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

In the Matter of the Accusation Against: John Paul Pham, M.D. Physician's and Surgeon's Certificate No. A 123403 Respondent.	Case No.: 800-2019-056707

DECISION

The attached Stipulated Settlement and Discipline 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 March 14, 2025.

IT IS SO ORDERED: February 13, 2025.

MEDICAL BOARD OF CALIFORNIA

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

ROB BONTA
Attorney General of California
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BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: **JOHN PAUL PHAM, M.D.** **143 N. Main Street** **Milpitas, CA 95035-4322** **Physician's and Surgeon's Certificate No. A 123403** Respondent.	Case No. 800-2019-056707 OAH No. 2024010271 **STIPULATED SETTLEMENT AND DISCIPLINARY ORDER**

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

PARTIES

1. Reji Varghese (Complainant) is the Executive Director of the Medical Board of California (Board). He brought this action solely in his official capacity and is represented in this matter by Rob Bonta, Attorney General of the State of California, by D. Mark Jackson, Deputy Attorney General.

2. Respondent John Paul Pham, M.D. (Respondent) is represented in this proceeding by attorney Thomas E. Still, Esq., whose address is: 12901 Saratoga Avenue, Saratoga, CA 95070-41102.1.

3. On or about October 26, 2012, the Board issued Physician's and Surgeon's Certificate No. A 123403 to John Paul Pham, M.D. The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2019-056707, and will expire on July 31, 2026, unless renewed.

JURISDICTION

4. Accusation No. 800-2019-056707 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 June 28, 2022. Respondent timely filed his Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 800-2019-056707 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 Accusation No. 800-2019-056707. 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 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; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

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

CULPABILITY

9. Respondent understands and agrees that the charges and allegations in Accusation No. 800-2019-056707, if proven at a hearing, constitute cause for imposing discipline upon his Physician's and Surgeon's Certificate.

10. Respondent agrees that, at a hearing, Complainant could establish a prima facie case or factual basis for the charges in the Accusation, and that Respondent hereby gives up his right to contest those charges.

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

CONTINGENCY

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

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

14. Respondent agrees that if he ever petitions for early termination or modification of probation, or if an accusation and/or petition to revoke probation is filed against him before the Board, all of the charges and allegations contained in Accusation No. 800-2019-056707 shall be

deemed true, correct and fully admitted by respondent for purposes of any such proceeding or any other licensing proceeding involving Respondent in the State of California.

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

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

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 123403 issued to Respondent John Paul Pham, M.D. is revoked.

1. STANDARD STAY ORDER. However, revocation stayed and Respondent is placed on probation for 35 months upon the following terms and conditions.

2. CONTROLLED SUBSTANCES - MAINTAIN RECORDS AND ACCESS TO RECORDS AND INVENTORIES. Respondent shall maintain a record of all controlled substances ordered, prescribed, dispensed, administered, or possessed by Respondent, and any recommendation or approval which enables a patient or patient's primary caregiver to possess or cultivate marijuana for the personal medical purposes of the patient within the meaning of Health and Safety Code section 11362.5, during probation, showing all of the following: 1) the name and address of the patient; 2) the date; 3) the character and quantity of controlled substances involved; and 4) the indications and diagnosis for which the controlled substances were furnished.

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

3. EDUCATION COURSE. Within 60 calendar days of the effective date of this Decision, and on an annual basis thereafter, Respondent shall submit to the Board or its designee for its prior approval educational program(s) or course(s) which shall not be less than 40 hours

per year, for each year of probation. The educational program(s) or course(s) shall be aimed at correcting any areas of deficient practice or knowledge and shall be Category I certified. The educational program(s) or course(s) shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure. Following the completion of each course, the Board or its designee may administer an examination to test Respondent's knowledge of the course. Respondent shall provide proof of attendance for 65 hours of CME of which 40 hours were in satisfaction of this condition.

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

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

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

5. MEDICAL RECORD KEEPING COURSE. Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a course in medical record keeping approved in advance by the Board or its designee. Respondent shall provide the approved course provider with any information and documents that the approved course provider may deem pertinent.

Respondent shall participate in and successfully complete the classroom component of the course not later than six (6) months after Respondent's initial enrollment. Respondent shall successfully complete any other component of the course within one (1) year of enrollment. The medical record keeping course shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

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

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

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

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

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

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

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

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

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

10. INVESTIGATION/ENFORCEMENT COST RECOVERY. Respondent is hereby ordered to reimburse the Board its costs of investigation and enforcement, in the amount of $40,092 (forty thousand ninety-two dollars). Costs shall be payable to the Medical Board of California. Failure to pay such costs shall be considered a violation of probation.

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

The filing of bankruptcy by respondent shall not relieve respondent of the responsibility to repay investigation and enforcement costs, including expert review costs.

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

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

12. GENERAL PROBATION REQUIREMENTS.

Compliance with Probation Unit

Respondent shall comply with the Board's probation unit.

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.

13. 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.

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

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

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

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

Periods of non-practice for a Respondent residing outside of California will relieve Respondent of the responsibility to comply with the probationary terms and conditions with the exception of this condition and the following terms and conditions of probation: Obey All Laws; General Probation Requirements; and Quarterly Declarations.

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

16. VIOLATION OF PROBATION. Failure to fully comply with any term or condition of probation is a violation of probation. If Respondent violates probation in any respect, the Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke Probation, or an Interim Suspension Order is filed against Respondent during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

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

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

19. FUTURE ADMISSIONS CLAUSE. If Respondent should ever apply or reapply for a new license or certification, or petition for reinstatement of a license, by any other health care licensing action agency in the State of California, all of the charges and allegations contained in Accusation No. 800-2019-056707 shall be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or restrict license.

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Thomas E. Still, Esq. 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: 9/17/2024

JOHN PAUL PHAM, M.D.
Respondent

I have read and fully discussed with Respondent John Paul Pham, 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: 9-17-24

THOMAS E. STILL, ESQ.
Attorney for Respondent

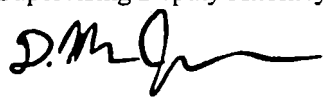
ENDORSEMENT

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

DATED: 9/18/2024

Respectfully submitted,

ROB BONTA
Attorney General of California
MACHAELA M. MINGARDI
Supervising Deputy Attorney General



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

In the Matter of the Accusation Against: **JOHN PAUL PHAM, M.D.** **143 N. Main Street** **Milpitas, CA 95035-4322** **Physician's and Surgeon's Certificate No. A 123403,** Respondent.	Case No. 800-2019-056707 **ACCUSATION**

PARTIES

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

2. On or about October 26, 2012, the Medical Board issued Physician's and Surgeon's Certificate Number A 123403 to John Paul Pham, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought herein and will expire on July 31, 2022, unless renewed.

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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 2220 of the Code states:

> Except as otherwise provided by law, the board may take action against all persons guilty of violating this chapter. The board shall enforce and administer this article as to physician and surgeon certificate holders, including those who hold certificates that do not permit them to practice medicine, such as, but not limited to, retired, inactive, or disabled status certificate holders, and the board shall have all the powers granted in this chapter for these purposes including, but not limited to:
>
> (a) Investigating complaints from the public, from other licensees, from health care facilities, or from the board that a physician and surgeon may be guilty of unprofessional conduct. The board shall investigate the circumstances underlying a report received pursuant to Section 805 or 805.01 within 30 days to determine if an interim suspension order or temporary restraining order should be issued. The board shall otherwise provide timely disposition of the reports received pursuant to Section 805 and Section 805.01.
>
> (b) Investigating the circumstances of practice of any physician and surgeon where there have been any judgments, settlements, or arbitration awards requiring the physician and surgeon or his or her professional liability insurer to pay an amount in damages in excess of a cumulative total of thirty thousand dollars ($30,000) with respect to any claim that injury or damage was proximately caused by the physician's and surgeon's error, negligence, or omission.
>
> (c) Investigating the nature and causes of injuries from cases which shall be reported of a high number of judgments, settlements, or arbitration awards against a physician and surgeon.

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 2228 of the Code states:

The authority of the board or the California Board of Podiatric Medicine to discipline a licensee by placing him or her on probation includes, but is not limited to, the following:

(a) Requiring the licensee to obtain additional professional training and to pass an examination upon the completion of the training. The examination may be written or oral, or both, and may be a practical or clinical examination, or both, at the option of the board or the administrative law judge.

(b) Requiring the licensee to submit to a complete diagnostic examination by one or more physicians and surgeons appointed by the board. If an examination is ordered, the board shall receive and consider any other report of a complete diagnostic examination given by one or more physicians and surgeons of the licensee's choice.

(c) Restricting or limiting the extent, scope, or type of practice of the licensee, including requiring notice to applicable patients that the licensee is unable to perform the indicated treatment, where appropriate.

(d) Providing the option of alternative community service in cases other than violations relating to quality of care.

7. Section 2228.1 of the Code states.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8. 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.

9. 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.

COST RECOVERY

10. 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.

DEFINITIONS

11. Ambien is a trade name for zolpidem tartrate which is a non-benzodiazepine hypnotic of the imidazopyridine class. It is a Schedule IV controlled substance under Health and Safety Code section 11057(d)(32) and is a dangerous drug as defined in Business and Professions Code section 4022. It is indicated for the short-term treatment of insomnia. It is a central nervous system (CNS) depressant and should be used cautiously in combination with other CNS depressants. It should be administered cautiously to patients exhibiting signs or symptoms of depression because of the risk of suicide. Because of the risk of habituation and dependence, individuals with a history of addiction to or abuse of drugs or alcohol should be carefully monitored while receiving Ambien.

12. Dilaudid is a trade name for hydromorphone hydrochloride. It is a Schedule II controlled substance as defined by section 11055, subdivision (d) of the Health and Safety Code, and by Section 1308.12 (d) of Title 21 of the Code of Federal Regulations, and is a dangerous drug as defined in Business and Professions Code section 4022. Dilaudid is a hydrogenated ketone of morphine and is a narcotic analgesic. Its principal therapeutic use is relief of pain. Patients receiving other narcotic analgesics, anesthetics, phenothiazines, tranquilizers, sedative-hypnotics, tricyclic antidepressants and other central nervous system depressants, including alcohol, may exhibit an additive central nervous system depression. When such combined therapy is contemplated, the use of one or both agents should be reduced.

13. Fioricet is a trade name for the compound of butalbital, acetaminophen and caffeine. It is used to treat tension headaches and migraine headaches. It may also be used to manage fever and pain in combination. Butalbital is a Schedule III controlled substance as defined by section 11056, subdivision (c)(3) of the Health and Safety Code and is a dangerous drug as defined in Business and Professions Code section 4022.

14. Halcion is a trade name for triazolam, which belongs to the class of drugs called benzodiazepines and is a central nervous system (CNS) depressant. It is used to treat insomnia. It is a Schedule IV controlled substance as defined by section 11057 of the Health and Safety Code and is a dangerous drug as defined in Business and Professions Code section 4022.

15. MSContin is a trade name for morphine sulfate (morphine). It is an opioid pain medication used to treat moderate to severe pain. It is a Schedule II controlled substance as defined by section 11055 of the Health and Safety Code and by Section 1308.12 of the Code of Federal Regulations, and is a dangerous drug as defined in Business and Professions Code section 4022. Use of morphine sulfate together with other central nervous system depressants, including alcohol, can result in increased risk to the patient.

16. Norco is a trade name for the compound of hydrocodone bitartrate with acetaminophen. Norco combines hydrocodone bitartrate, which is a semisynthetic narcotic analgesic, with acetaminophen (Tylenol), which is a non-opiate, non-salicylate analgesic and antipyretic. It belongs to the class of medications called analgesics, opioid combos. It is used to treat symptoms of moderate to severe pain. It is a Schedule II controlled substance as defined by section 11055, subdivision (e) of the Health and Safety Code and is a dangerous drug as defined in Business and Professions Code section 4022.

17. Oxycodone hydrochloride ("oxycodone"), known by the trade names of OxyContin or Roxicodone, is a Schedule II controlled substance as defined by section 11055, subdivision (b)(1)(N), of the Health and Safety Code, and by Section 1308.12 (b)(1) of Title 21 of the Code of Federal Regulations, and is a dangerous drug as defined in Business and Professions Code section 4022. Oxycodone is a white odorless crystalline powder derived from an opium alkaloid. It is a pure agonist opioid whose principal therapeutic action is analgesia. Other therapeutic effects of oxycodone include anxiolysis, euphoria, and feelings of relaxation. Respiratory depression is the chief hazard from all opioid agonist preparations. Oxycodone should be used with caution and started in a reduced dosage (1/3 to 1/2 of the usual dosage) in patients who are concurrently receiving other central nervous system depressants including sedatives or hypnotics, general anesthetics, phenothiazines, other tranquilizers, and alcohol.

18. Percocet is a trade name for the compound of oxycodone hydrochloride and acetaminophen. It is a semisynthetic opioid analgesic with multiple actions qualitatively similar to those of morphine. It is a Schedule II controlled substance and narcotic as defined by section 11055, subdivision (b)(1)(N), of the Health and Safety Code, and by Section 1308.12 (b)(1) of Title 21 of the Code of Federal Regulations, and is a dangerous drug as defined in Business and Professions Code section 4022.

19. Valium is a trade name for diazepam, which is a psychotropic drug used for the management of anxiety disorders or for the short-term relief of the symptoms of anxiety. It is a Schedule IV controlled substance as defined by section 11057 of the Health and Safety Code and by section 1308.14 of Title 21 of the Code of Federal Regulations, and is a dangerous drug as defined in Business and Professions Code section 4022. Diazepam can produce psychological and physical dependence and it should be prescribed with caution particularly to addiction-prone individuals (such as drug addicts and alcoholics) because of the predisposition of such patients to habituation and dependence.

20. Xanax is the trade name for alprazolam, which is in the benzodiazepine class of central nervous system-active compounds. It is used for the management of anxiety disorders or for the short-term relief of the symptoms of anxiety. It is a Schedule IV controlled substance as defined by section 11057, subdivision (d) of the Health and Safety Code, and by section 1308.14 (c) of Title 21 of the Code of Federal Regulations, and is a dangerous drug as defined in Business and Professions Code section 4022. Xanax has a central nervous system depressant effect and patients should be cautioned about the simultaneous ingestion of alcohol and other CNS depressant drugs during treatment with Xanax.

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FIRST CAUSE FOR DISCIPLINE

(Unprofessional Conduct: Gross Negligence and/or Repeated Negligent Acts and/or Failure to Maintain Adequate Records re: Patient A[1])

21. Respondent John Paul Pham, M.D. is subject to disciplinary action for unprofessional conduct through his acts and omissions regarding Patient A under section 2234 subd. (b) [gross negligence] and/or subd. (c) [repeated negligent acts] and/or section 2266 [failure to maintain adequate and accurate records]. The circumstances are as follows:

22. On or about January 14, 2016, Patient A, a male patient born in March 1962, was seen by a nurse practitioner at Valley Health Center in Milpitas ("VHC") for a new patient consultation. Patient A's prior treatment records from Kaiser Permanente were available and were reviewed. The VHC progress notes list Respondent as Patient A's primary care provider. It was noted that Patient A had a history of knee arthritis, morbid obesity, ventral hernia, sleep apnea, headaches, low back pain with sciatica, tobacco use, plantar fasciitis, meralgia paresthetica, diabetes type 2, Achilles tendinitis, and insomnia, along with other medical issues. At the time he presented at VHC, Patient A was being prescribed, among other medications: 10 mg. per day of Ambien; up to 20 mg. per day of Norco, as needed for pain; and up to 60 mg. per day of codeine in the form of Tylenol No. 3. It was noted that a review of the Kaiser records showed a history of opioid abuse and drug seeking behavior and that the patient needed a pain contract for narcotics. Patient A asked for Ambien for his sleep apnea and reported that he was not able to use a C-Pap device because he was sleeping in his car. Ambien was not prescribed at the visit. Labs were ordered, along with a social work consult.

23. On or about February 3, 2016, Respondent saw Patient A for a follow-up visit at VHC. Respondent noted that Patient A had been living in his car since November 2015. The chronic problems reviewed at the visit were primary osteoarthritis of both knees and OSA (obstructive sleep apnea). Patient A reported that he stopped using the C-Pap device in October 2015. Respondent noted a discussion and "shared decision making" regarding "careful use" of

[1] To protect their privacy rights, the patients alleged in the Accusation will be identified by letters. Respondent will be provided the patients' names through discovery.

Ambien. The patient's chart also contains an unsigned medication agreement with informed consent, which includes a clause that specifically stated that stolen medications will not be replaced. Respondent ordered a urine drug test for Patient A at the visit. Respondent issued prescriptions which included: #100 Norco; #90 ibuprofen 600 mg. plus one refill; and #180 Ambien 5 mg. plus one refill. Patient A was to return in three months for a follow-up.

24. On or about February 24, 2016, Respondent saw Patient A for a visit and documented that Patient A reported that he was still living in his car and that his Ambien, Norco, and ibuprofen were in a bag that was stolen. Respondent issued prescriptions of additional pills to replace the stolen medications.

25. Patient A continued to see Respondent on an approximately monthly basis in 2016 and Respondent continued to issue prescriptions for Norco, Percocet, and Ambien, along with other medications. Although the chart notes indicate that there was a pain contract between Patient A and Respondent, there is no signed contract in Patient A's medical records, and there are no details documented about the contract's terms.

26. On or about October 11, 2016, Respondent saw Patient A who reported that he was out of Ambien because it was stolen from his car "while parked at home." Respondent issued an early refill of alternative medications for Ambien to Patient A for sleep. On November 10, 2016, Respondent issued a prescription for #90 Ambien plus one refill to Patient A.

27. Patient A continued to see Respondent on an approximately monthly basis in 2017, issued regular prescriptions for Norco and Ambien, along with other medications.

28. On or about June 1, 2017, Respondent arranged for a mental health consultation visit and welfare check with risk assessment for Patient A.

29. Patient A continued to see Respondent on an approximately monthly basis in 2018 and 2019. Respondent continued to issue prescriptions to Patient A that included Norco, Ambien, and Percocet (starting in or about November 2018).

30. On or about October 17, 2019, Patient A was evaluated by a behavioral health specialist for depression and other reasons and a history of polysubstance abuse was noted in the chart.

31. On or about December 23, 2019, Respondent saw Patient A for a follow-up after a hospital visit for severe headaches. Respondent noted in the chart that he checked the CURES database report. It was also noted that Patient A was due for a urine toxicology screen because his last one had been on March 20, 2018. Patient A was prescribed and "dispensed" #60 Percocet and #240 Norco.

32. On or about February 7, 2020, Respondent ordered lab tests for Patient A's post-operative anemia due to blood loss, which tests included a urine drug screen.

33. On or about March 18, 2020, Respondent had a telephone visit with Patient A regarding his pain and noted that the patient's MME was 125 mg. morphine daily.[2] Respondent noted that he checked the CURES database. It was noted that Patient A continued to smoke cigarettes and was also using marijuana. Respondent issued prescriptions to Patient A for #240 Norco and #90 Percocet (30 days' supply). The CURES database indicates that, on March 13, 2020, Patient A also filled a prescription for #30 Ambien.

34. Patient A continued to see Respondent, by video visit or by telephone, on an approximately monthly basis in 2020. Respondent continued to issue monthly prescriptions for Percocet, oxycodone, Norco, and Ambien. The most recent record of a visit (by video) between Patient A and Respondent, in the records produced to the Board, was on December 7, 2020. According to the CURES database, Respondent continued to issue prescriptions to Patient A, through at least May 2021, for the following controlled substances: Percocet, oxycodone, Norco, and Ambien.

35. During the course of his treatment of Patient A, on at least two or three separate occasions in 2016, Respondent issued early refills of prescriptions for controlled substances, without documenting a discussion and enforcement of an opioid medication agreement to hold Patient A accountable to the terms of an opioid medication agreement and/or otherwise failed to assess the patient's compliance with the prescribing regimen, such as by ordering more frequent random urine toxicology screens.

[2] MME refers to the measurement of the morphine milligram equivalents.

36. During the course of his treatment of Patient A, especially after each of Patient A's reports of stolen medications, Respondent failed to refer Patient A, who had a known history of aberrant drug behavior, for an evaluation by a specialist in addiction medicine and/or failed to consult with an addiction specialist about pain management with opioid dependence.

SECOND CAUSE FOR DISCIPLINE

(Unprofessional Conduct: Repeated Negligent Acts and/or Failure to Maintain Adequate Medical Records re: Patient B)

37. Respondent John Paul Pham, M.D. is subject to disciplinary action for unprofessional conduct through his acts and omissions regarding Patient B under section 2234, subd. (c) [repeated negligent acts] and/or section 2266 [failure to maintain adequate and accurate records]. The circumstances are as follows:

38. On or about January 5, 2015, Patient B, a female born in September 1959, began to see Respondent for treatment of migraines and chronic pain due to osteoarthritis and fibromyalgia.

39. On or about January 20, 2015, Respondent saw Patient B and prescribed the following controlled substances: #60 Valium 5 mg.; #90 Percocet 325/20 mg.; #90 MSContin (morphine) 60 mg.; and #30 Fioricet. With a few exceptions, Respondent continued to prescribe this regimen of controlled substances to Patient B on a monthly basis during the course of his treatment for seven years, through about April 2021.

40. In the Progress Notes for Respondent's visit with Patient B on or about April 10, 2015, the box is checked for a Pain Contract with Respondent but there is no contract in the medical records and no documentation about the terms of the contract.

41. Starting in or about August 2015, Respondent increased the amount of Percocet prescribed to #120 tablets monthly.

42. On or about June 28, 2017, Respondent added #60 OxyContin 20 mg. (oxycodone) to the prescribing regimen for Patient B.

43. On or about May 5, 2018, Respondent began to prescribe two different strengths of morphine to Patient B on a monthly basis: #90 MSContin 15 mg. and #90 MSContin 60 mg. with

instructions to take 75 mg. three times daily. In or about November 2018, Respondent reduced the monthly quantity of MSContin 15 mg. from #90 to #60 tablets.

44. Respondent continued to see Patient B and to prescribe controlled substances on a regular monthly basis through 2018 until at least March 11, 2021. On or about March 11, 2021, Respondent had a telephone visit with Patient B and issued prescriptions for the following controlled substances: #120 Percocet; #90 MSContin 60 mg.; #60 MSContin 15 mg.; and #60 Valium 5 mg.

45. During the course of his treatment of Patient B with high doses of opioids and other controlled substances, Respondent failed to adequately document in Patient B's medical records that he had an informed consent discussion with Patient B about the risks and benefits of prescribing controlled substances for the management of chronic pain.

46. During the course of his treatment of Patient B with high doses of opioids and other controlled substances, Respondent failed to adequately document the terms of a chronic pain opioid medication agreement with Patient B.

THIRD CAUSE FOR DISCIPLINE

(Unprofessional Conduct: Repeated Negligent Acts and/or Failure to Maintain Adequate Medical Records re: Patient C)

47. Respondent John Paul Pham, M.D. is subject to disciplinary action for unprofessional conduct through his acts and omissions regarding Patient C under section 2234, subd. (c) [repeated negligent acts] and/or section 2266 [failure to maintain adequate and accurate records]. The circumstances are as follows:

48. On or about January 4, 2018, Patient C, a male born in August 1976, saw Respondent for care as his primary care physician. In addition to chronic pain management originating from a 2011 motorcycle accident, Patient C sought care from Respondent for obesity and hypertension. Patient C was being treated by a pain management physician. Respondent noted that he had not received records from the pain specialist and that Patient C had not yet established a pain contract with him, that all refills would be deferred to the pain specialist. A urine sample was taken.

49. On or about January 12, 2018, Respondent saw Patient C and noted that the urine sample had tested positive for morphine, which was not a prescribed drug for Patient C. Also, it was noted that Patient C was in a single motor vehicle accident and that Respondent "discussed pain regimen can be considered DUI."

50. On or about February 9, 2018, Respondent saw Patient C and noted that he had discussed with the current pain specialist that Patient C was not at a stable dose and was not ready for transfer of pain management to primary care. It was noted that, per providers, the limits of opioid effectiveness had likely been reached.

51. On or about September 17, 2018, Respondent received a note from Patient C's pain specialist that he could no longer prescribe the pain medications due to an investigation of his office. Respondent saw Patient C and documented that he would continue the current regimen. Respondent issued prescriptions for #160 oxycodone 30 mg. (Roxicodone) and #30 Percocet.

52. In or about October and in November 2019, Respondent prescribed monthly to Patient C: #170 oxycodone and #170 Percocet.

53. On or about December 14, 2019, Respondent saw Patient C after he had a left hip replacement and prescribed #240 oxycodone and #60 Percocet. Respondent noted that his plan was to taper the oxycodone by #30 monthly as the post-op pain subsides and that he would refer Patient C to a pain clinic if he continued to need more than #180 per month.

54. In 2019, Respondent continued to see Patient C and prescribed monthly: #200-#210 oxycodone and #60-#120 Percocet. In March 2019, Respondent's prescriptions of opioids for Patient C totaled a MME of 390 mg. morphine daily.

55. In 2020, many of Respondent's monthly visits with Patient C were by telephone. Respondent's progress note, dated May 18, 2020, noted that Patient C's current opioids totaled a MME of 315 mg. morphine daily.

56. On or about July 10, 2020, Respondent saw Patient C and noted that the Patient's current opioids totaled a MME of 375 mg. morphine daily.

57. During the course of treatment of Patient C from September 2018 through at least November 2020, Respondent failed to adequately document in Patient C's medical records that he

had an informed consent discussion with Patient C about the risks and benefits of prescribing controlled substances for the management of chronic pain.

58. During the course of his treatment of Patient C, Respondent failed to document that he had entered into an opioid medication agreement with Patient C and/or otherwise failed to take adequate measures to monitor the patient's compliance with the treatment regimen.

FOURTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct: Repeated Negligent Acts and/or Failure to Maintain Adequate Medical Records re: Patient D)

59. Respondent John Paul Pham, M.D. is subject to disciplinary action for unprofessional conduct through his acts and omissions regarding Patient D under section 2234, subd. (c) [repeated negligent acts] and/or section 2266 [failure to maintain adequate and accurate records]. The circumstances are as follows:

60. On or about February 9, 2018, Patient D, a male born in February 1958, began to see Respondent for primary care for chronic pain syndrome (back and left shoulder pain), migraine headaches, and other issues. Patient D presented in a power wheelchair. His history included currently smoking 1.25 packs of cigarettes daily. At the time, Patient D was being seen by a pain specialist and being prescribed 8 mg. of Dilaudid daily and 40 mg. of morphine daily. It was noted that there was a question whether Patient D's pain management could be transferred to his primary care physician. Patient D was also being prescribed psychiatric medications (benzodiazepines) by a psychiatrist.

61. On or about April 19, 2018, Respondent saw Patient D for a primary care follow-up visit and to transfer care from his outside pain specialist. Patient D had leg and shoulder pain and was also found to have kidney stones. Respondent increased the dosages of pain medications (morphine, Dilaudid, and oxycodone) and issued prescriptions for three weeks' supply, for a total of 71 MME of morphine daily. Patient D was also receiving monthly prescriptions from a psychiatrist of #90 Xanax and #45 triazolam, both benzodiazepines.

62. In or about June 2018, Respondent saw Patient D and doubled the dosage of Dilaudid from 2 mg. to 4 mg. Respondent issued prescriptions for: #60 Dilaudid 4 mg.; #60 MSContin 15

mg. (morphine); and #30 Roxicodone 10 mg. (oxycodone). Respondent continued, in general, this monthly prescribing regimen for Patient D from June 2018 through July 2019. During this time, Patient D continued to be prescribed Xanax and triazolam by a psychiatrist.

63. On or about August 22, 2019, Respondent saw Patient D, who reported that his pain was not well-controlled and that the oxycodone was not working. Respondent prescribed #75 Norco (25 days' supply) in place of the oxycodone, along with prescriptions for MSContin and Dilaudid.

64. After the August 2019 visit, Respondent continued to prescribe, on a monthly basis, the following controlled substances to Patient D: MSContin, Dilaudid, and Norco.

65. On or about May 13, 2020, Respondent was informed that Patient D died in his sleep at home.

66. During the course of treatment of Patient D, Respondent failed to adequately document in Patient D's medical records that he had an informed consent discussion with Patient D about the risks and benefits of prescribing controlled substances for the management of chronic pain, particularly for the combination of opioids and benzodiazepines.

67. During the course of his treatment of Patient D, Respondent failed to document that he had entered into an opioid medication agreement with Patient D and/or otherwise failed to take adequate measures to monitor the patient's compliance with the treatment regimen.

PRAYER

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

1. Revoking or suspending Physician's and Surgeon's Certificate Number A 123403, issued to John Paul Pham, M.D.;

2. Revoking, suspending or denying approval of John Paul Pham, M.D. 's authority to supervise physician assistants and advanced practice nurses;

3. Ordering John Paul Pham, M.D., to pay the Board the costs of the investigation and enforcement of this case, and if placed on probation, the costs of probation monitoring;

4. Ordering Respondent John Paul Pham, M.D., if placed on probation, to provide patient notification in accordance with Business and Professions Code section 2228.1; and

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

DATED: JUN 28 2022

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

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