

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

In the Matter of the First Amended
Accusation Against:

Thomas Tsongming Hsu, M.D.

Physician's and Surgeon's Certificate
No. A 41255

Case No.: 800-2018-050130

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 SEP 11 2024.

IT IS SO ORDERED: AUG 12 2024.

MEDICAL BOARD OF CALIFORNIA



Michelle Bholat, M.D.
Interim Chair, Panel A

1 ROB BONTA
Attorney General of California
2 MICHAEL C. BRUMMEL
Supervising Deputy Attorney General
3 JANNSEN TAN
Deputy Attorney General
4 State Bar No. 237826
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 210-7549
Facsimile: (916) 327-2247
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 First Amended Accusation
13 Against:

14 **THOMAS TSONGMING HSU, M.D.**
15 **20395 Pacifica Dr. # 104**
Cupertino CA 95014

16 **Physician's and Surgeon's Certificate No. A**
17 **41255**

18 Respondent.

Case No. 800-2018-050130

OAH No. 2023120481

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

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

23 **PARTIES**

24 1. Reji Varghese (Complainant) is the Executive Director of the Medical Board of
25 California (Board). He brought this action solely in his official capacity and is represented in this
26 matter by Rob Bonta, Attorney General of the State of California, by Jannsen Tan, Deputy
27 Attorney General.
28

2. Respondent Thomas Tsongming Hsu, M.D. (Respondent) is represented in this proceeding by attorney Cyrus A. Tabari, whose address is: 990 Fifth Avenue, San Rafael, CA 94901.

3. On or about October 9, 1984, the Board issued Physician's and Surgeon's Certificate No. A 41255 to Thomas Tsongming Hsu, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in First Amended Accusation No. 800-2018-050130, and will expire on November 30, 2025, unless renewed.

JURISDICTION

4. Accusation No. 800-2018-050130 was filed before the Board, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on November 15, 2021. A First Amended Accusation was subsequently filed on September 27, 2023, and served on Respondent. The First Amended Accusation was deemed controverted pursuant to Government Code Section 11507 in light of the fact that Respondent timely filed his Notice of Defense contesting the original Accusation No. 800-2018-050130.

5. A copy of the First Amended Accusation No. 800-2018-050130 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in the First Amended Accusation No. 800-2018-050130. Respondent has also carefully read, fully discussed with his counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

7. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the First Amended Accusation; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision;

1 and all other rights accorded by the California Administrative Procedure Act and other applicable
2 laws.

3 8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
4 every right set forth above.

5 CULPABILITY

6 9. Respondent understands and agrees that the charges and allegations in First Amended
7 Accusation No. 800-2018-050130, if proven at a hearing, constitute cause for imposing discipline
8 upon his Physician's and Surgeon's Certificate.

9 10. Respondent agrees that, at a hearing, Complainant could establish a prima facie case
10 or factual basis for the charges in the First Amended Accusation No. 800-2018-050130, a true and
11 correct copy of which is attached hereto as Exhibit A, and that Respondent hereby gives up his
12 right to contest those charges.

13 11. Respondent agrees that his Physician's and Surgeon's Certificate is subject to
14 discipline and he agrees to be bound by the Board's probationary terms as set forth in the
15 Disciplinary Order below.

16 RESERVATION

17 12. The admissions made by Respondent herein are only for the purposes of this
18 proceeding, or any other proceedings in which the Medical Board of California or other
19 professional licensing agency is involved, and shall not be admissible in any other criminal or
20 civil proceeding.

21 CONTINGENCY

22 13. This stipulation shall be subject to approval by the Medical Board of California.
23 Respondent understands and agrees that counsel for Complainant and the staff of the Medical
24 Board of California may communicate directly with the Board regarding this stipulation and
25 settlement, without notice to or participation by Respondent or his counsel. By signing the
26 stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek
27 to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails
28 to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary

1 Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal
2 action between the parties, and the Board shall not be disqualified from further action by having
3 considered this matter.

4 14. This Stipulated Settlement and Disciplinary Order is intended by the parties herein to
5 be an integrated writing representing the complete, final and exclusive embodiment of the
6 agreement of the parties in this above entitled matter.

7 15. Respondent agrees that if he ever petitions for early termination or modification of
8 probation, or if an accusation and/or petition to revoke probation is filed against him before the
9 Board, all of the charges and allegations contained in First Amended Accusation No. 800-2018-
10 050130 shall be deemed true, correct and fully admitted by respondent for purposes of any such
11 proceeding or any other licensing proceeding involving Respondent in the State of California.

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

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

18 **DISCIPLINARY ORDER**

19 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 41255 issued
20 to Respondent THOMAS TSONGMING HSU, M.D is revoked. However, the revocation is
21 stayed and Respondent is placed on probation for five (5) years on the following terms and
22 conditions:

23 1. **CONTROLLED SUBSTANCES - MAINTAIN RECORDS AND ACCESS TO**
24 **RECORDS AND INVENTORIES.** Respondent shall maintain a record of all controlled
25 substances ordered, prescribed, dispensed, administered, or possessed by Respondent, and any
26 recommendation or approval which enables a patient or patient's primary caregiver to possess or
27 cultivate marijuana for the personal medical purposes of the patient within the meaning of Health
28 and Safety Code section 11362.5, during probation, showing all of the following: 1) the name and

1 address of the patient; 2) the date; 3) the character and quantity of controlled substances involved;
2 and 4) the indications and diagnosis for which the controlled substances were furnished.

3 Respondent shall keep these records in a separate file or ledger, in chronological order. All
4 records and any inventories of controlled substances shall be available for immediate inspection
5 and copying on the premises by the Board or its designee at all times during business hours and
6 shall be retained for the entire term of probation.

7 2. EDUCATION COURSE. Within 60 calendar days of the effective date of this
8 Decision, and on an annual basis thereafter, Respondent shall submit to the Board or its designee
9 for its prior approval educational program(s) or course(s) which shall not be less than 40 hours
10 per year, for each year of probation. The educational program(s) or course(s) shall be aimed at
11 correcting any areas of deficient practice or knowledge and shall be Category I certified. The
12 educational program(s) or course(s) shall be at Respondent's expense and shall be in addition to
13 the Continuing Medical Education (CME) requirements for renewal of licensure. Following the
14 completion of each course, the Board or its designee may administer an examination to test
15 Respondent's knowledge of the course. Respondent shall provide proof of attendance for 65
16 hours of CME of which 40 hours were in satisfaction of this condition.

17 3. PRESCRIBING PRACTICES COURSE. Within 60 calendar days of the effective
18 date of this Decision, Respondent shall enroll in a course in prescribing practices approved in
19 advance by the Board or its designee. Respondent shall provide the approved course provider
20 with any information and documents that the approved course provider may deem pertinent.
21 Respondent shall participate in and successfully complete the classroom component of the course
22 not later than six (6) months after Respondent's initial enrollment. Respondent shall successfully
23 complete any other component of the course within one (1) year of enrollment. The prescribing
24 practices course shall be at Respondent's expense and shall be in addition to the Continuing
25 Medical Education (CME) requirements for renewal of licensure.

26 A prescribing practices course taken after the acts that gave rise to the charges in the First
27 Amended Accusation, but prior to the effective date of the Decision may, in the sole discretion of
28 the Board or its designee, be accepted towards the fulfillment of this condition if the course would

1 have been approved by the Board or its designee had the course been taken after the effective date
2 of this Decision.

3 Respondent shall submit a certification of successful completion to the Board or its
4 designee not later than 15 calendar days after successfully completing the course, or not later than
5 15 calendar days after the effective date of the Decision, whichever is later.

6 4. MEDICAL RECORD KEEPING COURSE. Within 60 calendar days of the effective
7 date of this Decision, Respondent shall enroll in a course in medical record keeping approved in
8 advance by the Board or its designee. Respondent shall provide the approved course provider
9 with any information and documents that the approved course provider may deem pertinent.
10 Respondent shall participate in and successfully complete the classroom component of the course
11 not later than six (6) months after Respondent's initial enrollment. Respondent shall successfully
12 complete any other component of the course within one (1) year of enrollment. The medical
13 record keeping course shall be at Respondent's expense and shall be in addition to the Continuing
14 Medical Education (CME) requirements for renewal of licensure.

15 A medical record keeping course taken after the acts that gave rise to the charges in the
16 First Amended Accusation, but prior to the effective date of the Decision may, in the sole
17 discretion of the Board or its designee, be accepted towards the fulfillment of this condition if the
18 course would have been approved by the Board or its designee had the course been taken after the
19 effective date of this Decision.

20 Respondent shall submit a certification of successful completion to the Board or its
21 designee not later than 15 calendar days after successfully completing the course, or not later than
22 15 calendar days after the effective date of the Decision, whichever is later.

23 5. NOTIFICATION. Within seven (7) days of the effective date of this Decision, the
24 Respondent shall provide a true copy of this Decision and First Amended Accusation to the Chief
25 of Staff or the Chief Executive Officer at every hospital where privileges or membership are
26 extended to Respondent, at any other facility where Respondent engages in the practice of
27 medicine, including all physician and locum tenens registries or other similar agencies, and to the
28 Chief Executive Officer at every insurance carrier which extends malpractice insurance coverage

1 to Respondent. Respondent shall submit proof of compliance to the Board or its designee within
2 15 calendar days.

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

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

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

10 8. INVESTIGATION/ENFORCEMENT COST RECOVERY. Respondent is hereby
11 ordered to reimburse the Board its costs of investigation and enforcement, in the amount of five
12 thousand dollars (\$5,000.00.). Costs shall be payable to the Medical Board of California. Failure
13 to pay such costs shall be considered a violation of probation.

14 Payment must be made in full within 30 calendar days of the effective date of the Order, or
15 by a payment plan approved by the Medical Board of California. Any and all requests for a
16 payment plan shall be submitted in writing by respondent to the Board. Failure to comply with
17 the payment plan shall be considered a violation of probation.

18 The filing of bankruptcy by respondent shall not relieve respondent of the responsibility to
19 repay investigation and enforcement costs.

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

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

25 10. GENERAL PROBATION REQUIREMENTS.

26 Compliance with Probation Unit

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

28 Address Changes

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

Place of Practice

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

License Renewal

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

Travel or Residence Outside California

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

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

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

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

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

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

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

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

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

21 13. COMPLETION OF PROBATION. Respondent shall comply with all financial
22 obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the
23 completion of probation. This term does not include cost recovery, which is due within 30
24 calendar days of the effective date of the Order, or by a payment plan approved by the Medical
25 Board and timely satisfied. Upon successful completion of probation, Respondent's certificate
26 shall be fully restored.

27 14. VIOLATION OF PROBATION. Failure to fully comply with any term or condition
28 of probation is a violation of probation. If Respondent violates probation in any respect, the

1 Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and
2 carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke Probation,
3 or an Interim Suspension Order is filed against Respondent during probation, the Board shall have
4 continuing jurisdiction until the matter is final, and the period of probation shall be extended until
5 the matter is final.

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

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

21 17. FUTURE ADMISSIONS CLAUSE. If Respondent should ever apply or reapply for
22 a new license or certification, or petition for reinstatement of a license, by any other health care
23 licensing action agency in the State of California, all of the charges and allegations contained in
24 First Amended Accusation No. 800-2018-050130 shall be deemed to be true, correct, and
25 admitted by Respondent for the purpose of any Statement of Issues or any other proceeding
26 seeking to deny or restrict license.

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28 ///

ACCEPTANCE

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


DATED: 06/24/2024

Thomas Tsongming Hsu, M.D.
Thomas Tsongming Hsu, M.D. (Jun 24, 2024 09:57 PDT)

THOMAS TSONGMING HSU, M.D.
Respondent

I have read and fully discussed with Respondent Thomas Tsongming Hsu, M.D. the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 6/24/2024


CYRUS A. TABARI
Attorney for Respondent


ENDORSEMENT

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

DATED: 6/27/2024

Respectfully submitted,

ROB BONTA
Attorney General of California
MICHAEL C. BRUMMEL
Supervising Deputy Attorney General


JANNSEN TAN
Deputy Attorney General
Attorneys for Complainant

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1 ROB BONTA
Attorney General of California
2 MICHAEL C. BRUMMEL
Supervising Deputy Attorney General
3 JANNSEN TAN
Deputy Attorney General
4 State Bar No. 237826
1300 I Street, Suite 125
5 P.O. Box 944255
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6 Telephone: (916) 210-7549
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9 **BEFORE THE**
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12 In the Matter of the First Amended Accusation
13 Against:

Case No. 800-2018-050130

14 **THOMAS TSONGMING HSU, M.D.**
20395 Pacifica Dr., # 104
15 Cupertino, CA 95014

FIRST AMENDED ACCUSATION

16 **Physician's and Surgeon's**
Certificate No. A 41255

17 Respondent.
18
19

20
21 **PARTIES**

22 1. Reji Varghese (Complainant) brings this First Amended Accusation solely in his
23 official capacity as the Executive Director of the Medical Board of California, Department of
24 Consumer Affairs (Board).

25 2. On October 9, 1984, the Board issued Physician's and Surgeon's Certificate Number
26 A 41255 to Thomas Tsongming Hsu, M.D. (Respondent). The Physician's and Surgeon's
27 Certificate was in full force and effect at all times relevant to the charges brought herein and will
28 expire on November 30, 2025, unless renewed.

JURISDICTION

3. This First Amended Accusation is brought before the Board under the authority of the following laws. All section references are to the Business and Professions Code (Code).

4. Section 2001.1 of the Code makes public protection the Board's highest priority.

5. Section 2227 of the Code states:

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

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

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

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

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

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

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

6. Section 2234 of the Code, states:

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.

(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.

(2) When the standard of care requires a change in the diagnosis, act, or omission that constitutes the negligent act described in paragraph (1), including, but 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.

(d) Incompetence.

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

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

(g) The failure by a certificate holder, in the absence of good cause, to attend 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 2266 of the Code states: The failure of a physician and surgeon to maintain adequate and accurate records relating to the provision of services to their patients constitutes unprofessional conduct.

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

9. The actions alleged herein occurred in Santa Clara County, California.

FIRST CAUSE FOR DISCIPLINE

(Gross Negligence/Repeated Negligent Acts)

10. Respondent Thomas Tsongming Hsu, M.D. is subject to disciplinary action under sections 2234(b) and/or 2234(c) of the Code, in that his care and treatment of Patient One¹ included departures from the standard of care constituting gross negligence or, in conjunction with the other allegations herein, repeated negligent acts. The circumstances are as follows:

¹ The patients are identified herein as Patient One, Patient Two, Patient Three, Patient Four, Patient Five, and Patient Six to preserve patient confidentiality. The patients' full names will be provided to Respondent in discovery.

1 11. Respondent had been Patient One's primary care physician since 2003. Over the
2 following 18 years, Respondent treated Patient One for a variety of conditions but the patient's
3 consistent complaints were shoulder and lower back pain.

4 12. Respondent's medical records of his care and treatment of Patient One from January
5 2015 through mid-2021 were examined by Board investigators and consulting expert physicians.
6 Respondent's documented care of Patient One was discussed in an extensive interview between
7 Board investigators and Respondent on September 8, 2021.

8 13. At the office visit on January 7, 2015, sixty-four-year-old Patient One voiced a
9 continuing complaint of shoulder and low back pain. Respondent prescribed Norco²
10 (7.5mg/325mg), 60 tablets for 30 days. In his interview with Board investigators, Respondent
11 stated that Patient One was first prescribed Norco for her post-surgical shoulder pain in or about
12 2013 by another physician and that Respondent continued prescribing that narcotic to address
13 Patient One's continuing shoulder and lower back pain.

14 14. At the office visit on September 16, 2016, Respondent responded to Patient One's
15 complaint of insomnia by adding Ambien³ to the medications—including Norco—that he was
16 already prescribing for her. He continued to regularly prescribe Ambien for Patient One through
17 the visit of July 1, 2019.

18 15. From the first reviewed office visit on January 7, 2015, through the last reviewed
19 documented visit on May 10, 2021, Respondent's medical records for Patient One reflect 93
20 office visits, with prescriptions for Norco given at each of those visits. Respondent's entire
21 record of his care and treatment of Patient One in those 93 visits comprises only 31 pages. Many
22

23 ² Norco is a trade name for hydrocodone bitartrate with acetaminophen. Acetaminophen
24 is a non-opiate, non-salicylate analgesic and antipyretic. Hydrocodone bitartrate is a
25 semisynthetic narcotic analgesic and a dangerous drug as defined in section 4022 of the code.
26 Norco is a Schedule III controlled substance and narcotic as defined by section 11056,
27 subdivision (e) of the Health and Safety Code. Repeated administration of hydrocodone may
28 result in psychic and physical dependence.

26 ³ Ambien, a trade name for zolpidem tartrate, is a non-benzodiazepine hypnotic of the
27 imidazopyridine class. It is a dangerous drug as defined in section 4022 of the code and a
28 Schedule IV controlled substance as defined by section 11057 of the Health and Safety Code. It is
a central nervous system (CNS) depressant and should be used cautiously in combination with
other central nervous system depressants. Any central nervous system depressant could
potentially enhance the CNS depressive effects of Ambien.

1 of those office visit notes lack any recordation of the patient's vital signs. Nowhere in
2 Respondent's records is there any indication that Respondent considered alternatives to opiate
3 prescribing for Patient One's pain. There are no chart entries reflecting discussions between
4 Respondent and Patient One about the risks and benefits of taking opiates. Respondent did not
5 administer a single blood serum opiate level test at any of those 93 visits to ensure compliance
6 and avoidance of non-prescribed drugs. Respondent made no assessment of side effects of the
7 narcotic prescribed to Patient One, nor does the record reflect any objective measure of
8 improvement in Patient One's functioning resulting from the opiate therapy. The record contains
9 no written informed consent for narcotic administration nor is there a written pain agreement
10 setting out the parameters for Patient One's use of the prescribed medication. There is no
11 indication in the medical record that Respondent considered the enhanced risk of central nervous
12 system/respiratory depression in concurrently prescribing Norco and Ambien, or that he
13 considered providing naloxone (Narcan), or even provided information about this opiate antidote,
14 to Patient One. Respondent did not conduct the recommended gender and age-specific healthcare
15 screens appropriate to Patient One.

16 16. Respondent has subjected his license to disciplinary action for unprofessional conduct
17 in that his prescribing of the opiate Norco to Patient One for a protracted period without timely
18 assessment of function ability, and without effective clinical monitoring of the drug's side effects
19 or the patient's blood levels of the prescribed narcotic and other drugs, was a departure from the
20 standard of care, constituting gross negligence in violation of section 2234(b) of the Code or, in
21 conjunction with the other departures from the standard of care alleged herein, repeated negligent
22 acts in violation of section 2234(c) of the Code.

23 **SECOND CAUSE FOR DISCIPLINE**

24 **(Gross Negligence/Repeated Negligent Acts)**

25 17. The allegations of paragraphs 11 through 15 above are incorporated by reference as if
26 set out in full. Respondent has subjected his license to disciplinary action for unprofessional
27 conduct in that his prescribing of an opiate (Norco) in combination with a benzodiazepine
28 receptor agonist (Ambien) to Patient One for a protracted period was a departure from the

1 standard of care, constituting gross negligence in violation of section 2234(b) of the Code or, in
2 conjunction with the other departures from the standard of care alleged herein, repeated negligent
3 acts in violation of section 2234(c) of the Code.

4 **THIRD CAUSE FOR DISCIPLINE**

5 **(Gross Negligence/Repeated Negligent Acts)**

6 18. The allegations of paragraphs 11 through 15 above are incorporated by reference as if
7 set out in full. Respondent has subjected his license to disciplinary action for unprofessional
8 conduct in that his failure to obtain and document both informed consent from Patient One for the
9 opiate therapy Respondent prescribed and a pain agreement with Patient One was a departure
10 from the standard of care, constituting gross negligence in violation of section 2234(b) of the
11 Code or, in conjunction with the other departures from the standard of care alleged herein,
12 repeated negligent acts in violation of section 2234(c) of the Code.

13 **FOURTH CAUSE FOR DISCIPLINE**

14 **(Repeated Negligent Acts)**

15 19. The allegations of paragraphs 11 through 15 above are incorporated by reference as if
16 set out in full. Respondent has subjected his license to disciplinary action for unprofessional
17 conduct in that his failure to conduct recommended gender and age-specific health care screens at
18 appropriate intervals for Patient One was a departure from the standard of care that, in
19 conjunction with the other departures from the standard of care alleged herein, constitutes
20 repeated negligent acts in violation of section 2234(c) of the Code.

21 **FIFTH CAUSE FOR DISCIPLINE**

22 **(Inadequate Medical Record-Keeping)**

23 20. The allegations of paragraphs 11 through 15 above are incorporated by reference as if
24 set out in full. Respondent is subject to disciplinary action for unprofessional conduct under
25 section 2266 of the Code in that he failed to maintain adequate and accurate medical records of
26 his treatment of Patient One.

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1 **SIXTH CAUSE FOR DISCIPLINE**

2 **(Gross Negligence/Repeated Negligent Acts)**

3 21. Respondent is subject to disciplinary action under sections 2234(b) and/or 2234(c) of
4 the Code, in that his care and treatment of Patient Two included departures from the standard of
5 care constituting gross negligence or, in conjunction with the other allegations herein, repeated
6 negligent acts. The circumstances are as follows:

7 22. According to Respondent's statements in his September 8, 2021 interview with Board
8 investigators, he had been Patient Two's primary care physician since 1989. Patient Two had
9 often been out of the country for extended periods over the three decades that Respondent had
10 been Patient Two's primary care physician and had incurred numerous medical treatments while
11 on those foreign sojourns, for a variety of maladies. Respondent told Board investigators that
12 Patient Two had been dependent on pain medication prescribed consequent to his many painful
13 conditions including: hernia surgery, kidney stones, tendonitis, liver abscesses, and low back
14 pain. Respondent had referred Patient Two to a pain specialist to address that dependency "about
15 10, 15 years ago." Patient Two's most persistent complaints for which Respondent prescribed
16 were anxiety and low back pain.

17 23. Between the first documented visit reviewed with Board investigators, Nov. 28, 2015,
18 and the last reviewed visit on January 11, 2021, Respondent documented 58 office visits with
19 Patient Two. Until early 2019, every visit included a prescription by Respondent to Patient Two
20 for Norco (325 mg/5 mg, 3 tabs per day). Respondent stated that he did not initiate this opiate
21 therapy, but merely continued to treat Patient Two's chronic back pain with Norco after it was
22 prescribed for Patient Two by other treating physicians. Respondent's records do not contain a
23 written informed consent for opiate therapy or a written pain agreement with Patient Two setting
24 out the parameters and conditions of Respondent's prescribing to Patient Two. Nowhere in
25 Respondent's records is there any indication that Respondent considered alternatives to opiate
26 prescribing for Patient Two's pain. There are no chart entries reflecting discussions between
27 Respondent and Patient Two about the risks and benefits of taking opiates. Over the four years of
28 visits during which Respondent prescribed controlled substances to Patient Two, Respondent did

1 not administer a single blood serum opiate level test to Patient Two at any time to ensure
2 compliance and avoidance of non-prescribed drugs. Respondent made no record of assessment of
3 side effects of the narcotic prescribed on Patient Two, nor any notes indicating any objective
4 measure of improvement in Patient Two's functioning resulting from the opiate therapy. The
5 record contains no written informed consent for narcotic administration nor is there a written pain
6 agreement setting out the parameters for Patient Two's use of the prescribed medication.

7 24. Over the four year period for which Respondent's records for Patient Two were
8 reviewed, Respondent was also regularly prescribing Ambien and clonazepam⁴ to Patient Two to
9 treat the patient's anxiety. Although Respondent began reducing the frequency in which he
10 prescribed clonazepam to Patient Two in 2019, he continued to prescribe it to Patient Two at
11 intervals, and in combination with the continuing regimen of Norco and Ambien. Respondent's
12 chart notes do not indicate that Respondent ever referred Patient Two for psychiatric consultation
13 to address the patient's long-standing anxiety. There was no documented discussion with Patient
14 Two about the extended duration of the prescriptions for Ambien and clonazepam or the goals of
15 the concurrent prescribing of a benzodiazepine and a benzodiazepine receptor agonist drug, nor
16 was there any record of Respondent evaluating Patient Two for adverse effects of this drug
17 regimen. Respondent did not offer Patient Two naloxone to counter a potential drug interaction
18 crisis when prescribing this combination of drugs and the medical record does not indicate that
19 Respondent had even considered doing so.

20 25. Respondent has subjected his license to disciplinary action for unprofessional conduct
21 in that his prescribing of the opiate Norco to Patient Two for a protracted period without effective
22 clinical monitoring of the drug's side effects or the patient's blood levels of the prescribed
23 narcotic and other drugs was a departure from the standard of care constituting gross negligence
24 in violation of section 2234(b) of the Code or, in conjunction with the other departures from the
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26 ⁴ Clonazepam is an anticonvulsant of the benzodiazepine class. It is a dangerous drug as
27 defined in section 4022 of the code and a Schedule IV controlled substance as defined by section
28 11057 of the Health and Safety Code. It produces central nervous system depression and should
be used with caution with other central nervous system depressant drugs. Like other
benzodiazapines, it can produce psychological and physical dependence.

1 standard of care alleged herein, repeated negligent acts in violation of section 2234(c) of the
2 Code.

3 **SEVENTH CAUSE FOR DISCIPLINE**

4 **(Gross Negligence/Repeated Negligent Acts)**

5 26. The allegations of paragraphs 22 through 24 above are incorporated by reference as if
6 set out in full. Respondent has subjected his license to disciplinary action for unprofessional
7 conduct in that his failure to obtain and document both informed consent from Patient Two for
8 the opiate therapy prescribed and a pain agreement with Patient Two was a departure from the
9 standard of care, constituting gross negligence in violation of section 2234(b) of the Code or, in
10 conjunction with the other departures from the standard of care alleged herein, repeated negligent
11 acts in violation of section 2234(c) of the Code.

12 **EIGHTH CAUSE FOR DISCIPLINE**

13 **(Gross Negligence/Repeated Negligent Acts)**

14 27. The allegations of paragraphs 22 through 24 above are incorporated by reference as if
15 set out in full. Respondent has subjected his license to disciplinary action for unprofessional
16 conduct in that his prescribing of an opiate (Norco) in combination with a benzodiazepine
17 receptor agonist (Ambien) and a benzodiazepine (clonazepam) to Patient Two for a protracted
18 period was a departure from the standard of care, constituting gross negligence in violation of
19 section 2234(b) of the Code or, in conjunction with the other departures from the standard of care
20 alleged herein, repeated negligent acts in violation of section 2234(c) of the Code.

21 **NINTH CAUSE FOR DISCIPLINE**

22 **(Gross Negligence/Repeated Negligent Acts)**

23 28. The allegations of paragraphs 22 through 24 above are incorporated by reference as if
24 set out in full. Respondent has subjected his license to disciplinary action for unprofessional
25 conduct in that his concurrent prescribing of a benzodiazepine receptor agonist (Ambien) and a
26 benzodiazepine (clonazepam) to Patient Two without adequate clinical monitoring for adverse
27 interactions was a departure from the standard of care, constituting gross negligence in violation
28

1 of section 2234(b) of the Code or, in conjunction with the other departures from the standard of
2 care alleged herein, repeated negligent acts in violation of section 2234(c) of the Code.

3 **TENTH CAUSE FOR DISCIPLINE**

4 **(Gross Negligence/Repeated Negligent Acts)**

5 29. The allegations of paragraphs 22 through 24 above are incorporated by reference as if
6 set out in full. Respondent has subjected his license to disciplinary action for unprofessional
7 conduct in that his concurrent prescribing of a benzodiazepine receptor agonist (Ambien) and a
8 benzodiazepine (clonazepam) for an extended period to treat Patient Two's anxiety without
9 referring the patient for a psychiatric consult was a departure from the standard of care,
10 constituting gross negligence in violation of section 2234(b) of the Code or, in conjunction with
11 the other departures from the standard of care alleged herein, repeated negligent acts in violation
12 of section 2234(c) of the Code.

13 **ELEVENTH CAUSE FOR DISCIPLINE**

14 **(Inadequate Medical Record-Keeping)**

15 30. The allegations of paragraphs 22 through 24 above are incorporated by reference as if
16 set out in full. Respondent is subject to disciplinary action for unprofessional conduct under
17 section 2266 of the Code in that he failed to maintain adequate and accurate medical records of
18 his treatment of Patient Two.

19 **TWELFTH CAUSE FOR DISCIPLINE**

20 **(Repeated Negligent Acts)**

21 31. Respondent is subject to disciplinary action under section 2234(c) of the Code, in that
22 his care and treatment of Patient Three included departures from the standard of care that, in
23 conjunction with the other allegations herein, constitutes repeated negligent acts. The
24 circumstances are as follows:

25 32. Patient Three had been seeing Respondent for primary care since she was in high
26 school in approximately 1999. Over the course of years, Respondent treated her for a variety of
27 minor conditions. Since at least November of 2012, Respondent had prescribed Ambien (10
28 mg/day) to Patient Three to treat insomnia. Board investigators reviewed Respondent's medical

1 record for Patient Three for the period of March 10, 2015 through Patient Three's last visit with
2 Respondent on October 12, 2020. Respondent's very sparse eight-page medical record for Patient
3 Three documented 31 separate visits over that time period. When queried by Board investigators
4 why some visits did not include any vital signs, Respondent stated that on those visits he had not
5 actually seen Patient Three, but instead had seen Patient Three's mother (also Respondent's
6 patient), who had requested refills of Ambien for Patient Three. No chart entry in her record
7 notes Patient Three's absence on those "visits."

8 33. Respondent ordered monthly renewals or refills of the Ambien for Patient Three over
9 the 2015-2020 treatment period. Respondent's medical record for Patient Three is silent as to
10 whether he evaluated Patient Three for causes of her insomnia or discussed her sleep patterns and
11 practices. There is no indication Respondent discussed the potential for abuse or adverse side
12 effects of Ambien with Patient Three or that Respondent monitored her for such side effects.

13 34. Respondent has subjected his license to disciplinary action for unprofessional conduct
14 in that his treatment of Patient Three's insomnia by prescribing Ambien for a protracted period
15 without effective clinical monitoring of the drug's potential side effects- including drug
16 dependence- was a departure from the standard of care that, in conjunction with the other
17 departures from the standard of care alleged herein, constitutes repeated negligent acts in
18 violation of section 2234(c) of the Code.

19 **THIRTEENTH CAUSE FOR DISCIPLINE**

20 **(Inadequate Medical Record-Keeping)**

21 35. The allegations of paragraphs 32 and 33 above are incorporated by reference as if set
22 out in full. Respondent is subject to disciplinary action for unprofessional conduct under section
23 2266 of the Code in that he failed to maintain adequate and accurate medical records of his
24 treatment of Patient Three.

25 **FOURTEENTH CAUSE FOR DISCIPLINE**

26 **(Repeated Negligent Acts)**

27 36. Respondent is subject to disciplinary action under section 2234(c) of the Code, in that
28 his care and treatment of Patient Four included departures from the standard of care that, in

1 conjunction with the other allegations herein, constitute repeated negligent acts. The
2 circumstances are as follows:

3 37. Patient Four has seen Respondent for primary care since 1995. At the office visit on
4 September 13, 2014, Respondent prescribed Ambien to Patient Four for insomnia. Respondent
5 prescribed Ambien to Patient Four on at least 16 subsequent visits between January 9, 2015, and
6 December 18, 2020. Respondent's records do not reflect any evaluation of the causes of Patient
7 Four's insomnia, nor any discussion with her about the possible side effects of taking Ambien.
8 Respondent did not document any monitoring of Patient Four for possible dependence or abuse of
9 the Ambien he was prescribing to her.

10 38. From Patient Four's office visit on January 9, 2015, at which time Patient Four was
11 sixty-years-old, through the last reviewed office visit on April 27, 2021, there is no indication in
12 Respondent's records that he considered or provided regular age and gender-appropriate health
13 care screenings for Patient Four.

14 39. Respondent's chart entries documenting his care and treatment of Patient Four often
15 lack sufficient clinical detail, including recordation of the patient's vital signs. Respondent's
16 handwritten notes are sometimes indecipherable.

17 40. Respondent has subjected his license to disciplinary action for unprofessional conduct
18 in that his treatment of Patient Four's insomnia by frequently prescribing Ambien without
19 adequate evaluation of the causes of the patient's insomnia and without effective clinical
20 monitoring of the drug's potential side effects -including drug dependence- was a departure from
21 the standard of care that, in conjunction with the other departures from the standard of care
22 alleged herein, constitutes repeated negligent acts in violation of section 2234(c) of the Code.

23 **FIFTEENTH CAUSE FOR DISCIPLINE**

24 **(Repeated Negligent Acts)**

25 41. The allegations of paragraphs 37 through 39 above are incorporated by reference as if
26 set out in full. Respondent has subjected his license to disciplinary action for unprofessional
27 conduct in that his failure to conduct recommended gender and age-specific health care screens at
28 appropriate intervals for Patient Four was a departure from the standard of care that, in

1 conjunction with the other departures from the standard of care alleged herein, constitutes
2 repeated negligent acts in violation of section 2234(c) of the Code.

3 **SIXTEENTH CAUSE FOR DISCIPLINE**

4 **(Inadequate Medical Record-Keeping)**

5 42. The allegations of paragraphs 37 through 39 above are incorporated by reference as if
6 set out in full. Respondent is subject to disciplinary action for unprofessional conduct under
7 section 2266 of the Code in that he failed to maintain adequate and accurate medical records of
8 his treatment of Patient Four.

9 **SEVENTEENTH CAUSE FOR DISCIPLINE**

10 **(Gross Negligence/Repeated Negligent Acts)**

11 43. Respondent is subject to disciplinary action under sections 2234(b) and/or 2234(c) of
12 the Code, in that his care and treatment of Patient Five included departures from the standard of
13 care constituting gross negligence or, in conjunction with the other allegations herein, repeated
14 negligent acts. The circumstances are as follows:

15 44. Patient Five had seen Respondent as his primary care physician since 1999.
16 Respondent told Board investigators that he believed Patient Five had also been seen at various
17 times since 1999 by physicians at the Palo Alto Medical Foundation, but Respondent was
18 unaware of what care those physicians had afforded Patient Five, or for what conditions.
19 Respondent acknowledged to Board investigators that he had not attempted to consult with those
20 physicians nor sought Patient Five's records from the Palo Alto Medical Foundation.

21 45. Respondent reportedly initially treated Patient Five primarily for asthma, but from the
22 visit of October 29, 2012, Respondent consistently prescribed Norco (325 mg/7.5 mg, 4 per day)
23 for Patient Five's lower back pain. Respondent told Board investigators that he recommended to
24 Patient Five that he consult with a pain specialist but Patient Five was unwilling to do so. No
25 mention of such attempts at referral or Patient Five's refusal is contained in Respondent's medical
26 records for Patient Five.

27 46. Respondent documented 96 office visits with Patient Five between the first reviewed
28 visit on January 2, 2015 and the most recent reviewed visit on May 10, 2021. Many of those

1 office visit notes lack recordation of the patient's vital signs. Nowhere in Respondent's records is
2 there any indication that Respondent considered alternatives to opiate prescribing for Patient
3 Five's pain; e.g., referral to physical therapy. There are no chart entries reflecting discussions
4 between Respondent and Patient Five about the risks and benefits of taking opiates. Respondent
5 did not administer a single blood serum opiate level test at any of those 96 visits to ensure
6 compliance and avoidance of non-prescribed drugs, despite the fact that Patient Five made
7 multiple requests for early refills of his Norco and requested replacement of a reportedly lost
8 prescription for Norco. Respondent made no record of assessment of any side effects of the
9 narcotic prescribed for Patient Five, nor any chart entries indicating any objective measure of
10 improvement in Patient Five's functioning resulting from the opiate therapy. The record contains
11 no written informed consent for narcotic administration nor is there a written pain agreement
12 setting out the parameters for Patient Five's use of the prescribed medication. In his interview
13 with Board investigators, Respondent acknowledged that on some of the indicated dates of office
14 visits, Respondent was refilling Patient Five's prescriptions without seeing the patient, at the
15 request of Patient Five's spouse, who was also Respondent's patient.

16 47. Respondent has subjected his license to disciplinary action for unprofessional conduct
17 in that his uninterrupted prescribing of the opiate Norco to Patient Five for almost nine years
18 without assessing functional improvement and without effective clinical monitoring of the drug's
19 side effects or the patient's blood levels of the prescribed narcotic and other drugs was a
20 departure from the standard of care, constituting gross negligence in violation of section 2234(b)
21 of the Code or, in conjunction with the other departures from the standard of care alleged herein,
22 repeated negligent acts in violation of section 2234(c) of the Code

23 **EIGHTEENTH CAUSE FOR DISCIPLINE**

24 **(Gross Negligence/Repeated Negligent Acts)**

25 48. The allegations of paragraphs 44 through 46 above are incorporated by reference as if
26 set out in full. Respondent has subjected his license to disciplinary action for unprofessional
27 conduct in that his failure to obtain and document both informed consent from Patient Five for the
28 opiate therapy Respondent prescribed and a pain agreement with Patient Five setting out the

1 parameters and conditions of his opiate prescriptions was a departure from the standard of care
2 constituting gross negligence in violation of section 2234(b) of the Code or, in conjunction with
3 the other departures from the standard of care alleged herein, repeated negligent acts in violation
4 of section 2234(c) of the Code.

5 **NINETEENTH CAUSE FOR DISCIPLINE**

6 **(Inadequate Medical Record-Keeping)**

7 49. The allegations of paragraphs 44 through 46 above are incorporated by reference as if
8 set out in full. Respondent is subject to disciplinary action for unprofessional conduct under
9 section 2266 of the Code in that he failed to maintain adequate and accurate medical records of
10 his treatment of Patient Five.

11 **TWENTIETH CAUSE FOR DISCIPLINE**

12 **(Gross Negligence/Repeated Negligent Acts)**

13 50. Respondent is subject to disciplinary action under sections 2234(b) and/or 2234(c) of
14 the Code, in that his care and treatment of Patient Six included departures from the standard of
15 care constituting gross negligence or, in conjunction with the other allegations herein, repeated
16 negligent acts. The circumstances are as follows:

17 51. Respondent first saw Patient Six in 1989 and continued as her primary care physician
18 until her last office visit on April 28, 2020. Over this span of 30 years Respondent treated Patient
19 Six for a range of conditions and complaints, including tendonitis, insomnia, hypothyroidism,
20 depression, gastric esophageal reflux disorder, frequent headaches, and anxiety. From the office
21 visit on May 8, 2013 through the visit on November 9, 2017, Respondent prescribed oxycodone⁵
22 (5 mg/day) for Patient Six's chronic pain 30 times. From December 11, 2012, through August
23 20, 2020, Respondent was regularly prescribing clonazepam (.5 mg/ two per day, with occasional
24 orders that it be increased to three times per day) for Patient Six's anxiety. Also in December
25

26 ⁵ Oxycodone is a semisynthetic narcotic analgesic with multiple actions qualitatively
27 similar to those of morphine. It is a dangerous drug as defined in section 4022 of the code and a
28 Schedule II controlled substance and narcotic as defined by section 11055, subdivision (b)(1) of
the Health and Safety Code. Oxycodone can produce drug dependence of the morphine type and,
therefore, has the potential for being abused.

1 2012, Respondent was prescribing Ambien for Patient Six, continuing to prescribe this
2 medication consistently through his last visit with Patient Six, on September 11, 2020.

3 52. Nowhere in Respondent's records is there any indication that Respondent considered
4 alternatives to opiate prescribing for Patient Six's multiple complaints of pain. There are no chart
5 entries reflecting discussions between Respondent and Patient Six about the risks and benefits of
6 taking opiates. Respondent did not administer blood serum opiate level testing for Patient Six to
7 ensure compliance and avoidance of non-prescribed drugs. Respondent made no record of any
8 clinical assessment of side effects of the narcotic prescribed to Patient Six, nor any notes
9 indicating any objective measure of improvement in Patient Six's functioning resulting from the
10 opiate therapy. The record contains no written informed consent for narcotic administration nor
11 is there a written pain agreement setting out the parameters for Patient Six's use of the prescribed
12 medication. Respondent did not document any consideration as to, or monitoring of, adverse
13 effects or aberrant behavior attending the concurrent prescribing of a benzodiazepine
14 (clonazepam) and a benzodiazepine receptor agonist (Ambien). The medical records do not
15 contain any referral for Patient Six for a psychiatry consult for her long-standing anxiety, nor is
16 there any discussion between Respondent and Patient Six about the goals and anticipated duration
17 of the drug therapy administered for that anxiety. There is no indication in the medical record
18 that Respondent considered the enhanced risk of central nervous system/respiratory depression in
19 concurrently prescribing oxycontin, clonazepam, and Ambien, or that he considered providing
20 naloxone (Narcan) opiate antidote information or medications to Patient Six. Apart from some
21 laboratory test reports, there is no documentation in the medical record that Respondent
22 considered or conducted the recommended gender and age-specific healthcare screens appropriate
23 to Patient Six.

24 53. Respondent has subjected his license to disciplinary action for unprofessional conduct
25 in that his uninterrupted prescribing of the opiate Norco to Patient Six for more than four years
26 without assessing functional improvement and without effective clinical monitoring of the drug's
27 side effects or the patient's blood levels of the prescribed narcotic and other drugs was a
28 departure from the standard of care, constituting gross negligence in violation of section 2234(b)

1 of the Code or, in conjunction with the other departures from the standard of care alleged herein,
2 repeated negligent acts in violation of section 2234(c) of the Code.

3 **TWENTY-FIRST CAUSE FOR DISCIPLINE**

4 **(Gross Negligence/Repeated Negligent Acts)**

5 54. The allegations of paragraphs 51 and 52 above are incorporated by reference as if set
6 out in full. Respondent has subjected his license to disciplinary action for unprofessional conduct
7 in that his failure to obtain and document both informed consent from Patient Six for the opiate
8 therapy prescribed and a pain agreement with Patient Six was a departure from the standard of
9 care, constituting gross negligence in violation of section 2234(b) of the Code or, in conjunction
10 with the other departures from the standard of care alleged herein, repeated negligent acts in
11 violation of section 2234(c) of the Code.

12 **TWENTY-SECOND CAUSE FOR DISCIPLINE**

13 **(Gross Negligence/Repeated Negligent Acts)**

14 55. The allegations of paragraphs 51 and 52 above are incorporated by reference as if set
15 out in full. Respondent has subjected his license to disciplinary action for unprofessional conduct
16 in that his prescribing of an opiate (Norco) in combination with a benzodiazepine (clonazepam) to
17 Patient Six without adequate clinical monitoring for adverse effects or provision of Naloxone
18 antidote therapy was a departure from the standard of care, constituting gross negligence in
19 violation of section 2234(b) of the Code or, in conjunction with the other departures from the
20 standard of care alleged herein, repeated negligent acts in violation of section 2234(c) of the
21 Code.

22 **TWENTY-THIRD CAUSE FOR DISCIPLINE**

23 **(Gross Negligence/Repeated Negligent Acts)**

24 56. The allegations of paragraphs 51 and 52 above are incorporated by reference as if set
25 out in full. Respondent has subjected his license to disciplinary action for unprofessional conduct
26 in that his concurrent prescribing of a benzodiazepine (clonazepam) with a benzodiazepine
27 receptor agonist to Patient Six without adequate clinical monitoring for adverse effects therapy
28 and without referring Patient Six for a psychiatric consult was a departure from the standard of

1 care, constituting gross negligence in violation of section 2234(b) of the Code or, in conjunction
2 with the other departures from the standard of care alleged herein, repeated negligent acts in
3 violation of section 2234(c) of the Code.

4 **TWENTY-FOURTH CAUSE FOR DISCIPLINE**

5 **(Inadequate Medical Record-Keeping)**

6 57. The allegations of paragraphs 51 and 52 above are incorporated by reference as if set
7 out in full. Respondent is subject to disciplinary action for unprofessional conduct under section
8 2266 in that he failed to maintain adequate and accurate medical records of his treatment of
9 Patient Six.

10 **TWENTY-FIFTH CAUSE FOR DISCIPLINE**

11 **(Failure to Consult CURES)**

12 58. Respondent is subject to disciplinary action for unprofessional conduct in that his
13 failure to consult the state's Controlled Substance Utilization Review and Evaluation System
14 (CURES) before prescribing Schedule II-IV drugs to Patient One, Patient Three, Patient Four,
15 Patient Five, and Patient Six, after such CURES referencing was mandated on October 2, 2018,
16 for all physicians in California, was an extreme departure from the standard of care constituting
17 gross negligence in violation of section 2234(b) or, in conjunction with the additional departures
18 from the standard of care alleged herein, repeated negligent acts in violation of section 2234(c).

19
20 **PRAYER**

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

23 1. Revoking or suspending Physician's and Surgeon's Certificate Number A 41255,
24 issued to Respondent Thomas Tsongming Hsu, M.D.;

25 2. Revoking, suspending or denying approval of Respondent Thomas Tsongming Hsu,
26 M.D.'s authority to supervise physician assistants and advanced practice nurses;
27
28

1 3. Ordering Respondent Thomas Tsongming Hsu, M.D., to pay the reasonable and
2 necessary costs of investigation and prosecution of this matter, and if placed on probation, to
3 pay the Board's costs of probation monitoring; and

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

5
6 DATED: SEP 27 2023

JENNA JONES FOR
REJI VARGHESE
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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