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

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| **In the Matter of the Accusation**<br>**Against**<br><br>**James Yuen-Kuen Yip, M.D.**<br><br>**Physician's and Surgeon's**<br>**Certificate No. G 41324**<br><br>**Respondent.** | **Case No. 800-2017-034077** |

## 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** FEB 12 2021.

**IT IS SO ORDERED** JAN 14 2021.

**MEDICAL BOARD OF CALIFORNIA**

Jenna Jones Jenna Jones
for **William Prasifka** Chief of Enforcement
**Executive Director**

XAVIER BECERRA
Attorney General of California
STEVE DIEHL
Supervising Deputy Attorney General
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*Attorneys for Complainant*

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

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|---|---|
| In the Matter of the Accusation Against:<br><br>**JAMES YUEN-KUEN YIP, M.D.**<br>**1552 Coffee Rd**<br>**Modesto, CA 95355-3122**<br><br>**Physician's and Surgeon's Certificate No. G 41324**<br><br>Respondent. | Case No. 800-2017-034077<br><br>**STIPULATED SURRENDER OF LICENSE AND ORDER** |

In the interest of a prompt and speedy settlement of this matter, consistent with the public interest and the responsibility of the Medical Board of California of the Department of Consumer Affairs, the parties hereby agree to the following Stipulated Surrender and Disciplinary Order which will be submitted to the Board for approval and adoption as the final disposition of the Accusation.

## 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 Steve Diehl, Supervising Deputy Attorney General.

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2. James Yuen-Kuen Yip, M.D. (Respondent) is represented in this proceeding by attorney Michael R. Modaunt, whose address is 3439 Brookside Road, Suite 208A, Stockton CA 95219.

3. On or about December 10, 1979, the Board issued Physician's and Surgeon's Certificate No. G 41324 to James Yuen-Kuen Yip, 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. 800-2017-034077 and will expire on February 28, 2021, unless renewed.

## JURISDICTION

4. Accusation No. 800-2017-034077 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 March 17, 2020. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation No. 800-2017-034077 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 Accusation No. 800-2017-034077. 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 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.

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## CULPABILITY

8. Respondent understands that the charges and allegations in Accusation No. 800-2017-034077, 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 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 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. Respondent agrees that if he ever petitions for reinstatement of his Physician's and Surgeon's Certificate No. G 41324, all of the charges and allegations contained in Accusation No. 800-2017-034077 shall be deemed true, correct and fully admitted by Respondent for purposes of that reinstatement proceeding or any other licensing proceeding involving respondent in the State of California

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.

## CIRCUMSTANCES IN MITIGATION

11. Respondent has never been the subject of any disciplinary action in over forty years of practice. He is admitting responsibility at an early stage in the proceedings.

## CONTINGENCY

12. Business and Professions Code section 2224, subdivision (b), provides, in pertinent part, that the Medical Board "shall delegate to its executive director the authority to adopt a ... stipulation for surrender of a license."

13. Respondent understands that, by signing this stipulation, he enables the Executive Director of the Board to issue an order, on behalf of the Board, accepting the surrender of his Physician's and Surgeon's Certificate No. G 41324 without further notice to, or opportunity to be heard by, Respondent.

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14. This Stipulated Surrender of License and Disciplinary Order shall be subject to the approval of the Executive Director on behalf of the Board. The parties agree that this Stipulated Surrender of License and Disciplinary Order shall be submitted to the Executive Director for his consideration in the above-entitled matter and, further, that the Executive Director shall have a reasonable period of time in which to consider and act on this Stipulated Surrender of License and Disciplinary Order after receiving it. By signing this stipulation, Respondent fully understands and agrees that he may not withdraw his agreement or seek to rescind this stipulation prior to the time the Executive Director, on behalf of the Medical Board, considers and acts upon it.

15. The parties agree that this Stipulated Surrender of License and Disciplinary Order shall be null and void and not binding upon the parties unless approved and adopted by the Executive Director on behalf of the Board, except for this paragraph, which shall remain in full force and effect. Respondent fully understands and agrees that in deciding whether or not to approve and adopt this Stipulated Surrender of License and Disciplinary Order, the Executive Director and/or the Board may receive oral and written communications from its staff and/or the Attorney General's Office. Communications pursuant to this paragraph shall not disqualify the Executive Director, the Board, any member thereof, and/or any other person from future participation in this or any other matter affecting or involving respondent. In the event that the Executive Director on behalf of the Board does not, in his discretion, approve and adopt this Stipulated Surrender of License and Disciplinary Order, with the exception of this paragraph, it shall not become effective, shall be of no evidentiary value whatsoever, and shall not be relied upon or introduced in any disciplinary action by either party hereto. Respondent further agrees that should this Stipulated Surrender of License and Disciplinary Order be rejected for any reason by the Executive Director on behalf of the Board, Respondent will assert no claim that the Executive Director, the Board, or any member thereof, was prejudiced by its/his/her review, discussion and/or consideration of this Stipulated Surrender of License and Disciplinary Order or of any matter or matters related hereto.

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## ADDITIONAL PROVISIONS

16. This Stipulated Surrender of License and Disciplinary Order is intended by the parties herein to be an integrated writing representing the complete, final and exclusive embodiment of the agreements of the parties in the above-entitled matter.

17. 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.

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

## ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. G 41324, issued to Respondent James Yuen-Kuen Yip, 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 files an application for licensure or a petition 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 Accusation No. 800-2017-034077 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 Accusation, No. 800-2017-034077 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 Medical Board of California.

DATED: 10/14/2020

JAMES YUEN-KUEN YIP, M.D.
*Respondent*

I have read and fully discussed with Respondent James Yuen-Kuen Yip, 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: 10/14/20

*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: 10/22/20

Respectfully submitted,

XAVIER BECERRA
Attorney General of California

STEVE DIEHL
Supervising Deputy Attorney General
*Attorneys for Complainant*

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# Exhibit A

**Accusation No. 800-2017-034077**

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*Attorneys for Complainant*

**BEFORE THE**
**MEDICAL BOARD OF CALIFORNIA**
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| In the Matter of the Accusation Against:<br><br>**JAMES YUEN-KUEN YIP, M.D.**<br>1552 Coffee Rd<br>Modesto, CA 95355-3122<br><br>**Physician's and Surgeon's Certificate No. G 41324,**<br><br>Respondent. | Case No. 800-2017-034077<br><br>**A C C U S A T I O N** |

## PARTIES

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

2. On or about December 10, 1979, the Medical Board issued Physician's and Surgeon's Certificate Number G 41324 to James Yuen-Kuen Yip, 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 February 28, 2021, 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.

## STATUTORY PROVISIONS

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 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.

## FACTUAL ALLEGATIONS

6. On or about May 12, 2015, Patient A presented at a hospital in Modesto, California, complaining of headache, right upper quadrant pain, and blood pressure of 130/80. The patient was 30 weeks pregnant. She had two prior pregnancies that were complicated by preterm labor and delivery, pregnancy induced hypertension and placental abruption, with deliveries by cesarean section. The patient had been followed with regular prenatal care at a county-operated health facility, and had blood pressures ranging from 100-114/61-66 both in-office and at home. The patient was evaluated by the family practice resident on-call at the hospital, who confirmed the pregnancy at 30 weeks gestation, started fetal monitor tracing, and ordered preeclamptic labs. The fetal heart tracing at 7:32 p.m. showed category 1 (normal) tracing, with a baseline of 150 with accelerations. Respondent was assigned coverage for obstetric patients who were followed by the county-operated health facility, and was called.

7. By telephone, Respondent ordered a pregnancy-induced hypertension (PIH) lab panel, and continued monitoring the patient's blood pressure and the fetal tracing. At 10:00 p.m., the patient had uterine contractions, and the fetal heart rate was 150, with some variable

decelerations, which placed the tracings in category 2 (indeterminate.) At 10:37 p.m., the patient was given terbutaline to stop contractions. The PIH lab values came back normal, and the urine protein was negative. Because of the category 2 tracing, the on-call family practice resident performed a biophysical profile of the patient, which was 4/8 (borderline.) Respondent was called at home again and informed of these results. Respondent changed his plan from observation to admission with the diagnosis of preterm labor, possible pregnancy induced hypertension, and abruption, but Respondent remained at home.

8. At 11:25 p.m., the patient was given betamethasone for fetal lung maturity and magnesium sulfate for tocolysis and neurological protection. At 11:50 p.m. the obstetric nurse called Respondent at home. Respondent stated that he could review the patient's records from his home computer, that he was aware of the category 2 tracing, but that he felt no immediate intervention was necessary. Respondent recommended continuing to monitor the fetal tracing, completing the betamethasone and magnesium sulfate treatments, and to repeat the biophysical profile. The repeat biophysical profile was 2/8 (unreassuring.) The fetal monitoring continued as category 2. Ultrasound was ordered, and it was determined that there was no abruption placenta.

9. At approximately 1 a.m. on May 13, 2015, the chair of the department called Respondent at home to discuss the risks and benefits of delivery versus observation. At approximately 1:30 a.m., Respondent arrived at the labor and delivery department and assessed the fetal heart tracing. Respondent's assessment was that the tracing was category 2 intermixed with category 1, and that since the patient did not technically have pregnancy-induced hypertension, immediate delivery was unnecessary. Respondent discussed the case with the perinatologist at approximately 1:45 a.m., and planned to repeat the biophysical profile in 6 hours, and to continue to watch the fetal monitor. By 2:30-2:50 a.m., the monitor showed absent variability and a category 3 tracing. At 3:10 a.m., the uterine contractions were every 3 to 4 minutes, and the fetal heart rate showed variable decelerations with decreased variability. At 3:40 a.m., Respondent consulted the chief of the department, who recommended immediate cesarean section. A cesarean section was begun at 3:45 a.m., but the fetus did not survive. The cord blood

was severely acidotic at 6.6. A blood clot on the placental surface was consistent with placental abruption.

## FIRST CAUSE FOR DISCIPLINE

**(Gross Negligence)**

10. Respondent James Yuen-Kuen Yip, M.D. is subject to disciplinary action under section 2234, subdivision (b), in that he engaged in act(s) and/or omission(s) amounting to gross negligence. The circumstances are set forth in paragraphs 6 through 9, which are incorporated by reference as if fully set forth. Additional circumstances are as follows:

11. Women with a live preterm birth, preeclampsia, or abruption placenta in a first pregnancy have increased risk of stillbirth in a subsequent pregnancy. Such pregnancies are high risk and require extra vigilance. Patient A presented at 30 weeks with headache, right upper quadrant pain, and a history of two prior cesarean sections that were preterm, and were complicated with preeclampsia and abruption placenta. Given the patient's history and presentation, the category 3 tracing at approximately 2:30 a.m. required immediate action. Respondent's failure to perform an immediate cesarean section at 2:30 a.m. constitutes gross negligence.

## SECOND CAUSE FOR DISCIPLINE

**(Repeated Negligent Acts)**

12. Respondent James Yuen-Kuen Yip, M.D. is subject to disciplinary action under section 2234, subdivision (c), in that he committed repeated act(s) or omission(s) amounting to negligence. The circumstances are set forth in paragraphs 6 through 11, which are incorporated by reference as if fully set forth. Additional circumstances are as follows:

13. Although Respondent could read the fetal heart tracing at home, he could not physically assess Patient A and provide hands-on guidance to the resident and the patient. Given the patient's presentation, and the category 2 fetal tracing, Respondent's failure to come to the hospital until called by the chair of the department at 1 a.m. constitutes negligence.

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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 Number G 41324, issued to James Yuen-Kuen Yip, M.D.;

2. Revoking, suspending or denying approval of James Yuen-Kuen Yip, M.D.'s authority to supervise physician assistants and advanced practice nurses;

3. Ordering James Yuen-Kuen Yip, 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: MAR 17 2020

CHRISTINE J. LALLY
Interim Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
*Complainant*

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