accusation No. 800-2019-052660 is attached as
8 Exhibit A and incorporated by reference.

9 **ADVISEMENT AND WAIVERS**

10 5. Respondent has carefully read, fully discussed with counsel, and understands the
11 charges and allegations in Accusation No. 800-2019-052660. Respondent also has carefully read,
12 fully discussed with counsel, and understands the effects of this Stipulated Surrender of License
13 and Order.

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

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

22 **CULPABILITY**

23 8. Respondent understands and agrees that the charges and allegations in Accusation
24 No. 800-2019-052660, if proven at hearing, constitute cause for imposing discipline upon his
25 Physician's and Surgeon's Certificate No. A78381.

26 9. For the purpose of resolving the Accusation without the expense and uncertainty of
27 further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual
28 basis for the charges in the Accusation and that those charges constitute cause for discipline.

1 Respondent hereby gives up his right to contest that cause for discipline exists based on those
2 charges.

3 10. Respondent understands that by signing this stipulation he enables the Board to issue
4 an order accepting the surrender of his Physician's and Surgeon's Certificate without further
5 process.

6 **ORDER**

7 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 78381, issued
8 to Respondent Hailing Fei, M.D., is surrendered as of October 20, 2023 and accepted by the
9 Board.

10 1. The surrender of Respondent's Physician's and Surgeon's Certificate and the
11 acceptance of the surrendered license by the Board shall constitute the imposition of discipline
12 against Respondent. This stipulation constitutes a record of the discipline and shall become a part
13 of Respondent's license history with the Board.

14 2. Respondent shall lose all rights and privileges as a Physician & Surgeon in California
15 as of the effective date of the Board's Decision and Order.

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

18 4. If Respondent ever files an application for licensure or a petition for reinstatement in
19 the State of California, the Board shall treat it as a petition for reinstatement. Respondent must
20 comply with all the laws, regulations and procedures for reinstatement of a revoked or
21 surrendered license in effect at the time the petition is filed, and all of the charges and allegations
22 contained in Accusation No. 800-2019-052660 shall be deemed to be true, correct and admitted
23 by Respondent when the Board determines whether to grant or deny the petition.

24 **ACCEPTANCE**

25 I have carefully read the above Stipulated Surrender of License and Order and have fully
26 discussed it with my attorney Joseph Picchi. I understand the stipulation and the effect it will have
27 on my Physician's and Surgeon's Certificate. I enter into this Stipulated Surrender of License and
28

1 Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order
2 of the Medical Board of California.

3
4 DATED: 07/07 (2023) Hailing Fei, M.D.
5 HAILING FEI, M.D.
6 Respondent

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

10 DATED: 7/12/2023 [Signature]
11 JOSEPH PICCHI
12 Attorney for Respondent

13 **ENDORSEMENT**

14 The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted
15 for consideration by the Medical Board of California of the Department of Consumer Affairs.

16 DATED: _____

17 Respectfully submitted,

18 ROB BONTA
19 Attorney General of California
20 GREG W. CHAMBERS
21 Supervising Deputy Attorney General

22 HARRIET NEWMAN
23 Deputy Attorney General
24 Attorneys for Complainant

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26 Stipulated Surrender of License and Order - MBC - Fei Stip surrender.docx
27
28

1 Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order
2 of the Medical Board of California.

3
4 DATED: _____
5 HAILING FEI, M.D.
6 Respondent

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

10 DATED: _____
11 JOSEPH PICCHI
12 Attorney for Respondent

13 **ENDORSEMENT**

14 The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted
15 for consideration by the Medical Board of California of the Department of Consumer Affairs.

16 DATED: 7/14/23

Respectfully submitted,

17 ROB BONTA
18 Attorney General of California
19 GREG W. CHAMBERS
20 Supervising Deputy Attorney General

Harriet Newman

21 HARRIET NEWMAN
22 Deputy Attorney General
23 Attorneys for Complainant

24 SF2021401555
25 Stipulated Surrender of License and Order - MBC - Fei_Stip surrender.docx
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27
28

Exhibit A

Accusation No. 800-2019-052660

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

12 In the Matter of the Accusation Against:

Case No. 800-2019-052660

13 **HAILING FEI, M.D.**
14 **39 Birch Street, Ste. A**
Redwood City, CA 94062

A C C U S A T I O N

15 **Physician's and Surgeon's Certificate**
16 **No. A 78381,**

Respondent.

17
18 **PARTIES**
19

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 March 20, 2002, the Board issued Physician's and Surgeon's Certificate
24 Number A 78381 to Hailing Fei, M.D. (Respondent). The Physician's and Surgeon's Certificate
25 was in full force and effect at all times relevant to the charges brought herein and will expire on
26 July 31, 2023, unless renewed.
27
28

JURISDICTION

1
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:

 ... (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.

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

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

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

9 7. Effective January 1, 2022, Section 125.3 of the Code provides, in pertinent part, that
10 the Board may request the administrative law judge to direct a licensee found to have committed
11 a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the
12 investigation and enforcement of the case, with failure of the licensee to comply subjecting the
13 license to not being renewed or reinstated. If a case settles, recovery of investigation and
14 enforcement costs may be included in a stipulated settlement.

15 **CAUSE FOR DISCIPLINE**

16 **(Gross Negligence, Repeated Negligent Acts, Failure to Maintain Adequate and Accurate
17 Medical Records)**

18 **(Patient 1)**

19 8. Respondent Hailing Fei, M.D. is subject to disciplinary action under section 2234
20 and/or 2234(b) and/or 2234(c) and/or 2266 in that Respondent was negligent in the care and
21 treatment of Patient 1¹. The circumstances are as follows:

22 9. On September 8, 2017 Patient 1, a 40-year-old female, came under Respondent's care
23 for a migraine headache and sore throat. Respondent's history for the patient's migraines is brief,
24 stating only that she was being followed by a neurologist and receiving treatment in the form of
25 Botox injections and Norco, a narcotic pain medication. Respondent prescribed Norco², 10/325
26 mg, #40, for the patient's migraines and an antibiotic for her sore throat. The patient, who stated
27 that she had no insurance, paid cash for the visit. In fact, Patient 1 was a Kaiser member and she
28 had a telephone appointment with The Permanente Medical Group physician the same day and

¹ The patient's name is redacted with a number to protect privacy.

² Norco is a trade name for hydrocodone bitartrate and acetaminophen, a controlled
substance and an opiate medication with the potential for habituation and use.

1 she received Percocet, an opiate painkiller similar to Norco, 5/325 mg, #15, for temporary pain
2 relief.

3 10. Patient 1 returned on September 18, 2017 when Respondent refilled the Norco
4 prescription and also prescribed propranolol for the patient's hypertension. On October 4, 2017
5 Patient 1 returned again, this time complaining of insomnia. As she had done when reporting
6 treatment for her migraine headaches, Patient 1 told Respondent that a specific hypnotic,
7 Ambien³, had worked well for this condition in the past and that she had not taken any Ambien
8 for five months. Respondent did not perform and/or did not document a workup for the patient's
9 insomnia, but prescribed Ambien for nighttime use. Patient 1 returned again on the following day,
10 complaining of recurrence of her migraine headaches, and stated that she could not see her
11 neurologist for treatment. Although Patient 1 had requested narcotics on several occasions,
12 Respondent did not assess the patient's substance abuse history, request a CURES report to detect
13 possible drug seeking behavior, obtain Patient 1's prior medical records or contact the neurologist
14 she had identified as her primary care physician for the migraines.

15 11. On October 20, 2017, Patient 1 returned and complained of recurrent migraines.
16 Respondent refilled her narcotic medication as requested. The same day, Patient 1 was seen in
17 Kaiser Urgent Care for the same complaint, but was refused narcotic medications and she was
18 advised that long-term narcotic use was not the appropriate treatment for migraines.

19 12. On or about November 3, 2017 Respondent had Patient 1 respond to a 10-question
20 self-report regarding behaviors that could be consistent with drug abuse or misuse. Patient 1
21 answered yes to the question whether she had obtained opioids from other physicians. Based on
22 this, and albeit the patient had disclosed at the outset that she had been prescribed narcotics for
23 her migraines by other physicians, Respondent wrote in the chart that the patient would receive
24 no more Norco refills. Patient 1 requested that Respondent substitute Ambien CR as her sleep
25 medication and he accommodated that request.

26 13. On or about November 14, 2017, Patient 1 presented to her TPMG physicians, tearful
27 and in withdrawal, stating that she wanted help with stopping opioids. She reported that she was

28 ³ Ambien (zolpidem) is a hypnotic used for short-term treatment of insomnia.

1 taking 20 Norco per day. She also advised that she was taking 20 mg of Ambien each night. Her
2 TPMG physicians diagnosed Patient 1 with Opiate Use Disorder. Her physician agreed to start
3 Patient 1 on suboxone⁴ on the condition that she taper her Ambien use to reduce the risk of
4 overdose.

5 14. Respondent accommodated Patient 1's requests for refills of Ambien in December
6 2017, and replaced a "lost prescription" on December 18, 2017, at a time when she was also
7 obtaining prescriptions for the sleep aid from other physicians.

8 15. In January 2018, Patient 1 accidentally overdosed on Ambien and Gabapentin⁵. Her
9 Kaiser chart notes, on January 17, 2018, that Patient 1's family had intervened and sent her to an
10 inpatient chemical dependency rehabilitation program. Friends and family of Patient 1 reported to
11 the Board that her brother had contacted Respondent, advised him of Patient 1's substance abuse,
12 and requested that he discontinue prescribing to Patient 1. Respondent's chart does not mention
13 the overdose, drug rehabilitation treatment or communications with friends or family of Patient 1.

14 16. On January 12, 2018, Patient 1 asked Respondent to assist her with weight loss. As on
15 prior occasions, Patient 1 referred to a specific drug, phentermine⁶, and stated that friends had
16 done well on the medication. Respondent accommodated the request. At his interview,
17 Respondent stated that the patient had reported good results losing weight, however, his chart of
18 vital signs indicates that the patient's weight was the same on every visit.

19 17. On February 27, 2018, Patient 1 stated that she had been taking Gabapentin for her
20 migraine headaches and requested that Respondent refill this medication. Respondent
21 accommodated the patient's request, prescribing Gabapentin, 600 mg, #240. Over the ensuing
22 months, Respondent prescribed propranolol, Gabapentin, Ambien and phentermine to Patient 1.
23 During this time, the patient was seen at Kaiser for follow up care for her opioid use disorder. A
24

25
26 ⁴ Suboxone, a combination medication containing buprenorphine and naloxone, is one of
the main medications used to treat opioid addiction.

27 ⁵ Gabapentin, also known by the brand name Neurontin, is a prescription painkiller
belonging to its own drug class, Gabapentinoids.

28 ⁶ Phentermine is an amphetamine-like prescription drug used in combination with diet and
exercise for weight loss.

1 chart note dated February 16, 2018 states that the patient was off all controlled substances,
2 including suboxone and Ambien.

3 18. On July 25, 2018, Patient 1 asked Respondent to refill her Norco prescription, which
4 Respondent refused. He did refill her other prescriptions and wrote that "she needs her Ambien
5 for a good night sleep." On July 26, 2018, Patient 1 returned, fatigued, anxious and with a heart
6 rate that increased to 130 bpm. She reported that the migraines were much worse and that she had
7 benefitted from Norco in the past. Respondent issued a prescription for Norco, 5/325 mg, #30.
8 Additional prescriptions for Norco were provided on August 20, 2018, September 27, 2018,
9 October 22, 2018 and November 27, 2018.

10 19. Patient 1 returned to see Respondent on a monthly basis in 2018 for prescriptions of
11 Ambien. In a subsequent interview, Patient 1 stated that Respondent was one of the few
12 physicians she obtained prescriptions for Ambien from because most physicians refused to do so.
13 On January 21, 2019, Patient 1 obtained her last prescription for Ambien from Respondent. On
14 January 22, 2019, Patient 1 overdosed on Ambien at her home after taking approximately 27
15 tablets.

16 20. Respondent Hailing Fei, M.D. is subject to disciplinary action under section 2234
17 and/or 2234(b) and/or 2234(c) and/or 2266 in that he engaged in unprofessional conduct and/or
18 gross negligence and/or repeated negligent acts, and failed to keep adequate and accurate records,
19 including but not limited to the following:

20 A. Respondent failed to evaluate and/or failed to document an adequate evaluation of
21 Patient 1's headaches, including a detailed history and consideration of non-opiate treatments;

22 B. Respondent failed to perform and/or failed to document a risk stratification for Patient
23 1, including an assessment of addictive behaviors and utilization of screening tools for misuse and
24 abuse of medications;

25 C. Respondent failed to appropriately assess and manage the patient's insomnia and
26 failed to consider and/or to document why alternative modalities were not utilized;

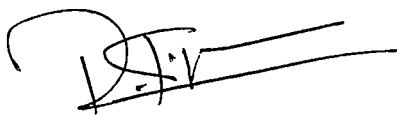
27 D. Respondent failed to avoid patient harm by prescribing Ambien for long-term use
28 without the aforementioned safeguards against habituation, misuse and overdose.

PRAYER

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

1. Revoking or suspending Physician's and Surgeon's Certificate Number A 78381, issued to Respondent Hailing Fei, M.D.;
2. Revoking, suspending or denying approval of Respondent Hailing Fei, M.D.'s authority to supervise physician assistants and advanced practice nurses;
3. Ordering Respondent Hailing Fei, M.D., to reimburse the Board for its costs of investigation and prosecution;
4. Ordering Respondent Hailing Fei, M.D., if placed on probation, to pay the Board the costs of probation monitoring; and
5. Taking such other and further action as deemed necessary and proper.

DATED: DEC 29 2021


 Fe: WILLIAM PRASIFKA **Reji Varghese**
 Executive Director **Deputy Director**
 Medical Board of California
 Department of Consumer Affairs
 State of California
Complainant

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