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

In the Matter of the Accusation Against: **Peter Toan Truong, M.D.** **Physician's & Surgeon's Certificate No. G 71046** **Respondent.**	**Case No. 800-2016-024875**

DECISION

The attached Stipulated Settlement and Disciplinary Order is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on SEP 03 2020

IT IS SO ORDERED AUG 04 2020

MEDICAL BOARD OF CALIFORNIA

Kristina D. Lawson, J.D., Chair
Panel B

XAVIER BECERRA
Attorney General of California
STEVEN D. MUNI
Supervising Deputy Attorney General
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Attorneys for Complainant

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

In the Matter of the Accusation Against: **PETER TOAN TRUONG, M.D.** **22511 Labrusca** **Mission Viejo, CA 92692-1327** **Physician's and Surgeon's Certificate No. G 71046** Respondent.	Case No. 800-2016-024875 OAH No. 2019050261 **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. William Prasifka (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 Xavier Becerra, Attorney General of the State of California, by Jannsen Tan, Deputy Attorney General.

2. Respondent Peter Toan Truong, M.D. (Respondent) is represented in this proceeding by attorney Mark B. Canepa, whose address is: 7690 North Palm Ave., Suite 105

Fresno, CA 93711. On or about April 1, 1991, the Board issued Physician's and Surgeon's Certificate No. G 71046 to Peter Toan Truong, 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. 800-2016-024875, and will expire on November 30, 2020, unless renewed.

JURISDICTION

3. Accusation No. 800-2016-024875 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 February 28, 2019. Respondent timely filed his Notice of Defense contesting the Accusation.

4. A copy of Accusation No. 800-2016-024875 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 800-2016-024875. Respondent has also carefully read, fully discussed with his counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

6. 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.

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

CULPABILITY

8. Respondent understands and agrees that the charges and allegations in Accusation No. 800-2016-024875, if proven at a hearing, constitute cause for imposing discipline upon his Physician's and Surgeon's Certificate.

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. 800-2016-024875, a true and correct copy of which is attached hereto as Exhibit A, and that he has thereby subjected his Physician's and Surgeon's Certificate, No. G 71046 to disciplinary action.

10. 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.

11. Respondent agrees that if an Accusation in the future is filed against him before the Board, all of the charges and allegations contained in Accusation No. 800-2016-024875., 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.

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. 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.

14. 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

A. PUBLIC REPRIMAND

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. G 71046 issued to Respondent Peter Toan Troung, M.D. shall be and is hereby publicly reprimanded pursuant to California Business and Professions Code, section 2227, subdivision (a)(4.) This public reprimand, which is issued in connection with Respondent's care and treatment of Patient A, as set forth in Accusation No. 800-2016-024875, is as follows:

"You failed to document an adequate history for Patient A; and determine if the proposed cosmetic surgery was suitable for Patient A."

B. EDUCATION COURSE Within 60 calendar days of the effective date of this 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, in addition to the 25 hours required for license renewal. 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 12 months of the effective date of this Decision, Respondent shall provide proof of attendance for 65 hours of CME of which 40 hours were in satisfaction of this condition.

Failure to successfully complete and provide proof of attendance to the Board or its designee of the educational program(s) or course(s) within 12 months of the effective date of this Decision, unless the Board or its designee agrees in writing to an extension of time, shall constitute general unprofessional conduct and may serve as the grounds for further disciplinary action.

C. 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 and the coursework requirements as set forth in Condition B of this stipulated settlement.

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. Failure to provide proof of successful completion to the Board or its designee within twelve (12) months of the effective date of this Decision, unless the Board or its designee agrees in writing to an extension of that time, shall constitute general unprofessional conduct and may serve as the grounds for further disciplinary action.

ACCEPTANCE

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

DATED: 6.15.2020

PETER TOAN TRUONG, M.D.
Respondent

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

DATED: 6-15-20

MARK B. CANEPA
Attorney for Respondent

ENDORSEMENT

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

DATED: June 16, 2020

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
STEVEN D. MUNI
Supervising Deputy Attorney General

JANNSEN TAN
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 800-2016-024875

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FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO February 28 2019
BY K. Vong ANALYST

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

In the Matter of the Accusation Against: **PETER TOAN TRUONG, M.D.** **22511 Labrusca** **Mission Viejo, CA 92692-1327** **Physician's and Surgeon's Certificate No. G 71046,** Respondent.	Case No. 800-2016-024875 **ACCUSATION**

Complainant alleges:

PARTIES

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

2. On or about April 1, 1991, the Medical Board issued Physician's and Surgeon's Certificate No. G 71046 to Peter Toan Truong, 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 November 30, 2020, 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 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."

5. 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 which is substantially related to the qualifications, functions, or duties of a physician and surgeon.

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

"(g) The practice of medicine from this state into another state or country without meeting the legal requirements of that state or country for the practice of medicine. Section 2314 shall not apply to this subdivision. This subdivision shall become operative upon the implementation of the proposed registration program described in Section 2052.5.

"(h) The repeated 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."

6. 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."

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FIRST CAUSE FOR DISCIPLINE
(Gross Negligence)

7. Respondent has subjected his Physician's and Surgeon's Certificate No. G 71046 to disciplinary action under sections 2227 and 2234, as defined by section 2234, subdivision (b), of the Code, in that Respondent committed gross negligence in his care and treatment of Patient A[1], as more particularly alleged hereinafter:

8. Respondent is a physician and surgeon who practiced ophthalmic plastic and reconstructive surgery in Fresno, California.

9. On or about November 16, 2012, Respondent saw Patient A for cosmetic surgery consult. Patient A had facial laxity and forehead ptosis. Patient A had been a patient of Respondent before, where Respondent performed facial laser treatment in 2004, facial fillers and a non-surgical neck procedure in 2006. Patient A, at the time of the consult with Respondent in 2012, was a 67-year-old female, with a complex medical history. She had a 40-pack a year history of cigarette smoking, quitting in 1999. She has a history of myocardial infarction in 2001. She had hypothyroidism, and rheumatoid arthritis (RA). She took Remicade and Humira for her RA. She had a history of Methotrexate toxicity with pulmonary edema. In 2008, Patient A suffered a transient ischemic attack, where a CT scan revealed cerebral aneurysms. She had bilateral intracranial cerebral artery aneurysm removal. Her left middle cerebral artery was resected via a left frontal craniotomy and a second craniotomy was performed on the right side, successfully resecting a third cerebral aneurysm. Due to these surgeries, the integrity of the frontal sinus was compromised.

10. Respondent's written record for the November 16, 2012 visit was minimal. Respondent failed to document the pertinent medical history of Patient A. Respondent failed to contact Patient A's rheumatologist or coordinate with the rheumatologist and her primary care physician regarding Patient A's treatments for rheumatoid arthritis. Respondent failed to consider Patient A's neurosurgical procedures, history of subcutaneous emphysema secondary to frontal

[1] To protect the privacy of the patient involved, the patient's name has not been included in this pleading. Respondent is aware of the identity of the patient referred to herein.

sinus trauma caused by the neurosurgical procedures, or the severity of Patient A's RA, which required her to be on two separate disease modifying anti-rheumatic drugs (DMARDs).

11. On or about January 9, 2013, Respondent saw Patient A for a pre-operative visit. Respondent's typed notes of the visit failed to detail Patient A's past medical and surgical history. Respondent documented that "[w]e discussed the pre op and post op instructions, surgical procedure, consent, medications to avoid, patient rights, and advanced directives", but failed to document the risks, benefits, or alternatives to surgery or a discussion of how her health status might impact her surgical outcome. Nurse's notes documented that Patient A was on two separate DMARDs, and noted Patient A's 2008 and 2009 brain surgeries for aneurysm repair. Respondent failed to act on this information. Respondent failed to investigate if the prior surgeries would affect the present cosmetic procedure.

12. On or about February 7, 2013, Respondent performed cosmetic surgery on Patient A. Respondent performed a right temple brow lift and lower face and neck lift. Surgery was uneventful. Respondent saw Patient A for a post operative visit the next day. Respondent noted muscular weakness in the distribution of the right frontal branch of the facial nerve. Respondent also documented "neck looks good."

13. On or about February 17, 2013, Respondent saw Patient A urgently for right temple swelling and discomfort. Respondent numbed the temple and made a 1 cm incision. Respondent documented "gas under pressure came out, no odor, Left wound open, reapplied Kerlex wrap with instruction to reopen after 2 days." Respondent did not provide new prescriptions, and failed to order any studies, consultations and follow up.

14. On or about February 26, 2013, Patient A saw her primary care physician. She complained that when she "blew her nose, her forehead whistled."

15. On or about February 28, 2013, Respondent saw Patient A for a follow up visit. Respondent failed to document Patient A's complaint of whistling. Respondent documented the development of skin necrosis on the left side of the neck with oozing and "has a hole in the right temporal area where the incision was made, has headache." Respondent's plan indicated the use of a hyperbaric chamber.

16. Respondent committed gross negligence in his care and treatment of Patient A, which included, but was not limited to, the following:

A. Respondent failed to take and document an adequate history when Patient A presented on November 16, 2012 to determine if the proposed cosmetic surgery is appropriate for Patient A.

B. Respondent performed a forehead surgery in the setting of a known unrepaired frontosinus cutaneous fistula in a patient with an impaired immune system by virtue of being on two DMARDs.

C. Respondent failed to discuss the risks and benefits of surgery with Patient A who had a complex medical history.

D. Respondent failed to appropriately give post operative care to Patient A after Patient A presented with gas under pressure from her forehead.

SECOND CAUSE FOR DISCIPLINE
(Repeated Negligent Acts)

17. Respondent has further subjected his Physician's and Surgeon's Certificate No. G 71046 to disciplinary action under sections 2227 and 2234, as defined by section 2234, subdivision (c), of the Code, in that Respondent committed repeated negligent acts in his care and treatment of Patient A, as more particularly alleged hereinafter: Paragraphs 7 through 16, above, are hereby incorporated by reference and realleged as if fully set forth herein;

THIRD CAUSE FOR DISCIPLINE
(Failure to Maintain Adequate and Accurate Medical Records)

18. Respondent has further subjected his Physician's and Surgeon's Certificate No. G 71046 to disciplinary action under sections 2227 and 2234, as defined by section 2266, of the Code, in that he failed to maintain adequate and accurate medical records in the care and treatment of Patient A, as more particularly alleged hereinafter: Paragraphs 7 through 16, above, are hereby incorporated by reference and realleged as if fully set forth herein.

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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 No. G 71046, issued to Peter Toan Truong, M.D.;

2. Revoking, suspending or denying approval of Peter Toan Truong, M.D.'s authority to supervise physician assistants and advanced practice nurses;

3. Ordering Peter Toan Truong, M.D., if placed on probation, to pay the Board the costs of probation monitoring; and

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

DATED: February 28, 2019

Christine S. Zally for

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

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