

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

In the Matter of the Accusation Against:

Harvey Hanh Do Nguyen, M.D.

Physician's and Surgeon's
Certificate No. A 37498

Respondent.

Case # 800-2018-051087

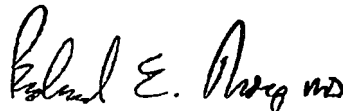
**ORDER CORRECTING NUNC PRO TUNC
CLERICAL ERROR IN "CASE NUMBER" PORTION OF DECISION**

On its own motion, the Medical Board of California (hereafter "Board") finds that there is a clerical error in the Decision in the above-entitled matter and that such clerical error should be corrected so that the case number will conform to the Board's issued decision.

IT IS HEREBY ORDERED that the case number contained on the Decision in the above-entitled matter be and hereby is amended and corrected nunc pro tunc as of the date of entry of the decision to read as "800-2018-051087".

1. Page 2 line 21: "800-2021-080713" is amended and corrected to read "800-2018-051087".

January 16, 2025



Richard E. Thorp,
Chair
Panel B

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Attorney General of California
2 ALEXANDRA M. ALVAREZ
Supervising Deputy Attorney General
3 CHRISTINE A. RHEE
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8 *Attorneys for Complainant*

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

13 In the Matter of the Accusation Against:

14 **HARVEY HANH DO NGUYEN, M.D.**
15 **10451 Bolsa Ave, Ste. 215**
Westminster, CA 92683

16 **Physician's and Surgeon's Certificate**
17 **No. A 37498,**

18 Respondent.

Case No. 800-2018-051087

DEFAULT DECISION
AND DISCIPLINARY ORDER

[Gov. Code, §11520]

19
20 **FINDINGS OF FACT**

21 1. On or about September 26, 2024, Complainant Reji Varghese, in his official capacity
22 as the Executive Director of the Medical Board of California, Department of Consumer Affairs,
23 filed Accusation No. 800-2018-051087 against Harvey Hanh Do Nguyen, M.D. (Respondent),
24 before the Medical Board of California (Board). True and correct copies of Accusation No. 800-
25 2018-051087, Statement to Respondent, Notice of Defense, Request for Discovery, and
26 Government Code sections 11507.5, 11507.6, and 11507.7 were sent to Respondent's address of

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1 record with the Board, which was and is: 10451 Bolsa Ave., Ste. 215, Westminster, CA 92683.
2 (Exhibit 1.¹)

3 2. On or about October 6, 1981, the Board issued Physician's and Surgeon's Certificate
4 No. A 37498 to Respondent. The Physician's and Surgeon's Certificate was in full force and
5 effect at all times relevant to the charges brought herein and will expire on February 28, 2025,
6 unless renewed. (Certificate of Licensure, Exhibit 2.)

7 3. On or about September 26, 2024, Sharee Woods, an employee of the Board, served
8 by Certified Mail a copy of Accusation No. 800-2018-051087, Statement to Respondent, Notice
9 of Defense, Request for Discovery, and Discovery Statutes to Respondent's address of record
10 with the Board, which was and is 10451 Bolsa Ave., Ste. 215, Westminster, CA 92683. (Exhibit
11 1.)

12 4. According to the United States Postal Service's website, the aforementioned
13 documents (Accusation No. 800-2018-051087, Statement to Respondent, Notice of Defense,
14 Request for Discovery, and Discovery Statutes) were delivered and left with an individual at
15 Respondent's address of record on or about September 28, 2024. (Declaration of Deputy
16 Attorney General Christine A. Rhee in Support of Default Decision and Disciplinary Order,
17 Exhibit 3, ¶ 6.)

18 5. On or about October 14, 2024, Renee Azzari, an employee of the Attorney General's
19 Office, served by Certified Mail, First-Class Mail, and email a Courtesy Notice of Default and
20 related documents on Respondent via his mailing and email addresses of record with the Board.
21 (Courtesy Notice of Default, Accusation No. 800-2021-080713, Statement to Respondent, Notice
22 of Defense, Request for Discovery, and Government Code sections 11507.5, 11507.6, and
23 11507.7, and Declaration of Service dated July 8, 2024, Exhibit 4.)

24 6. On or about October 21, 2024, the Attorney General's Office received the certified
25 mail receipt indicating that the Courtesy Notice of Default package had been delivered and left
26 with an individual on or about October 17, 2024. (Exhibit 3, ¶ 8.)

27 _____
28 ¹ The exhibits referred to herein, which are true and correct copies of the originals, are
contained in the separate accompanying "Default Decision Evidence Packet."

1 7. To date, Respondent has not filed a Notice of Defense. (Exhibit 3, ¶ 9.)

2 8. Service of the Accusation was effective as a matter of law under the provisions of
3 Government Code section 11505, subdivision (c).

4 9. Government Code section 11506 states, in pertinent part:

5 ...

6 (c) The respondent shall be entitled to a hearing on the merits if the respondent
7 files a notice of defense, and the notice shall be deemed a specific denial of all parts
8 of the accusation not expressly admitted. Failure to file a notice of defense shall
constitute a waiver of respondent's right to a hearing, but the agency in its discretion
may nevertheless grant a hearing.

9 ...

10 10. California Government Code section 11520, subdivision (a), states:

11 (a) If the respondent either fails to file a notice of defense or to appear at the
12 hearing, the agency may take action based upon the respondent's express admissions
or upon other evidence and affidavits may be used as evidence without any notice to
13 respondent.

14 11. Business and Professions Code section 125.3, subdivision (a), states:

15 (a) Except as otherwise provided by law, in any order issued in resolution of a
16 disciplinary proceeding before any board within the department or before the
osteopathic Medical Board, upon request of the entity bringing the proceeding, the
17 administrative law judge may 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.

18 12. Pursuant to its authority under Government Code section 11520, the Board finds
19 Respondent is in default. The Board will take action without further hearing and, based on
20 Respondent's express admissions by way of default and the evidence before it, contained in
21 Exhibits 1 through 6, finds that the allegations in Accusation No. 800-2018-051087, and each of
22 them, separately and severally, are true and correct.

23 13. Business and Professions Code section 2227 provides that a licensee who was found
24 guilty under the Medical Practice Act may have his or her license revoked, suspended for a period
25 not to exceed one year, be placed on probation and required to pay the costs of probation
26 monitoring, be publicly reprimanded, or such other action taken in relation to discipline as the
27 Board deems proper.

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1 14. Business and Professions Code section 2234, subdivision (a), states, in pertinent part,
2 that unprofessional conduct includes violating or attempting to violate, directly or indirectly,
3 assisting in or abetting the violation of, or conspiring to violate any provision of the Medical
4 Practice Act.

5 15. Business and Professions Code section 2236 states, in pertinent part:

6 (a) The conviction of any offense substantially related to the qualifications,
7 functions, or duties of a physician and surgeon constitutes unprofessional conduct
8 within the meaning of this chapter [Chapter 5, the Medical Practice Act]. The record
of conviction shall be conclusive evidence only of the fact that the conviction
occurred.

9 ...

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
occurred.

13 16. Business and Professions Code section 7.5 states, in pertinent part:

14 (a) A conviction within the meaning of this code means a judgment following a
15 plea or verdict of guilty or a plea of nolo contendere or finding of guilt. Any action
16 which a board is permitted to take following the establishment of a conviction may be
17 taken when the time for appeal has elapsed, or the judgment of conviction has been
affirmed on appeal or when an order granting probation is made suspending the
imposition of sentence. However, a board may not deny a license to an applicant who
is otherwise qualified pursuant to subdivision (b) or (c) of Section 480.

18 ...

19 17. Business and Professions Code section 2273 states, in pertinent part:

20 ...

21 (b) A licensee shall have his or her license revoked for a period of 10 years
22 upon a second conviction for violating any of the following provisions or upon being
convicted of more than one count of violating any of the following provisions in a
23 single case: Section 650 of this code, Section 750 or 1871.4 of the Insurance Code, or
24 Section 549 or 550 of the Penal Code. After the expiration of this 10-year period, an
application for license reinstatement may be made pursuant to Section 2307.

25 18. Penal Code section 550 states, in pertinent part:

26 (a) It is unlawful to do any of the following, or to aid, abet, solicit, or conspire
27 with any person to do any of the following:

28 ...

1 ...
2 (5) Knowingly prepare, make or subscribe any writing, with the intent to present
3 or use it, or to allow it to be presented, in support of any false or fraudulent claim.

4 19. Respondent has subjected his Physician's and Surgeon's Certificate No. A 37498 to
5 disciplinary action by reason of the following:

- 6 a. On or about July 8, 2024, Respondent was convicted of two felony counts of
7 violating Penal Code section 550, subdivision (a), subsection (5). On or about the
8 same day, Respondent was sentenced to two years of supervised probation with
9 various fines and fees. (Exhibit 3, ¶ 11.)

10 **DETERMINATION OF ISSUES**

11 1. Based on the foregoing findings of fact, Respondent Harvey Hanh Do Nguyen, M.D.,
12 has subjected his Physician's and Surgeon's Certificate No. A 37498 to discipline.

13 2. The Board has jurisdiction to adjudicate this case by default.

14 3. Pursuant to Business and Professions Code section 125.3, the Board is authorized to
15 order Respondent to pay the Board the reasonable costs of investigation and enforcement of the
16 case prayed for in the Accusation total \$5,436.25. (Declaration of Deputy Attorney General
17 Christine A. Rhee in Support of Costs of Default Decision and Disciplinary Order, Exhibit 6, ¶ 7.)

18 4. Pursuant to its authority under Government Code section 11520, and based on the
19 evidence before it, and the Findings of Fact contained in paragraphs 1 through 19, above, the
20 Board hereby finds that the charges and allegations contained in Accusation No. 800-2018-
21 051087, and each of them, separately and severally, are true and correct.

22 5. Pursuant to its authority under Government Code section 11520, and by reason of the
23 Findings of Fact contained in paragraphs 1 through 19, above, and Determination of Issues 1, 2,
24 3, and 4, above, the Board hereby finds that Respondent Harvey Hanh Do Nguyen, M.D., has
25 subjected his Physician's and Surgeon's Certificate No. A 37498 to disciplinary action under
26 California Business and Professions Code sections 2227, 2236, and 2273, in that he has been
27 convicted of crimes substantially related to the qualifications, functions or duties of a physician

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1 and surgeon, in violation of Business and Professions Code section 2234, as defined by section
2 2236.

3 6. Respondent is liable to the Board the costs of investigation and enforcement in the
4 amount of five thousand, four hundred and thirty-six dollars and twenty-five cents (\$5,436.25).
5 (Exhibit 6, ¶ 7.)

6 **DISCIPLINARY ORDER**

7 IT IS SO ORDERED that Physician's and Surgeon's Certificate No. A 37498, heretofore
8 issued to Respondent Harvey Hanh Do Nguyen, M.D., is revoked.

9 Respondent Harvey Hanh Do Nguyen, M.D., is ordered to pay the Board the costs of the
10 investigation and enforcement of this case in the amount of \$5,436.25. Respondent's Physician's
11 and Surgeon's Certificate may not be renewed or reinstated unless all costs ordered under
12 Business and Professions Code section 125.3 have been paid.

13 Pursuant to Business and Professions Code section 2273, the revocation of Respondent's
14 Physician's and Surgeon's Certificate shall last for a period of 10 years following the effective
15 date of this Default Decision and Disciplinary Order. If Respondent ever files an application for
16 re-licensure or reinstatement in the State of California, the Board shall treat it as a petition for
17 reinstatement of a revoked license. Respondent must comply with all the laws, regulations, and
18 procedures for reinstatement of a revoked license in effect at the time the petition is filed.


19 Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a
20 written motion requesting that the Decision be vacated and stating the grounds relied on within
21 seven (7) days after service of the Decision on Respondent. The Board in its discretion may
22 vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

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This Decision shall become effective on DEC 26 2024.

It is so ORDERED NOV 26 2024



REJI VARGHESE
Executive Officer
Medical Board of California
Department of Consumer Affairs
State of California

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

13 In the Matter of the Accusation Against:

Case No. 800-2018-051087

14 **HARVEY HANH DO NGUYEN, M.D.**
15 **10451 Bolsa Ave., Ste. 215**
Westminster, CA 92683

A C C U S A T I O N

16 **Physician's and Surgeon's Certificate**
17 **No. A 37498,**

18 Respondent.

19
20 **PARTIES**

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

24 2. On or about October 6, 1981, the Board issued Physician's and Surgeon's Certificate
25 No. A 37498 to Harvey Hanh Do Nguyen, M.D. (Respondent). The Physician's and Surgeon's
26 Certificate was in full force and effect at all times relevant to the charges brought herein and will
27 expire on February 28, 2025, unless renewed.

28 ///

JURISDICTION

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

4. Section 2227 of the Code states, in pertinent part:

(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.

...

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

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.

...

6. 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 [Chapter 5, the Medical Practice Act]. The record of conviction shall be conclusive evidence only of the fact that the conviction occurred.

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1 (b) The district attorney, city attorney, or other prosecuting agency shall notify
2 the Medical Board of the pendency of an action against a licensee charging a felony
3 or misdemeanor immediately upon obtaining information that the defendant is a
4 licensee. The notice shall identify the licensee and describe the crimes charged and
the facts alleged. The prosecuting agency shall also notify the clerk of the court in
which the action is pending that the defendant is a licensee, and the clerk shall record
prominently in the file that the defendant holds a license as a physician and surgeon.

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

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

11 7. Section 7.5 of the Code states, in pertinent part:

12 (a) A conviction within the meaning of this code means a judgment following a
13 plea or verdict of guilty or a plea of nolo contendere or finding of guilt. Any action
14 which a board is permitted to take following the establishment of a conviction may be
15 taken when the time for appeal has elapsed, or the judgment of conviction has been
affirmed on appeal or when an order granting probation is made suspending the
imposition of sentence. However, a board may not deny a license to an applicant who
is otherwise qualified pursuant to subdivision (b) or (c) of Section 480.

16 ...

17 (c) Except as provided in subdivision (b), this section controls over and
18 supersedes the definition of conviction contained within individual practice acts under
this code.

19 8. Section 2273 of the Code states, in pertinent part:

20 ...

21 (b) A licensee shall have his or her license revoked for a period of 10 years
22 upon a second conviction for violating any of the following provisions or upon being
convicted of more than one count of violating any of the following provisions in a
23 single case: Section 650 of this code, Section 750 or 1871.4 of the Insurance Code, or
Section 549 or 550 of the Penal Code. After the expiration of this 10-year period, an
24 application for license reinstatement may be made pursuant to Section 2307.

25 9. Section 550 of the Penal Code states, in pertinent part:

26 (a) It is unlawful to do any of the following, or to aid, abet, solicit, or conspire
27 with any person to do any of the following:

28 ...

1 (1) Knowingly present or cause to be presented any false or fraudulent claim for
2 the payment of a loss or injury, including payment of a loss or injury under a contract
3 of insurance.

4 ...

5 (5) Knowingly prepare, make, or subscribe any writing, with the intent to
6 present or use it, or to allow it to be presented, in support of any false or fraudulent
7 claim.

8 ...

9 10. California Code of Regulations, title 16, section 1360, states:

11 (a) For the purposes of denial, suspension or revocation of a license pursuant to
12 Section 141 or Division 1.5 (commencing with Section 475) of the code, a crime,
13 professional misconduct, or act shall be considered to be substantially related to the
14 qualifications, functions or duties of a person holding a license if to a substantial
15 degree it evidences present or potential unfitness of a person holding a license to
16 perform the functions authorized by the license in a manner consistent with the
17 public health, safety or welfare. Such crimes, professional misconduct, or acts shall
18 include but not be limited to the following: Violating or attempting to violate,
19 directly or indirectly, or assisting in or abetting the violation of, or conspiring to
20 violate any provision of state or federal law governing the applicant's or licensee's
21 professional practice.

22 (b) In making the substantial relationship determination required under
23 subdivision (a) for a crime, the board shall consider the following criteria:

24 (1) The nature and gravity of the crime;

25 (2) The number of years elapsed since the date of the crime; and

26 (3) The nature and duties of the profession.

27 COST RECOVERY

28 11. Section 125.3 of the Code states:

(a) Except as otherwise provided by law, in any order issued in resolution of a disciplinary proceeding before any board within the department or before the Osteopathic Medical Board, upon request of the entity bringing the proceeding, the administrative law judge may 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.

(b) In the case of a disciplined licensee that is a corporation or a partnership, the order may be made against the licensed corporate entity or licensed partnership.

(c) A certified copy of the actual costs, or a good faith estimate of costs where actual costs are not available, signed by the entity bringing the proceeding or its designated representative shall be prima facie evidence of reasonable costs of investigation and prosecution of the case. The costs shall include the amount of

1 investigative and enforcement costs up to the date of the hearing, including, but not
2 limited to, charges imposed by the Attorney General.

3 (d) The administrative law judge shall make a proposed finding of the amount
4 of reasonable costs of investigation and prosecution of the case when requested
5 pursuant to subdivision (a). The finding of the administrative law judge with regard to
6 costs shall not be reviewable by the board to increase the cost award. The board may
7 reduce or eliminate the cost award, or remand to the administrative law judge if the
8 proposed decision fails to make a finding on costs requested pursuant to subdivision
9 (a).

10 (e) If an order for recovery of costs is made and timely payment is not made as
11 directed in the board's decision, the board may enforce the order for repayment in any
12 appropriate court. This right of enforcement shall be in addition to any other rights
13 the board may have as to any licensee to pay costs.

14 (f) In any action for recovery of costs, proof of the board's decision shall be
15 conclusive proof of the validity of the order of payment and the terms for payment.

16 (g) (1) Except as provided in paragraph (2), the board shall not renew or
17 reinstate the license of any licensee who has failed to pay all of the costs ordered
18 under this section.

19 (2) Notwithstanding paragraph (1), the board may, in its discretion,
20 conditionally renew or reinstate for a maximum of one year the license of any
21 licensee who demonstrates financial hardship and who enters into a formal agreement
22 with the board to reimburse the board within that one-year period for the unpaid
23 costs.

24 (h) All costs recovered under this section shall be considered a reimbursement
25 for costs incurred and shall be deposited in the fund of the board recovering the costs
26 to be available upon appropriation by the Legislature.

27 (i) Nothing in this section shall preclude a board from including the recovery of
28 the costs of investigation and enforcement of a case in any stipulated settlement.

(j) This section does not apply to any board if a specific statutory provision in
that board's licensing act provides for recovery of costs in an administrative
disciplinary proceeding.

FIRST CAUSE FOR DISCIPLINE

(Conviction of Crimes Substantially Related to the Qualifications, Functions, or Duties of a Physician and Surgeon)

12. Respondent has subjected his Physician's and Surgeon's Certificate No. A 37498 to
disciplinary action under sections 2227 and 2234, as defined by 2236 and 2273, of the Code, and
section 1360 of title 16 of the California Code of Regulations, in that he was convicted of crimes
substantially related to the qualifications, functions, or duties of a physician and surgeon, as more
particularly alleged hereafter:

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1 13. On or about November 15, 2018, in the case entitled, *The People of the State of*
2 *California v. Harvey H. Nguyen, M.D.*, Case No. 18CF3341, a criminal complaint was filed in the
3 Superior Court of California, County of Orange, charging Respondent with 24 felony counts of
4 violating Penal Code section 550, subdivision (a), subsection (5) [insurance fraud - written
5 claim].

6 14. On or about January 18, 2023, in Case No. 18CF3341, an information was filed in the
7 Superior Court of California, County of Orange, charging Respondent with one felony count of
8 violating Penal Code section 550, subdivision (a), subsection (5) (insurance fraud - written
9 claim), and one felony count of violating Penal Code section 550, subdivision (a), subsection (1)
10 [insurance fraud].

11 15. On or about July 8, 2024, in Case No. 18CF3341, Respondent signed an Advisement
12 and Waiver of Rights for a Felony Guilty Plea form, pleading guilty to Counts 1 and 2 of the
13 aforementioned information. On the form, Respondent admitted to the following: “[O]n or about
14 March 4, 2015 through April 23, 2015 and April 23, 2015 through April 27, 2015, I did
15 knowingly prepare documents and cause to be presented a false/fraudulent claim, knowing they
16 were fraudulent and with the specific intent to defraud the insurance carrier.”

17 16. On or about July 8, 2024, in Case No. 18CF3341, Respondent was sentenced to two
18 years of supervised probation with various fines and fees.

19 **SECOND CAUSE FOR DISCIPLINE**
20 **(Violation of the Medical Practice Act)**

21 17. Respondent has subjected his Physician’s and Surgeon’s Certificate No. A 37498 to
22 disciplinary action under sections 2227 and 2234, as defined by 2234, subdivision (a), of the
23 Code, in that he committed a violation of the Medical Practice Act, as more particularly alleged in
24 paragraphs 13 through 16, above, which are hereby incorporated by reference and re-alleged as if
25 fully set forth herein.

26 **PRAYER**

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

- 1 1. Revoking or suspending Physician's and Surgeon's Certificate No. A 37498, issued
- 2 to Respondent Harvey Hanh Do Nguyen, M.D.;
- 3 2. Revoking, suspending or denying approval of Respondent Harvey Hanh Do Nguyen,
- 4 M.D.'s authority to supervise physician assistants and advanced practice nurses;
- 5 3. Ordering Respondent Harvey Hanh Do Nguyen, M.D., to pay the Board the costs of
- 6 the investigation and enforcement of this case, and if placed on probation, the costs of probation
- 7 monitoring; and
- 8 4. Taking such other and further action as deemed necessary and proper.

9
10 DATED: SEP 26 2024



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

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