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

In the Matter of the Accusation Against: Daniel Yu Wang, M.D. Physician's & Surgeon's Certificate No. A 96792 Respondent.	Case No. 800-2017-032716

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 March 4, 2021.

IT IS SO ORDERED February 2, 2021.

MEDICAL BOARD OF CALIFORNIA

Kristina Lawson

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

XAVIER BECERRA
Attorney General of California
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BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: **DANIEL YU WANG, M.D.** **920 Sunnyslope Road** **Hollister, CA 95023** **Physician's and Surgeon's Certificate No. A 96792** Respondent.	Case No. 800-2017-032716 **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 Rebecca D. Wagner, Deputy Attorney General.

2. Respondent Daniel Yu Wang, M.D. (Respondent) is represented in this proceeding by attorney Marvin Firestone, M.D., whose address is: 1700 South El Camino Real, Suite 408, San Mateo, CA 94402-3050.

3. On or about August 9, 2006, the Board issued Physician's and Surgeon's Certificate No. A 96792 to Daniel Yu Wang, 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. 800-2017-032716, and will expire on September 30, 2021, unless renewed.

JURISDICTION

1. Accusation No. 800-2017-032716 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 December 5, 2019. Respondent timely filed his Notice of Defense contesting the Accusation.

2. A copy of Accusation No. 800-2017-032716 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

3. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 800-2017-032716. Respondent has also carefully read, fully discussed with his counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

4. 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.

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

CULPABILITY

6. Respondent understands and agrees that the charges and allegations in Accusation No. 800-2017-032716, if proven at a hearing, constitute cause for imposing discipline upon his Physician's and Surgeon's Certificate.

7. 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 Respondent hereby gives up his right to contest those charges.

8. Respondent agrees that his Physician's and Surgeon's Certificate is subject to discipline and he agrees to be bound by the Board's imposition of discipline as set forth in the Disciplinary Order below.

CONTINGENCY

9. 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.

10. 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.

11. 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 Respondent Daniel Yu Wang, M.D., as holder of Physician's and Surgeon's Certificate No. A 96792, shall be and hereby is publicly

reprimanded pursuant to Business and Professions Code section 2227. This public reprimand is issued as a result of the conduct by Respondent as set forth in Accusation No. 800-2017-032716.

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 is a minimum of 40 hours. The educational program(s) or course(s) shall be completed within six (6) months of Board approval of the course, and aimed at correcting any areas of deficient practice or knowledge, with an emphasis on conducting proper physical exams and obtaining proper prior history, 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. Respondent shall provide the Board or its designee proof of completion of the Education Course. Failure to enroll in, participate in, or successfully complete the education course within the designated time period shall constitute unprofessional conduct and 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.

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

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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 enroll in, participate in , or successfully complete the medical records course within the designated time period shall constitute unprofessional conduct and grounds for further disciplinary action.

D. **FUTURE ADMISSIONS CLAUSE.** 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 action agency in the State of California, all of the charges and allegations contained in Accusation No. 800-2017-032716 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 license.

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Marvin Firestone, M.D. 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: 12/4/20

DANIEL YU WANG, M.D.
Respondent

I have read and fully discussed with Respondent Daniel Yu Wang, 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: 12/7/20

MARVIN FIRESTONE, M.D.
Attorney for Respondent

ENDORSEMENT

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

DATED: December 8, 2020

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
MARY CAIN-SIMON
Supervising Deputy Attorney General

Rebecca D. Wagner

REBECCA D. WAGNER
Deputy Attorney General
Attorneys for Complainant

SF2019202240
Daniel Yu Wang, M.D. Stipulated Settlement and Disciplinary Order

Exhibit A

Accusation No. 800-2017-032716

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO Dec 5 2019
BY D. Richards ANALYST

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

In the Matter of the Accusation Against: **Daniel Yu Wang, M.D.** **920 Sunnyslope Road** **Hollister, CA 95023** **Physician's and Surgeon's Certificate No. A 96792,** Respondent.	Case No. 800-2017-032716 **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 August 9, 2006, the Medical Board issued Physician's and Surgeon's Certificate Number A 96792 to Daniel Yu Wang, 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 September 30, 2021, unless renewed.

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 2004 of the Code provides, in pertinent part, that the Medical Board shall have responsibility for:

"(a) The enforcement of the disciplinary and criminal provisions of the Medical Practice Act.

"(b) The administration and hearing of disciplinary actions.

"(c) Carrying out disciplinary actions appropriate to findings made by a panel or an administrative law judge.

"(d) Suspending, revoking, or otherwise limiting certificates after the conclusion of disciplinary actions.

"(e) Reviewing the quality of medical practice carried out by physician and surgeon certificate holders under the jurisdiction of the board.

". . . ."

5. Section 2227 of the Code states:

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

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

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

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

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

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

"(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 AUTHORITY

6. Section 2234 of the Code, states, in pertinent 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:

"(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.

". . . ."

7. 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."

FACTUAL ALLEGATIONS

8. At all times relevant to this matter, Respondent was licensed and practicing Family Medicine in Hollister, California.

9. On November 4, 2015, Patient P-1[1], a 30-year-old male patient, went to Respondent as a new patient for treatment with a complaint of stomachaches which had been occurring for three years. A Medical Assistant in Respondent's practice took Patient P-1's blood pressure and pulse, however, there is no documentation related to height, weight or temperature.

10. Respondent wrote no patient history at all, despite Patient P-1 being seen at the practice for the first time. Respondent wrote no history of the present illness. In addition, Respondent's records of this first visit contain no past medical history, no allergy information, no current medicines, no family history, no social history, and no review of systems. Respondent conducted no physical exam on Patient P-1's head and neck, heart, lungs, back, genital, lymphatic or nervous system. Although Respondent did examine Patient P-1's abdomen, the examination was cursory and did not include details such as whether the abdomen was soft, whether bowel sounds were present and normal, and whether there were any masses in the abdomen.

[1] The patient is designated in this document as Patient P-1 to protect his privacy. Respondent knows the name of the patient and can confirm his identity through discovery.

11. The only other documentation of this first visit is a diagram showing "tender" to the right of the umbilicus, an impression of abdominal pain, a plan for labs to include a "urine dip", and a prescription for Bentyl[2] and Omeprezole[3].

12. On November 11, 2015, Patient P-1 was seen for the second time by Respondent for follow-up, which was the entire history documented related to the present illness. Respondent documented "sweats" and said the patient was negative for dysphagia[4], constipation, and myalgia[5]. The Respondent documented lower abdominal pain of Patient P-1 and prescribed Flagyl[6] and Amoxicillin[7]. Respondent had limited documentation as to why he prescribed Flagyl and Amoxicillin. Respondent stated in his subject interview he was treating Patient P-1 for possible diverticulitis and yet did not document whether Patient P-1 had diarrhea, fever, nausea, rigors or vomiting. The November 11, 2015 medical chart failed to document Patient P-1's temperature despite a suspected infection, and despite the patient being prescribed two types of antibiotics after the examination. The abdominal examination showed bilateral abdominal tenderness without documentation as to any mass, guarding, rigidity, or rebound tenderness.

13. Patient P-1 was seen a third time on December 2, 2015 and the patient history only documented diarrhea, abdominal pain, and fatigue. The only documented physical exam was "tender" on both sides of the umbilicus. The only vitals taken were blood pressure and pulse rate. Respondent does not document the pattern of diarrhea, whether the patient was taking the antibiotics prescribed, and does not document the patient's temperature despite a suspicion of infection. The abdominal exam documented was almost identical to the diagram for the earlier visit. Respondent's assessment was left lower quadrant pain and he ordered a stool test for the

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[2] Bentyl is the brand name for Dicyclomine, a gut antispasmodic, used to treat irritable bowel syndrome which requires a prescription.

[3] Omeprezole is a proton-pump inhibitor which can be used to treat heartburn, a damaged esophagus, stomach ulcers, and gastroesophageal reflux disease (GERD).

[4] Dysphagia means difficulty swallowing.

[5] Myalgia means pain in a muscle or group of muscles.

[6] Flagyl is the brand name for Metronidazole, which is an antibiotic used to treat various infections.

[7] Amoxicillin is a broad-spectrum semisynthetic penicillin often used to treat ear and upper respiratory infections.

detection of the bacteria C. difficule or H. pylori and a full-liquid diet. Respondent included in the treatment plan that he would consider a colonoscopy and CT scan of the abdomen if patient does not improve.

14. On January 23, 2019, Respondent stated in his subject interview that he eventually made a differential diagnosis of Patient P-1 of diverticulitis, yet failed to document sufficient information in the medical records to form this specific diagnostic impression. For example, Patient P-1 was only 30 years old and diverticulitis is unlikely in a patient so young. In addition, he failed to inquire and/or document whether Patient P-1 had diarrhea, fever, nausea, rigors or vomiting. Respondent also stated that he prescribed Bentyl and Omeprazole to try to see if they were effective despite failing to document a sufficient patient history or physical exam.

FIRST CAUSE FOR DISCIPLINE

(Unprofessional Conduct: Gross Negligence and/or Repeated Negligent Acts and/or Incompetence and/or Failure to Maintain Adequate/Accurate Medical Records)

(Code Sections 2234 (a) – (d); 2266)

15. Respondent Daniel Yu Wang, M.D. is guilty of unprofessional conduct and subject to disciplinary action under section 2234, subdivisions (a) (violating the Medical Practice Act), (b) (gross negligence), (c) (repeated negligent acts) and/or (d) (incompetence) and/or 2266 (inadequate record-keeping) of the Code in that Respondent's actions and omissions in the course of his care of Patient P-1, as set forth in Paragraphs 9 – 14, above, comprise gross negligence and/or repeated negligent acts and/or incompetence and/or failure to document. Respondent engaged in conduct as described above including, but not limited to, the following:

A. On November 4, 2019 (first visit), Respondent failed to obtain and/or document adequate new patient history including, but not limited to, history of present illness, past medical/surgical history, allergy information, current medication, family history, social history, dietary history, travel history or review of systems.

B. During Patient P-1's first visit, Respondent failed to perform and/or document a reasonable patient physical examination including temperature, height, weight, review of

systems, and adequate abdominal examination, which should have included a detailed and focused examination in order to obtain a reliable diagnosis since the patient presented with a three-year history of abdominal pain.

C. Respondent, after Patient P-1's first visit, prescribed Bentyl and Omeprazole which treat different unrelated abdominal conditions, and Respondent did not conduct and/or document a sufficient patient history and abdominal physical exam to justify either prescription.

D. Respondent, after Patient P-1's second visit on November 11, 2015, prescribed Flagyl and Amoxicillin without conducting and/or documenting an adequate physical abdominal examination to justify either prescription. In addition, Respondent stated that he was treating acute diverticulitis yet failed to inquire and/or document whether Patient P-1 had diarrhea, fever, nausea, rigors, or vomiting which would be relevant if diagnosing acute diverticulitis.

E. Respondent failed to check and/or document Patient P-1's temperature during his second examination despite prescribing two antibiotics to treat a presumed infection.

F. Respondent failed to check and/or document Patient P-1's temperature during this third examination on December 2, 2015 despite Respondent's continued suspicion of an infection since he ordered tests for possible bacterial infections of C. difficule and H. pylori.

G. Respondent failed to conduct and/or document an appropriate abdominal exam during his third examination of Patient P-1.

H. Respondent failed to ask and/or document an appropriate patient history during Patient P-1's third examination including, but not limited to, details related to new onset of diarrhea, any changes in abdominal pain, and food history.

I. Respondent failed to formulate a diagnosis during any of Patient P-1's three visits with adequate reasoning and/or provide correct treatment commensurate with the diagnosis and/or provide appropriate treatment referrals.

J. Respondent improperly diagnosed diverticulitis without a sufficient foundation since Patient P-1 did not have the gastrointestinal or constitutional symptoms indicative of diverticulitis and/or Respondent failed to document symptoms indicative of diverticulitis.

K. Respondent improperly treated and/or failed to properly document treating diverticulitis by prescribing Amoxicillin without the proper combination to include Clavulanate.[8] Patient P-1's medical records contain an insufficient basis for diagnosing acute diverticulitis and if Respondent in fact intended to treat diverticulitis, his selection of antibiotics to prescribe was inappropriate.

SECOND CAUSE FOR DISCIPLINE

(Inadequate Recordkeeping)

(Code Section 2266)

16. Respondent Daniel Yu Wang, M.D. is subject to disciplinary action under section 2266 (inadequate records) of the Code in that the facts and circumstances described above in Paragraphs 9 – 15 reflect that Respondent failed to maintain adequate and accurate medical records as required by law.

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[8] Amoxicillin is a penicillin antibiotic that fights bacteria in the body. Clavulanate is an inhibitor that helps prevent certain bacteria from becoming resistant to amoxicillin.

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 96792, issued to Daniel Yu Wang, M.D.;

2. Revoking, suspending or denying approval of Daniel Yu Wang, M.D.'s authority to supervise physician assistants and advanced practice nurses;

3. Ordering Daniel Yu Wang, 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: December 5, 2019

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

SF2019202240
Wang.daniel.accusation