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

In the Matter of the First Amended Accusation Against: **Khanh Quoc Nguyen, M.D.** **Physician's and Surgeon's Certificate No. A 35028** **Respondent.**	**Case No. 800-2016-024807**

DECISION

The attached Stipulated Surrender of License and 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 DEC 10 2020.

IT IS SO ORDERED DEC 03 2020.

MEDICAL BOARD OF CALIFORNIA

William Prasifka
Executive Director

XAVIER BECERRA
Attorney General of California
JANE ZACK SIMON
Supervising Deputy Attorney General
CAITLIN ROSS
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 First Amended Accusation Against: **KHANH QUOC NGUYEN, M.D.** **127 Gladeview Way** **San Francisco, CA 94131** **Physician's and Surgeon's Certificate No. A 35028** Respondent.	Case No. 800-2016-024807 OAH No. 2020090569 **STIPULATED SURRENDER OF LICENSE AND 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 Caitlin Ross, Deputy Attorney General.

2. KHANH QUOC NGUYEN, M.D. (Respondent) is represented in this proceeding by attorney Kevin R. Mintz.

3. On or about March 17, 1980, the Board issued Physician's and Surgeon's Certificate No. A 35028 to KHANH QUOC NGUYEN, M.D. The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in First Amended Accusation No. 800-2016-024807 and will expire on March 31, 2022, unless renewed.

JURISDICTION

4. First Amended Accusation No. 800-2016-024807 was filed before the Board, and is currently pending against Respondent. The First Amended Accusation and all other statutorily required documents were properly served on Respondent on September 24, 2019. Respondent timely filed his Notice of Defense contesting the First Amended Accusation. A copy of First Amended Accusation No. 800-2016-024807 is attached as Exhibit A and incorporated by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in First Amended Accusation No. 800-2016-024807. Respondent also has carefully read, fully discussed with counsel, and understands the effects of this Stipulated Surrender of License and 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 First Amended 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 that the charges and allegations in First Amended Accusation No. 800-2016-024807, if proven at a hearing, constitute cause for imposing discipline upon his Physician's and Surgeon's Certificate.

9. For the purpose of resolving the First Amended Accusation without the expense and uncertainty of further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual basis for the charges in the First Amended Accusation and that those charges constitute cause for discipline. Respondent hereby gives up his right to contest that cause for discipline exists based on those charges.

10. Respondent understands that by signing this stipulation, he enables the Board to issue an order accepting the surrender of his Physician's and Surgeon's Certificate without further process.

CONTINGENCY

11. This stipulation shall be subject to approval by the Board. Respondent understands and agrees that counsel for Complainant and the staff of the Board may communicate directly with the Board regarding this stipulation and surrender, 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 Surrender 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.

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

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

ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 35028, issued to Respondent KHANH QUOC NGUYEN, M.D., is surrendered and accepted by the Board.

1. The surrender of Respondent's Physician's and Surgeon's Certificate and the acceptance of the surrendered license by the Board shall constitute the imposition of discipline against Respondent. This stipulation constitutes a record of the discipline and shall become a part of Respondent's license history with the Board.

2. Respondent shall lose all rights and privileges as a Physician and Surgeon in California as of the effective date of the Board's Decision and Order.

3. Respondent shall cause to be delivered to the Board his pocket license and, if one was issued, his wall certificate on or before the effective date of the Decision and Order.

4. If Respondent ever applies for licensure or petitions for reinstatement in the State of California, the Board shall treat it as a petition for reinstatement. Respondent must comply with all the laws, regulations and procedures for reinstatement of a revoked or surrendered license in effect at the time the petition is filed, and all of the charges and allegations contained in First Amended Accusation No. 800-2016-024807 shall be deemed to be true, correct, and admitted by Respondent when the Board determines whether to grant or deny the petition.

5. If Respondent should ever apply or reapply for a new license or certification, or petition for reinstatement of a license, by any other health care licensing agency in the State of California, all of the charges and allegations contained in First Amended Accusation, No. 800-2016-024807 shall be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or restrict licensure.

ACCEPTANCE

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

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Medical Board of California.

DATED: Nov 30, 2020

KHANH QUOC NGUYEN, M.D.
Respondent

I have read and fully discussed with Respondent KHANH QUOC NGUYEN, M.D. the terms and conditions and other matters contained in this Stipulated Surrender of License and Order. I approve its form and content.

DATED: 11/30/20

KEVIN R. MINTZ
Attorney for Respondent

ENDORSEMENT

The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted for consideration by the Medical Board of California of the Department of Consumer Affairs.

DATED: _____

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
JANE ZACK SIMON
Supervising Deputy Attorney General

CAITLIN ROSS
Deputy Attorney General
Attorneys for Complainant

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Medical Board of California.

DATED: Nov 30, 2020

KHANH QUOC NGUYEN, M.D.
Respondent

I have read and fully discussed with Respondent KHANH QUOC NGUYEN, M.D. the terms and conditions and other matters contained in this Stipulated Surrender of License and Order. I approve its form and content.

DATED: 11/30/20

KEVIN R. MINTZ
Attorney for Respondent

ENDORSEMENT

The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted for consideration by the Medical Board of California of the Department of Consumer Affairs.

DATED: 11-30-20

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
JANE ZACK SIMON
Supervising Deputy Attorney General

CAITLIN ROSS
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

First Amended Accusation No. 800-2016-024807

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Attorneys for Complainant

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO Sept 24 2019
BY ANALYST

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

In the Matter of the First Amended Accusation Against: **Khanh Quoc Nguyen, M.D.** 127 Gladeview Way San Francisco, CA 94131 **Physician's and Surgeon's Certificate No. A 35028,** Respondent.	Case No. 800-2016-024807 **FIRST AMENDED ACCUSATION**

PARTIES

1. Kimberly Kirchmeyer (Complainant) brings this First Amended 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 March 17, 1980, the Medical Board issued Physician's and Surgeon's Certificate Number A 35028 to Khanh Quoc Nguyen, 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 March 31, 2020, unless renewed.

JURISDICTION

3. This First Amended 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 2004 of the Code provides that the Board[1] is responsible for the administration and hearing of disciplinary actions involving enforcement of the Medical Practice Act (section 2000 et seq.) and the carrying out of disciplinary action appropriate to findings made by the Board or an administrative law judge with respect to the quality of medical practice carried out by physician's and surgeon's certificate holders.

5. Section 2227 of the Code provides that a licensee who is found guilty under the Medical Practice Act may have his or her license revoked or suspended for a period not to exceed one year; or the licensee may be placed on probation and may be required to pay the costs of probation monitoring; or may have any other such action taken in relation to discipline as the Board deems proper.

6. Section 2234 of the Code, states in relevant part:

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

"...

"(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.

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[1] The term "Board" means the Medical Board of California. "Division of Medical Quality" shall also be deemed to refer to the Medical Board. (Bus. & Prof. Code, § 2002.)

"(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."

FIRST CAUSE FOR DISCIPLINE

(Unprofessional Conduct: repeated negligent acts in the care of Patient A)

7. Respondent is subject to disciplinary action for unprofessional conduct [2234], and/or repeated negligent acts [2234(c)], based on the care provided to Patient A.[2] The circumstances are as follows:

8. Respondent practiced occupational medicine at Redding Occupational Medical Center (ROMC) in Redding, California.

9. On or about July 19, 2016, Patient A saw Respondent for a pre-employment physical and drug screen. During this appointment, and during the course of a purported physical examination, Respondent rubbed the patient's legs and mid-thigh. He further asked her if she was single and asked about her personal life. As the patient was laying down on the examination table, Respondent rubbed her lower chest area. He then used his stethoscope in such a way that allowed him to cup and rub both of Patient A's breasts and placed the stethoscope over her nipples.

10. On or about July 28, 2016, Patient A returned to ROMC after injuring her back at work when transferring a patient from a bed to a chair in her work as a physical therapist. Patient A requested to be treated by a female practitioner but one was not available. She further requested a female chaperone. Respondent entered the examination room and again caressed her legs, touched her lower breasts under the guise of examining her abdomen, and asked her questions about her personal life. A chaperone was not present at any time during the evaluation.

[2] In order to protect the patient's privacy, their names have been placed with alphabetic letters. Respondent may learn the patients identities during the discovery process.

11. On or about August 2, 2016, Patient A returned for a follow-up and stated that her injury improved and she wanted to be released back to work. The patient refused to allow Respondent to perform any physical examination. Patient A had been scheduled for an appointment on August 1, 2016 but did not go because she did not want to see Respondent again. She returned to Respondent's office only because her employer required a physician's note to allow her back to work.

12. Sometime after Patient A's encounters with Respondent, she complained to her insurance carrier about Respondent's inappropriate touching and behavior. As of December 23, 2016, ROMC advised Patient A's health insurance company that it had implemented a chaperone requirement for all patient examinations.

13. Respondent is guilty of unprofessional conduct and subject to disciplinary action based on the following:

a. Respondent rubbed and caressed Patient A's thighs and legs without medical indication.

b. Respondent asked Patient A inappropriate and intrusive questions about her personal life.

c. Respondent used a stethoscope in such a manner that he made inappropriate contact with the patient's breasts.

SECOND CAUSE FOR DISCIPLINE

(Unprofessional Conduct: gross negligence; and/or repeated negligent acts in the care of Patient B

14. Respondent is subject to disciplinary action for unprofessional conduct [2234], and/or gross negligence [2234(b)], and/or repeated negligent acts [2234(c)] based on the care provided to Patient B. The circumstances are as follows:

15. On or about March 22, 2018, Patient B, accompanied by her son, went to ROMC for a medical follow-up appointment. The Patient had seen other providers at ROMC previously, but had not seen Respondent until this appointment. The patient was seated on the examination table when Respondent came into the room, while her son was also in the room. He positioned himself

so close to Patient B that her knees touched his groin area. Respondent immediately took the patient's hands and commented that she was too pretty to have anything wrong with her. During the examination portion of the appointment, Respondent rubbed his hands up and down the patient's legs from the top of her knees to the top of her thighs. He also rubbed her arms. When the patient pulled her hands and arms away from Respondent, he would again grab them. He repeated that she was too pretty to be having medical issues and she should study tai chi. Towards the end of the appointment, Respondent placed his stethoscope over the patient's clothed breasts, with his hand open, and then moved the stethoscope around "a couple of times" before he completed the examination. When Patient B left the exam room she immediately complained to a nurse that Respondent was "touchy". The patient also tried to tell the office manager but he was not in the office at that time. Patient B wrote a note that she did not want to see Respondent again. After several additional attempts to contact the office manager, Patient B was told to find a new doctor. Patient B emailed ROMC on March 23, 2018 to report the incident.

16. On or about March 26, 2018, Patient B contacted the Redding Police Department to report Respondent's conduct.

17. Respondent is guilty of unprofessional conduct and subject to disciplinary action based on the following:

a. Respondent rubbed Patient B's arms and thighs without medical indication.

b. Respondent inappropriately commented on the Patient's looks.

c. Respondent performed a medically unnecessary chest and heart examination that was done in an inappropriate manner.

d. Respondent used a stethoscope in such a manner that he made inappropriate contact with the patient's breasts.

PRAYER

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

1. Revoking or suspending Physician's and Surgeon's Certificate Number A 35028, issued to Khanh Quoc Nguyen, M.D.;

2. Revoking, suspending or denying approval of Khanh Quoc Nguyen, M.D.'s authority to supervise physician assistants and advanced practice nurses;

3. Ordering Khanh Quoc Nguyen, 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: September 24, 2019

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

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