

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

**In the Matter of the Accusation  
Against:**

**Kwong Kun Yau, M.D.**

**Case No. 800-2023-102911**

**Physician's & Surgeon's  
Certificate No. A 50656**

**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 June 6, 2025.**

**IT IS SO ORDERED: May 9, 2025.**

**MEDICAL BOARD OF CALIFORNIA**

  
\_\_\_\_\_  
**Richard E. Thorp, Chair  
Panel B**

1 ROB BONTA  
2 Attorney General of California  
3 ALEXANDRA M. ALVAREZ  
4 Supervising Deputy Attorney General  
5 ROSEMARY F. LUZON  
6 Deputy Attorney General  
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14 *Attorneys for Complainant*

15 **BEFORE THE**  
16 **MEDICAL BOARD OF CALIFORNIA**  
17 **DEPARTMENT OF CONSUMER AFFAIRS**  
18 **STATE OF CALIFORNIA**

19 In the Matter of the Accusation Against:

20 Case No. 800-2023-102911

21 **KWONG KUN YAU, M.D.**  
22 **200 Jose Figueres Ave., #300**  
23 **San Jose, CA 95116**

24 OAH No. 2024120062

25 **Physician's and Surgeon's Certificate**  
26 **No. A 50656,**

27 **STIPULATED SETTLEMENT AND**  
28 **DISCIPLINARY ORDER**

29 Respondent.

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

32 **PARTIES**

33 1. Reji Varghese (Complainant) is the Executive Director of the Medical Board of  
34 California (Board). He brought this action solely in his official capacity and is represented in this  
35 matter by Rob Bonta, Attorney General of the State of California, by Rosemary F. Luzon, Deputy  
36 Attorney General.

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2. Respondent Kwong Kun Yau, M.D. (Respondent) is represented in this proceeding by attorney Bradford J. Hinshaw, Esq., whose address is: Hinshaw, Marsh, Still & Kanter, LLP, 12901 Saratoga Ave., Saratoga, CA 95070.

3. On or about April 14, 1992, the Board issued Physician's and Surgeon's Certificate No. A 50656 to Respondent. The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2023-102911, and will expire on April 30, 2026, unless renewed.

## **JURISDICTION**

4. On or about October 7, 2024, Accusation No. 800-2023-102911 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 or about October 7, 2024, at his address of record. Respondent timely filed his Notice of Defense contesting the Accusation.

5. A true and correct copy of Accusation No. 800-2023-102911 is attached as Exhibit A and incorporated by reference as if fully set forth herein.

## **ADVISEMENT AND WAIVERS**

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 800-2023-102911. 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, having been fully advised of same by his attorney, Bradford J. Hinshaw, Esq.

8. Having the benefit of counsel, Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

## CULPABILITY

9. Respondent does not contest that, at an administrative hearing, Complainant could establish a *prima facie* case with respect to the charges and allegations in Accusation No. 800-2023-102911, a true and correct copy of which is attached hereto as Exhibit A, and Respondent hereby gives up his rights to contest those charges. Respondent further agrees that he has thereby subjected his Physician's and Surgeon's Certificate No. A 50656 to disciplinary action.

10. Respondent agrees that if an accusation is ever filed against him before the Board, all of the charges and allegations contained in Accusation No. 800-2023-102911, 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.

11. Respondent agrees that his Physician's and Surgeon's Certificate No. A 50656 is subject to discipline, and he agrees to be bound by the Board's imposition of discipline 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.

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14. 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.

15. 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 Respondent Kwong Kun Yau, M.D., Physician's and Surgeon's Certificate No. A 50656, shall be and is hereby Publicly Reprimanded pursuant to California Business and Professions Code section 2227, subdivision (a), subsection (4). This Public Reprimand is issued in connection with the allegations relating to Respondent's care and treatment of Patients A, B, and C, which are set forth in Accusation No. 800-2023-102911, as follows:

## 1. PUBLIC REPRIMAND.

Respondent improperly issued a vaccine exemption to Patient A in October 2023, Respondent improperly issued a vaccine exemption to Patient B in August 2023, and Respondent improperly administered two parenteral live vaccines to Patient C in June 2023, as more fully described in Accusation No. 800-2023-102911, a true and copy of which is attached hereto as Exhibit A and incorporated by reference as if fully set forth herein.

## 2. EDUCATION COURSES

Decision, 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. 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. Within one year of the effective date

1 of this Decision, Respondent shall provide proof of attendance for 65 hours of CME of which 40  
2 hours were in satisfaction of this condition.

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

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

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

21. **INVESTIGATION/ENFORCEMENT COST RECOVERY**. Respondent is hereby  
22 ordered to reimburse the Board its costs of investigation and enforcement in the amount of  
23 \$25,145.75 (twenty-five thousand one hundred forty-five dollars and seventy-five cents). Costs  
24 shall be payable to the Medical Board of California. Failure to pay such costs shall be considered  
25 a violation of this Disciplinary Order.

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

5 The filing of bankruptcy by Respondent shall not relieve Respondent of the responsibility  
6 to repay investigation and enforcement costs.

7       5.    FAILURE TO COMPLY. Any failure by Respondent to comply with the terms and  
8 conditions of the Disciplinary Order set forth above shall constitute unprofessional conduct and  
9 grounds for further disciplinary action.

10       6.    FUTURE ADMISSIONS CLAUSE. If Respondent should ever apply or reapply for  
11 a new license or certification, or petition for reinstatement of a license, by any other health care  
12 licensing action agency in the State of California, all of the charges and allegations contained in  
13 Accusation No. 800-2023-102911 shall be deemed to be true, correct, and admitted by  
14 Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or  
15 restrict license.

## **ACCEPTANCE**

17 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully  
18 discussed it with my attorney, Bradford J. Hinshaw, Esq. I understand the stipulation and the  
19 effect it will have on my Physician's and Surgeon's Certificate No. A 50656. I enter into this  
20 Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree  
21 to be bound by the Decision and Order of the Medical Board of California.

22  
23 DATED: 3/4/2025 Man Lam Ltd.  
24 KWONG KUN YAU, M.D.  
Respondent

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1 I have read and fully discussed with Respondent Kwong Kun Yau, M.D., the terms and  
2 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.  
3 I approve its form and content.

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5 DATED: March 5, 2025



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BRADFORD J. HINSHAW, 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: 3/5/25

Respectfully submitted,

ROB BONTA  
Attorney General of California  
ALEXANDRA M. ALVAREZ  
Supervising Deputy Attorney General



ROSEMARY F. LUZON  
Deputy Attorney General  
*Attorneys for Complainant*

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3 | *Attorneys for Complainant*

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

13 In the Matter of the Accusation Against:

Case No. 800-2023-102911

14 Kwong Kun Yau, M.D.  
15 200 Jose Figueres Ave., # 300  
San Jose, CA 95116

## ACCUSATION

16 Physician's and Surgeon's Certificate  
17 No. A 50656,

**Respondent.**

## 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 April 14, 1992, the Board issued Physician's and Surgeon's Certificate  
25 No. A 50656 to Kwong Kun Yau, M.D. (Respondent). The Physician's and Surgeon's Certificate  
26 was in full force and effect at all times relevant to the charges brought herein and will expire on  
27 April 30, 2026, 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. . .

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.

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.

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(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.

## **COST RECOVERY**

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

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

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

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

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

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

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

(i) Nothing in this section shall preclude a board from including the recovery of 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.

## DEFINITIONS

8. DTaP, also known as Pediarix, is the abbreviation for diphtheria and tetanus toxoids and acellular pertussis vaccine, commonly administered in five (5) separate doses before a child is six (6) years old.

9. Hep B is the abbreviation for hepatitis B vaccine, commonly administered in three (3) separate doses before a child is eighteen (18) months old.

10. Hib is the abbreviation for *haemophilus influenzae* type B vaccine, commonly administered in four (4) separate doses before a child is fifteen (15) months old.

11. IPV is the abbreviation for inactivated poliovirus vaccine, commonly administered in four (4) separate doses before a child is six (6) years old.

12. MMR is the abbreviation for measles, mumps, and rubella vaccine, commonly administered in two (2) separate doses before a child is six (6) years old.

13. Tdap is the abbreviation for tetanus toxoid, reduced diphtheria toxoid, and acellular pertussis vaccine, commonly administered as a booster when a child is eleven (11) years old.

14. Var/VZV is the abbreviation for varicella-zoster virus vaccine commonly administered in two (2) separate doses before a child is six (6) years old.

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## **FACTUAL ALLEGATIONS**

## Patient A<sup>1</sup>

15. On or about May 18, 2023, Patient A, a then 12-year-old female, presented for an annual child wellness exam with Respondent. Patient A was accompanied by her mother. According to the progress note for this visit, Patient A's mother advised that Patient A needed an exemption from vaccine immunizations due to a family history of autism after receiving immunization shots at eight months old. She further stated that Patient A's grandparents were "very against vaccines," but since they had now passed away, she was "open to try shots individually" to comply with school requirements.

10        16. During this visit, Respondent performed a full examination and assessment of Patient  
11        A and made no abnormal findings. Respondent cleared Patient A for immunizations and obtained  
12        the informed consent of Patient A's mother. Respondent noted that Patient A "will catch up per  
13        school requirement." According to Respondent, Patient A's mother agreed to a catch-up  
14        immunization schedule recommended by the CDC. The catch-up schedule included a total of  
15        eight vaccines administered in multiple doses over a six-month period.

16        17. On or about May 24, 2023, Respondent issued a temporary vaccination exemption for  
17        Patient A through California Immunization Registry - Medical Exemption (CAIR-ME). The  
18        exemption was for the DTaP, HepB, Hib, IPV, MMR, Tdap, and VAR/VZV vaccinations, and it  
19        expired on or about November 30, 2023. According to CAIR-ME, the medical basis for issuing  
20        the exemption was "genetic predisposition for severe reaction to vaccines." The supporting  
21        documentation for the exemption included a prior medical exemption statement from a  
22        naturopathic doctor dated in or about 2015, who asserted that "[d]ue to the anaphylaxis and  
23        severe atopic dermatitis medical history, all immunizations pose a significant risk to the health  
24        and well-being of [Patient A]. This is a lifelong exemption for lifelong conditions." The medical  
25        exemption statement, in turn, attached a facsimile from a medical doctor regarding a visit with  
26        Patient A that took place on or about May 26, 2015. According to the medical doctor, Patient A's

<sup>1</sup> References to “Patient A,” “Patient B,” and “Patient C” herein are used to protect patient privacy.

1 mother stated that Patient A's grandparents refused to let Patient A get vaccinated due to family  
2 members' bad experience with vaccinations and their side effects.

3 18. In a letter to the Board dated on or about November 27, 2023, Respondent further  
4 explained that he issued the May 24, 2023, temporary vaccination exemption for six months so  
5 that Patient A could continue to go to school while she completed her catch-up immunization  
6 schedule.

7 -----  
8 19. The May 24, 2023, temporary vaccination exemption issued by Respondent was  
9 subsequently revoked by a reviewer with the California Department of Public Health (CDPH).

10 20. On or about October 2, 2023, Respondent saw Patient A alongside her mother. They  
11 discussed CDPH's revocation of the May 24, 2023, temporary vaccination exemption, which  
12 Patient A's mother wanted to appeal. They also discussed the immunization schedule, and  
13 Respondent noted that he wanted Patient A to "catch back up on [the] schedule." Patient A's  
14 mother, however, expressed concern about their high insurance deductible for that year and that  
15 they "may want to get [the immunizations] next year." Respondent suggested that Patient A "get  
16 the vaccines asap." Respondent noted that the immunization shots were "refused" and he  
instructed that Patient A "start catch up asap."

17 21. As of the date of this visit, Patient A had received only two of the eight vaccines on  
18 the catch-up immunization schedule. Two doses of the Tdap vaccine were administered on or  
19 about May 18, 2023, and August 7, 2023, respectively. One dose of the Var/VZV vaccine was  
20 administered on or about June 1, 2023.

21 22. On or about October 3, 2023, Respondent issued a second temporary vaccination  
22 exemption for Patient A through CAIR-ME. The exemption was for the DTaP, HepB, IPV,  
23 MMR, Tdap, and VAR/VZV vaccinations, and it expired on or about April 4, 2024. According to  
24 CAIR-ME, the medical basis for issuing the exemption was "family history of reaction to  
25 vaccines." The supporting documentation for the exemption included Respondent's progress note  
26 from the May 18, 2023, wellness visit with Patient A and her mother.

27 23. The October 3, 2023, temporary vaccination exemption issued by Respondent was  
28 subsequently revoked by a CDPH reviewer.

1       24. On or about February 27, 2024, Respondent attended an interview with the Board's  
2       investigators. As of the date of the interview, Patient A had not completed the catch-up  
3       immunization schedule.

4       Patient B

5       25. On or about August 24, 2023, Patient B, a then 11-year-old male, presented for an  
6       annual child wellness exam with Respondent. According to the progress note for this visit,  
7       Patient B reported a history of allergy to milk at birth, bloody diarrhea as a baby, and a two-  
8       month hospitalization in 2016 due to severe malnutrition and bloody diarrhea. Patient B was  
9       reportedly diagnosed with a "vaccines allergy" and given a vaccine exemption certificate from a  
10      foreign country. Respondent noted that Patient B still had problems with milk and dairy, as well  
11      as bloody diarrhea after eating spicy foods.

12      26. During this visit, Respondent performed a full examination and assessment of Patient  
13      B and made no abnormal findings. Respondent's diagnoses included "allergy status to serum and  
14      vaccine" and "allergy to milk products." Respondent noted that he would "apply for [a CAIR-  
15      ME] vaccines exemption." Respondent did not plan or order any further work-up or evaluation to  
16      investigate possible underlying gastrointestinal or allergic disorders.

17      27. The same day, on or about August 24, 2023, Respondent issued a permanent  
18      vaccination exemption for Patient B through CAIR-ME. The exemption was for the DTaP,  
19      HepB, Hib, IPV, MMR, Tdap, and VAR/VZV vaccinations. According to CAIR-ME, the  
20      medical basis for issuing the exemption was "life threatening condition post vaccination." The  
21      supporting documentation for the exemption included a medical certificate from a foreign  
22      hospital dated on or about December 23, 2016, among other documents. The medical certificate  
23      stated that Patient B was hospitalized from on or about October 31, 2016, to December 24, 2016,  
24      due to acute diarrhea, moderate to severe malnutrition, multiple food allergies, and "vaccine  
25      allergy." The name or type of vaccine was not identified on the medical certificate. Attached to  
26      the medical certificate was a record from a pediatric gastroenterology consultation with Patient B  
27      for severe malnutrition dated on or about November 15, 2016. The consultation record stated that  
28      Patient B experienced diarrhea, rectal bleeding, rashes, and eczema following dietary intake. The

1 record also referenced a “vaccine allergy,” for which Patient B was admitted for Total Parenteral  
2 Nutrition. Similar to the medical certificate, the name or type of vaccine was not identified on the  
3 consultation record. Patient B was diagnosed with diarrhea, bloody stool, and abdominal  
4 distension, and the cause of these conditions were “to be investigated.” The medical certificate  
5 included a final attachment, which was a disease certificate from another foreign hospital issued  
6 on or about November 21, 2021. According to the disease certificate, vaccination was “not  
7 recommended” for Patient B. The disease diagnoses included allergic rhinitis, milk allergy, and  
8 “[s]erious vaccine reaction, dyspnea, bloody stool, abdominal pain and diarrhea, eczema, and  
9 multiple food allergies occur[ing] in the past.” The disease certificate also did not identify the  
10 name or type of vaccine at issue.

11 28. Additional supporting documentation included medical records of various tests  
12 performed on Patient B, but no vaccine allergy tests. A discharge summary from Patient B’s  
13 2016 hospitalization was also included, with a doctor instructing that “[c]onsidering that the child  
14 has a history of vaccine allergy and the allergy has been repeatedly aggravated after vaccination,  
15 vaccination is strictly prohibited.” However, with the exception of the “MenAC vaccine,” no  
16 other vaccine was identified. Lastly, the supporting documentation included Patient B’s prior  
17 vaccination records and a letter from Patient B’s parents providing a chronology of  
18 immunizations and adverse events experienced by Patient B after the immunizations.

19 29. In a letter to the Board dated on or about November 27, 2023, Respondent further  
20 explained that he issued the August 24, 2023, permanent vaccination exemption based upon a  
21 “certified, signed, and stamped letter” from a foreign country exempting Patient B from vaccines,  
22 as well as a medical record of Patient B’s 2016 hospitalization for severe diarrhea, weight loss,  
23 and malnutrition. Respondent conceded, however, that “there was no specific reason identified as  
24 to why they gave him an excuse letter for vaccines.” Respondent further stated, “I submitted this  
25 information to CAIR for a vaccine exemption request for him.”

26 30. The August 24, 2023, permanent vaccination exemption issued by Respondent was  
27 subsequently revoked by a CDPH reviewer.

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1       31. On or about February 27, 2024, Respondent attended an interview with the Board's  
2 investigators. During the interview, Respondent stated that in issuing the August 24, 2023,  
3 permanent vaccination exemption, he was uncertain about the etiology of Patient B's prior health  
4 issues, including whether they were reactions to vaccine shots. Respondent explained, "so I  
5 submitted all the paperwork from [Patient B] to the . . . health department for them to take a look.  
6 [ ] I did do my part to submit, and I did request a . . . exemption here, but . . . I think my job here  
7 is really just to help find-the-expert-at-the-health department to tell-me if this is something  
8 legitimate or not. [ ] I'm not sure if that's the right – right stuff to do, but . . . I assume they have  
9 an expert panel to look at . . . all the information and see how they feel. Whether . . . they would  
10 agree or disagree with whatever has been done somewhere, in some other part of the world."  
11 Respondent further explained that he issued a permanent exemption rather than a temporary  
12 exemption because he "assume[d] if it's approved for a temporary, that means it's approved for a  
13 permanent," and doing so would obviate the need for Patient B to reapply for a temporary  
14 exemption every six months.

15       Patient C

16       32. On or about August 15, 2022, Patient C, a then 14-year-old female, presented for an  
17 annual child wellness exam with Respondent. During this visit, Respondent performed a full  
18 examination and assessment of Patient C and made no abnormal findings. As part of his  
19 assessment, Respondent noted that Patient C's parents refused immunization shots due to a  
20 history of autism in the family. Respondent discussed the risks and benefits with them, and he  
21 recommended that Patient C catch up with her vaccinations as soon as possible.

22       33. Following this visit, on or about January 2, 2023, and January 7, 2023, respectively,  
23 Respondent administered the Tdap and IPV vaccines to Patient C.

24       34. On or about January 13, 2023, Patient C presented to Respondent with ringing in the  
25 right ear for the past six days and mild allergy. Respondent noted that a concern was raised  
26 regarding whether the symptoms were related to the vaccination shots. Respondent diagnosed  
27 Patient C with right ear tinnitus, allergic rhinitis, and earwax impaction. Regarding Patient C's  
28 tinnitus, Respondent assessed that the cause was questionable, including whether it was induced

1 by the vaccines. Respondent recommended trying allergy medications and seeing if the tinnitus  
2 improved.

3 35. On or about February 16, 2023, Patient C had a follow-up visit with Respondent to  
4 assess her right ear tinnitus. Respondent noted that the ringing continued, but he was still  
5 uncertain if it was related to the vaccination shots. Respondent referred Patient C to an ENT  
6 specialist for advice. Respondent noted that a further extension of the vaccine exemption may be  
7 necessary, and he recommended holding off on further vaccination shots until the tinnitus issue  
8 improved.

9 36. On or about June 21, 2023, Patient C presented to Respondent to resume her  
10 vaccination shots. During this visit, Respondent administered the MMR vaccine to Patient C.

11 37. Approximately eight days later, on or about June 29, 2023, Respondent administered  
12 the VAR vaccine to Patient C.

#### FIRST CAUSE FOR DISCIPLINE

##### **(Repeated Negligent Acts)**

15 38. Respondent has subjected his Physician's and Surgeon's Certificate No. A 50656 to  
16 disciplinary action under sections 2227 and 2234, as defined by section 2234, subdivision (c), of  
17 the Code, in that Respondent committed repeated negligent acts in his care and treatment of  
18 Patients A, B, and C, as more particularly alleged hereinafter:

##### **Patient A**

20 39. Paragraphs 15 through 24, above, are hereby incorporated by reference and re-alleged  
21 as if fully set forth herein.

22 40. Respondent committed repeated negligent acts in his care and treatment of Patient A,  
23 which included, but were not limited to, the following:

24 A. Respondent issued a second temporary vaccine exemption to Patient A on  
25 or about October 3, 2023, despite Patient A's failure to proceed with catch-up  
26 immunizations in a timely manner; and

27     ///

28     ///

1                   B. Respondent issued a second temporary vaccine exemption to Patient A  
2                   for all vaccines listed on the October 3, 2023, exemption, despite Patient A's failure  
3                   to proceed with catch-up immunizations in a timely manner.

4                   **Patient B**

5                   41. Paragraphs 25 through 31, above, are hereby incorporated by reference and re-alleged  
6                   as if fully set forth herein.

7                   42. Respondent committed-repeated-negligent acts-in-his-care-and treatment-of-Patient-B,  
8                   which included, but were not limited to, the following:

9                   A. Notwithstanding Respondent's uncertainty about the appropriateness of a  
10                   vaccine exemption for Patient B, Respondent issued a permanent vaccine exemption  
11                   to Patient B on or about August 24, 2023, based on the misunderstanding that vaccine  
12                   exemptions should be issued for CDPH to evaluate and determine if the exemption is  
13                   warranted or not;

14                   B. Notwithstanding Respondent's uncertainty about the appropriateness of a  
15                   vaccine exemption for Patient B, Respondent issued a permanent vaccine exemption  
16                   to Patient B for all vaccines listed on the August 24, 2023, exemption, based on the  
17                   misunderstanding that vaccine exemptions should be issued for CDPH to evaluate  
18                   and determine if the exemption is warranted or not; and

19                   C. Respondent issued a permanent vaccine exemption to Patient B for all  
20                   vaccines listed on the August 24, 2023, exemption, rather than pursing any further  
21                   work-up or evaluation to investigate possible underlying gastrointestinal or allergic  
22                   disorders.

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27                   ///

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### Patient C

2       43. Paragraphs 32 through 37, above, are hereby incorporated by reference and re-alleged  
3 as if fully set forth herein.

4           44. Respondent committed repeated negligent acts in his care and treatment of Patient C,  
5 which included, but were not limited to, the following:

6 A. In or about June 2023, Respondent administered two parenteral live

— vaccines to Patient C on different days that were less than 28 days apart of each other.

## **SECOND CAUSE FOR DISCIPLINE**

### **(Violations of Provisions of the Medical Practice Act)**

10       45. Respondent has subjected his Physician's and Surgeon's Certificate No. A 50656 to  
11 disciplinary action under sections 2227 and 2234, subdivision (a), of the Code, in that Respondent  
12 has violated or attempted to violate, directly or indirectly, provisions or terms of the Medical  
13 Practice Act, as more particularly alleged in paragraphs 15 through 44, above, which are hereby  
14 incorporated by reference and realleged as if fully set forth herein.

## PRAAYER

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

18       1. Revoking or suspending Physician's and Surgeon's Certificate No. A 50656, issued  
19 to Respondent Kwong Kun Yau, M.D.;

20        2. Revoking, suspending or denying approval of Respondent Kwong Kun Yau, M.D.'s  
21 authority to supervise physician assistants and advanced practice nurses;

22       3. Ordering Respondent Kwong Kun Yau, M.D., to pay the Board the costs of the  
23 investigation and enforcement of this case, and if placed on probation, the costs of probation  
24 monitoring; and

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

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DATED: OCT 07 2024

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

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