

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

In the Matter of the Accusation Against

Huyen Le Cao, M.D.

Physician's and Surgeons
License No. G72686

Case No. 800-2017-039204

Respondent.

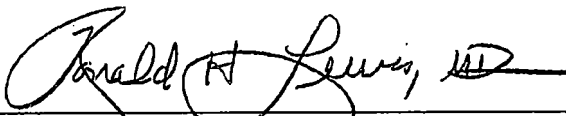
DECISION

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 August 19, 2020.

IT IS SO ORDERED: July 20, 2020.

MEDICAL BOARD OF CALIFORNIA



Ronald H. Lewis, M.D., Chair
Panel A

1 XAVIER BECERRA
Attorney General of California
2 JANE ZACK SIMON
Supervising Deputy Attorney General
3 REBECCA D. WAGNER
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8
9 **BEFORE THE**
MEDICAL BOARD OF CALIFORNIA
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 800-2017-039204

13 **HUYEN LE CAO, M.D.**
14 **333 Lakeside Drive**
Foster City, CA 94404

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

15 **Physician's and Surgeon's Certificate No. G**
16 **72686**

17 Respondent.

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

21 **PARTIES**

22 1. Christine J. Lally (Complainant) is the Interim Executive Director of the Medical
23 Board of California (Board). This action was brought and maintained solely in the official
24 capacity of the Board's Executive Director who is represented by Xavier Becerra, Attorney
25 General of the State of California, by Rebecca D. Wagner, Deputy Attorney General.
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2. Respondent Huyen Le Cao, M.D. (Respondent) is represented in this proceeding by attorney Christopher J. D'Anjou, whose address is: 2033 Gateway Place, Suite 500 San Jose, CA 95110.

3. On or about October 15, 1991, the Board issued Physician's and Surgeon's Certificate No. G 72686 to Huyen Le Cao, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2017-039204, and will expire on October 31, 2021, unless renewed.

JURISDICTION

4. Accusation No. 800-2017-039204 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 September 13, 2019. Respondent timely filed her Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 800-2017-039204 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. 800-2017-039204. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

7. Respondent is fully aware of her 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 her; the right to present evidence and to testify on her 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.

1 **CULPABILITY**

2 9. Respondent admits the truth of each and every charge and allegation in Accusation
3 No. 800-2017-039204.

4 10. Respondent agrees that her Physician's and Surgeon's Certificate is subject to
5 discipline and she agrees to be bound by the Board's probationary terms as set forth in the
6 Disciplinary Order below.

7 **CONTINGENCY**

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

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

21 13. In consideration of the foregoing admissions and stipulations, the parties agree that
22 the Board may, without further notice or formal proceeding, issue and enter the following
23 Disciplinary Order:

24 **DISCIPLINARY ORDER**

25 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. G 72686 issued
26 to Respondent Huyen Le Cao, M.D. is revoked. However, the revocation is stayed and
27 Respondent is placed on probation for three (3) years on the following terms and conditions.

28 1. **CONTROLLED SUBSTANCES - ABSTAIN FROM USE.** Respondent shall abstain

1 completely from the personal use or possession of controlled substances as defined in the
2 California Uniform Controlled Substances Act, dangerous drugs as defined by Business and
3 Professions Code section 4022, and any drugs requiring a prescription. This prohibition does not
4 apply to medications lawfully prescribed to Respondent by another practitioner for a bona fide
5 illness or condition.

6 Within 15 calendar days of receiving any lawfully prescribed medications, Respondent
7 shall notify the Board or its designee of the: issuing practitioner's name, address, and telephone
8 number; medication name, strength, and quantity; and issuing pharmacy name, address, and
9 telephone number.

10 2. ALCOHOL - ABSTAIN FROM USE. Respondent shall abstain completely from the
11 use of products or beverages containing alcohol.

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

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

27 Respondent shall submit a certification of successful completion to the Board or its
28 designee not later than 15 calendar days after successfully completing the program or not later

1 than 15 calendar days after the effective date of the Decision, whichever is later.

2 4. PSYCHIATRIC EVALUATION. Within 30 calendar days of the effective date of
3 this Decision, and on whatever periodic basis thereafter may be required by the Board or its
4 designee, Respondent shall undergo and complete a psychiatric evaluation (and psychological
5 testing, if deemed necessary) by a Board-appointed board certified psychiatrist, who shall
6 consider any information provided by the Board or designee and any other information the
7 psychiatrist deems relevant, and shall furnish a written evaluation report to the Board or its
8 designee. Psychiatric evaluations conducted prior to the effective date of the Decision shall not
9 be accepted towards the fulfillment of this requirement. Respondent shall pay the cost of all
10 psychiatric evaluations and psychological testing.

11 Respondent shall comply with all restrictions or conditions recommended by the evaluating
12 psychiatrist within 15 calendar days after being notified by the Board or its designee.

13 5. BIOLOGICAL FLUID TESTING. Respondent shall immediately submit to
14 biological fluid testing, at Respondent's expense, upon request of the Board or its designee.
15 "Biological fluid testing" may include, but is not limited to, urine, blood, breathalyzer, hair
16 follicle testing, or similar drug screening approved by the Board or its designee. Respondent shall
17 make daily contact with the Board or its designee to determine whether biological fluid testing is
18 required. Respondent shall be tested on the date of the notification as directed by the Board or its
19 designee. The Board may order a Respondent to undergo a biological fluid test on any day, at
20 any time, including weekends and holidays. Except when testing on a specific date as ordered by
21 the Board or its designee, the scheduling of biological fluid testing shall be done on a random
22 basis. The cost of biological fluid testing shall be borne by the Respondent.

23 During the first year of probation, Respondent shall be subject to 52 to 104 random tests.
24 During the second year of probation and for the duration of the probationary term, Respondent
25 shall be subject to 36 to 104 random tests per year. Only if there has been no positive biological
26 fluid tests in the previous five (5) consecutive years of probation, may testing be reduced to one
27 (1) time per month. Nothing precludes the Board from increasing the number of random tests to
28 the first-year level of frequency for any reason.

1 Prior to practicing medicine, Respondent shall contract with a laboratory or service,
2 approved in advance by the Board or its designee, that will conduct random, unannounced,
3 observed, biological fluid testing and meets all of the following standards:

4 (a) Its specimen collectors are either certified by the Drug and Alcohol Testing Industry
5 Association or have completed the training required to serve as a collector for the United
6 States Department of Transportation.

7 (b) Its specimen collectors conform to the current United States Department of
8 Transportation Specimen Collection Guidelines.

9 (c) Its testing locations comply with the Urine Specimen Collection Guidelines published
10 by the United States Department of Transportation without regard to the type of test
11 administered.

12 (d) Its specimen collectors observe the collection of testing specimens.

13 (e) Its laboratories are certified and accredited by the United States Department of Health
14 and Human Services.

15 (f) Its testing locations shall submit a specimen to a laboratory within one (1) business day
16 of receipt and all specimens collected shall be handled pursuant to chain of custody
17 procedures. The laboratory shall process and analyze the specimens and provide legally
18 defensible test results to the Board within seven (7) business days of receipt of the
19 specimen. The Board will be notified of non-negative results within one (1) business day
20 and will be notified of negative test results within seven (7) business days.

21 (g) Its testing locations possess all the materials, equipment, and technical expertise
22 necessary in order to test Respondent on any day of the week.

23 (h) Its testing locations are able to scientifically test for urine, blood, and hair specimens
24 for the detection of alcohol and illegal and controlled substances.

25 (i) It maintains testing sites located throughout California.

26 (j) It maintains an automated 24-hour toll-free telephone system and/or a secure on-line
27 computer database that allows the Respondent to check in daily for testing.

28 (k) It maintains a secure, HIPAA-compliant website or computer system that allows staff

1 access to drug test results and compliance reporting information that is available 24 hours a
2 day.

3 (l) It employs or contracts with toxicologists that are licensed physicians and have
4 knowledge of substance abuse disorders and the appropriate medical training to interpret
5 and evaluate laboratory biological fluid test results, medical histories, and any other
6 information relevant to biomedical information.

7 (m) It will not consider a toxicology screen to be negative if a positive result is obtained
8 while practicing, even if the Respondent holds a valid prescription for the substance.

9 Prior to changing testing locations for any reason, including during vacation or other travel,
10 alternative testing locations must be approved by the Board and meet the requirements above.

11 The contract shall require that the laboratory directly notify the Board or its designee of
12 non-negative results within one (1) business day and negative test results within seven (7)
13 business days of the results becoming available. Respondent shall maintain this laboratory or
14 service contract during the period of probation.

15 A certified copy of any laboratory test result may be received in evidence in any
16 proceedings between the Board and Respondent.

17 If a biological fluid test result indicates Respondent has used, consumed, ingested, or
18 administered to himself or herself a prohibited substance, the Board shall order Respondent to
19 cease practice and instruct Respondent to leave any place of work where Respondent is practicing
20 medicine or providing medical services. The Board shall immediately notify all of Respondent's
21 employers, supervisors and work monitors, if any, that Respondent may not practice medicine or
22 provide medical services while the cease-practice order is in effect.

23 A biological fluid test will not be considered negative if a positive result is obtained while
24 practicing, even if the practitioner holds a valid prescription for the substance. If no prohibited
25 substance use exists, the Board shall lift the cease-practice order within one (1) business day.

26 After the issuance of a cease-practice order, the Board shall determine whether the positive
27 biological fluid test is in fact evidence of prohibited substance use by consulting with the
28 specimen collector and the laboratory, communicating with the licensee, his or her treating

1 physician(s), other health care provider, or group facilitator, as applicable.

2 For purposes of this condition, the terms “biological fluid testing” and “testing” mean the
3 acquisition and chemical analysis of a Respondent’s urine, blood, breath, or hair.

4 For purposes of this condition, the term “prohibited substance” means an illegal drug, a
5 lawful drug not prescribed or ordered by an appropriately licensed health care provider for use by
6 Respondent and approved by the Board, alcohol, or any other substance the Respondent has been
7 instructed by the Board not to use, consume, ingest, or administer to himself or herself.

8 If the Board confirms that a positive biological fluid test is evidence of use of a prohibited
9 substance, Respondent has committed a major violation, as defined in section 1361.52(a), and the
10 Board shall impose any or all of the consequences set forth in section 1361.52(b), in addition to
11 any other terms or conditions the Board determines are necessary for public protection or to
12 enhance Respondent’s rehabilitation.

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

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

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

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

28 9. QUARTERLY DECLARATIONS. Respondent shall submit quarterly declarations

1 under penalty of perjury on forms provided by the Board, stating whether there has been
2 compliance with all the conditions of probation.

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

5 10. GENERAL PROBATION REQUIREMENTS.

6 Compliance with Probation Unit

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

8 Address Changes

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

14 Place of Practice

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

18 License Renewal

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

21 Travel or Residence Outside California

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

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

28 11. INTERVIEW WITH THE BOARD OR ITS DESIGNEE. Respondent shall be

1 available in person upon request for interviews either at Respondent's place of business or at the
2 probation unit office, with or without prior notice throughout the term of probation.

3 12. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or
4 its designee in writing within 15 calendar days of any periods of non-practice lasting more than
5 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is
6 defined as any period of time Respondent is not practicing medicine as defined in Business and
7 Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct
8 patient care, clinical activity or teaching, or other activity as approved by the Board. If
9 Respondent resides in California and is considered to be in non-practice, Respondent shall
10 comply with all terms and conditions of probation. All time spent in an intensive training
11 program which has been approved by the Board or its designee shall not be considered non-
12 practice and does not relieve Respondent from complying with all the terms and conditions of
13 probation. Practicing medicine in another state of the United States or Federal jurisdiction while
14 on probation with the medical licensing authority of that state or jurisdiction shall not be
15 considered non-practice. A Board-ordered suspension of practice shall not be considered as a
16 period of non-practice.

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

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

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

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

1 13. COMPLETION OF PROBATION. Respondent shall comply with all financial
2 obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the
3 completion of probation. Upon successful completion of probation, Respondent's certificate shall
4 be fully restored.

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

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

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

27 ACCEPTANCE

1 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
2 discussed it with my attorney, Christopher J. D'Anjou. I understand the stipulation and the effect
3 it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement
4 and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the
5 Decision and Order of the Medical Board of California.

6
7 DATED: 07 APRIL 2020


8 HUYEN LE CAO, M.D.
9 Respondent

10 I have read and fully discussed with Respondent Huyen Le Cao, M.D. the terms and
11 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
12 I approve its form and content.

13 DATED: June 11, 2020


14 CHRISTOPHER J. DANJOU
15 Attorney for Respondent

16 **ENDORSEMENT**

17
18 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
19 submitted for consideration by the Medical Board of California.

20 DATED: 7/3/2020

21 Respectfully submitted,

22 XAVIER BECERRA
23 Attorney General of California
24 JANE ZACK SIMON
25 Supervising Deputy Attorney General



26 REBECCA D. WAGNER
27 Deputy Attorney General
28 Attorneys for Complainant

Exhibit A

Accusation No. 800-2017-039204

1 XAVIER BECERRA
Attorney General of California
2 JANE ZACK SIMON
Supervising Deputy Attorney General
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7 *Attorneys for Complainant*

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO *Sept 13 20 19*
BY *[Signature]* ANALYST

8
9 **BEFORE THE**
10 **MEDICAL BOARD OF CALIFORNIA**
11 **DEPARTMENT OF CONSUMER AFFAIRS**
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13 In the Matter of the Accusation Against:

Case No. 800-2017-039204

14 **Huyen Le Cao, M.D.**
15 **333 Lakeside Drive**
16 **Foster City, CA 94404**

A C C U S A T I O N

17 **Physician's and Surgeon's Certificate**
18 **No. G 72686,**

Respondent.

19 **PARTIES**

20 1. Kimberly Kirchmeyer (Complainant) brings this Accusation solely in her official
21 capacity as the Executive Director of the Medical Board of California, Department of Consumer
22 Affairs (Board).

23 2. On or about October 15, 1991, the Medical Board issued Physician's and Surgeon's
24 Certificate Number G 72686 to Huyen Le Cao, M.D. (Respondent). The Physician's and
25 Surgeon's Certificate was in full force and effect at all times relevant to the charges brought
26 herein and will expire on October 31, 2021, unless renewed.

27 ///

28 ///

JURISDICTION

1
2 3. This Accusation is brought before the Board, under the authority of the following
3 laws. All section references are to the Business and Professions Code (Code) unless otherwise
4 indicated.

5 4. Section 2227 of the Code states:

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

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

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

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

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

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

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

25 5. Section 2234 of the Code, states:

26 “The board shall take action against any licensee who is charged with unprofessional
27 conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not
28 limited to, the following:

1 “(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the
2 violation of, or conspiring to violate any provision of this chapter.

3 “...“

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

5 “...“

6 6. Section 2236 of the Code states:

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

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

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

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

26 7. Section 2239 of the Code provides that the use of alcoholic beverages, to the extent,
27 or in such a manner as to be dangerous or injurious to the licensee, or to any other person or to the
28

1 public, or to the extent that such use impairs the ability of the licensee to practice medicine safely
2 constitutes unprofessional conduct.

3
4 **CAUSE FOR DISCIPLINE**

5 **(Unprofessional Conduct and/or Conviction of a Crime and/or Dangerous Use of Alcohol)**

6 8. Respondent Huyen Le Cao, M.D. is subject to disciplinary action for unprofessional
7 conduct under sections 2234 and/or 2236 and/or 2239 in that on May 3, 2018 in the City and
8 County of San Francisco Superior Court, Respondent was convicted of a violation of section
9 23152(a) of the California Vehicle Code (Driving Under the Influence) and a violation of section
10 273a(a) of the Penal Code (Child Endangerment), both misdemeanors. The circumstances are as
11 follows:

12 9. On or about November 12, 2017 at approximately 3:00 p.m., San Francisco Police
13 Officer C.F. received a call of a vehicle driving on the MUNI tracks. Officer C.F. observed
14 Respondent's vehicle on the southbound MUNI tracks, which are off-limits to vehicles.
15 Respondent was in the driver's seat and her thirteen-year-old daughter was in the front passenger
16 seat. Respondent appeared very disoriented and disheveled. Respondent's daughter was crying
17 and appeared upset. Respondent told Officer C.F. that she was driving her daughter to the art
18 store and became lost and drove onto the tracks. Respondent's vehicle was too damaged to drive
19 off the MUNI tracks and had to be towed away.

20 10. Officer C.F. observed Respondent while she called to have her vehicle towed.
21 Respondent's speech was slurred, slow, and so incoherent that Respondent's daughter had to take
22 the phone to convey the information to the customer service agent. Respondent denied that she
23 had been drinking, however, she had difficulty walking without the assistance of her daughter.
24 Respondent was given a series of Field Sobriety Tests and she performed poorly on the tests.
25 Respondent was arrested for driving under the influence of alcohol and she elected to have a
26 breath test which resulted in blood alcohol readings of .171% and .172%.

27 11. Respondent pled no contest on May 3, 2018 to misdemeanor violations of section
28 23152(a) of the Vehicle Code and section 273a(a) of the Penal Code in San Francisco Superior

1 Court Case Number MC #17016679. Respondent was sentenced to three years of supervised
2 probation related to the 23152(a) Vehicle Code conviction, credit for time served of one day in
3 jail, parenting counseling, a three-month first offender drinking driver program, and was ordered
4 not to drink during the period of probation. Respondent was also ordered to pay standard fines
5 and fees and was subject to random testing for the presence of alcohol during the period of
6 probation. Respondent was sentenced to a deferred entry of judgment as to the section 273a(a)
7 Penal Code violation and after one year that charge would be dismissed upon successful
8 completion of Parenting Counseling with no alcohol after being subject to random testing.

9 12. Respondent's conduct and criminal conviction, as outlined in Paragraphs 8 through
10 11, constitute unprofessional conduct and the conviction of a crime substantially related to the
11 qualifications, functions or duties of a physician and surgeon, and cause for discipline pursuant to
12 Business and Professions Code sections 2234 and/or 2236.

13 13. Respondent's conduct in driving under the influence of alcohol and driving onto the
14 MUNI tracks with her teenage daughter in the car, as outlined in Paragraphs 8 through 11,
15 constitute unprofessional conduct and the use of alcohol in a dangerous manner, and constitute
16 cause for discipline pursuant to sections 2234 and/or 2239 of the Code.

17 **PRAYER**

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

20 1. Revoking or suspending Physician's and Surgeon's Certificate Number G 72686,
21 issued to Huyen Le Cao, M.D.;

22 2. Revoking, suspending or denying approval of Huyen Le Cao, M.D.'s authority to
23 supervise physician assistants and advanced practice nurses;

24 3. Ordering Huyen Le Cao, M.D., if placed on probation, to pay the Board the costs of
25 probation monitoring; and

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

DATED: September 13, 2019



KIMBERLY KIRCHMEYER
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

SF2019201445
Cao.huyen.accusation