

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

In the Matter of the Accusation
Against:

David Wong, M.D.

Physician's and Surgeon's
Certificate No. G 85258

Respondent.

Case No.: 800-2018-045294

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 December 29, 2021.

IT IS SO ORDERED: November 29, 2021.

MEDICAL BOARD OF CALIFORNIA



Richard E. Thorp, M.D., Chair
Panel B

1 ROB BONTA
Attorney General of California
2 JUDITH T. ALVARADO
Supervising Deputy Attorney General
3 EDWARD KIM
Deputy Attorney General
4 State Bar No. 195729
California Department of Justice
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7 *Attorneys for Complainant*

8 **BEFORE THE**
9 **MEDICAL BOARD OF CALIFORNIA**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 800-2018-045294

13 **DAVID WONG, M.D.**
79841 Morris Avenue
La Quinta, CA 92253

OAH No. 2021040147

14 **Physician's and Surgeon's**
15 **Certificate No. G 85258,**

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

16 Respondent.

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

19 **PARTIES**

20 1. William Prasifka (Complainant) is the Executive Director of the Medical Board of
21 California (Board). He brought this action solely in his official capacity and is represented in this
22 matter by Rob Bonta, Attorney General of the State of California, by Edward Kim, Deputy
23 Attorney General.

24 2. Respondent David Wong, M.D. (Respondent) is represented in this proceeding by
25 attorney Jeffrey G. Keane, Esq., whose address is: 74770 Highway 111, Suite 201,
26 Indian Wells, CA 92210.

27 3. On or about June 11, 1999, the Board issued Physician's and Surgeon's Certificate
28 No. G 85258 to David Wong, M.D. (Respondent). The Physician's and Surgeon's Certificate was

1 in full force and effect at all times relevant to the charges brought in Accusation No. 800-2018-
2 045294, and will expire on October 31, 2022, unless renewed.

3 **JURISDICTION**

4 4. Accusation No. 800-2018-045294 was filed before the Board, and is currently
5 pending against Respondent. The Accusation and all other statutorily required documents were
6 properly served on Respondent on August 2, 2021. Respondent timely filed his Notice of
7 Defense contesting the Accusation.

8 5. A copy of Accusation No. 800-2018-045294 is attached as exhibit A and incorporated
9 herein by reference.

10 **ADVISEMENT AND WAIVERS**

11 6. Respondent has carefully read, fully discussed with counsel, and understands the
12 charges and allegations in Accusation No. 800-2018-045294. Respondent has also carefully read,
13 fully discussed with his counsel, and understands the effects of this Stipulated Settlement and
14 Disciplinary Order.

15 7. Respondent is fully aware of his legal rights in this matter, including the right to a
16 hearing on the charges and allegations in the Accusation; the right to confront and cross-examine
17 the witnesses against him; the right to present evidence and to testify on his own behalf; the right
18 to the issuance of subpoenas to compel the attendance of witnesses and the production of
19 documents; the right to reconsideration and court review of an adverse decision; and all other
20 rights accorded by the California Administrative Procedure Act and other applicable laws.

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

23 **CULPABILITY**

24 9. Respondent understands and agrees that the charges and allegations in Accusation
25 No. 800-2018-045294, if proven at a hearing, constitute cause for imposing discipline upon his
26 Physician's and Surgeon's Certificate. Respondent does not contest that, at an administrative
27 hearing, complainant could establish a prima facie case with respect to the charges and allegations
28 contained in Accusation No. 800-2018-045294 and that he has thereby subjected his license to

1 disciplinary action.

2 10. Respondent agrees that his Physician's and Surgeon's Certificate is subject to
3 discipline and he agrees to be bound by the Board's probationary terms as set forth in the
4 Disciplinary Order below.

5 **CONTINGENCY**

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

16 12. Respondent agrees that if he ever petitions for early termination or modification of
17 probation, or if an accusation and/or petition to revoke probation is filed against him before the
18 Board, all of the charges and allegations contained in Accusation No. 800-2018-045294 shall be
19 deemed true, correct and fully admitted by respondent for purposes of any such proceeding or any
20 other licensing proceeding involving Respondent in the State of California.

21 13. This Stipulated Settlement and Disciplinary Order is intended by the parties herein to
22 be an integrated writing representing the complete, final, and exclusive embodiment of the
23 agreements of the parties in the above-entitled matter.

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

27 15. In consideration of the foregoing admissions and stipulations, the parties agree that
28 the Board may, without further notice or opportunity to be heard by the Respondent, issue and

1 enter the following Disciplinary Order:

2 **DISCIPLINARY ORDER**

3 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. G 85258 issued
4 to Respondent DAVID WONG, M.D. is revoked. However, the revocation is stayed and
5 Respondent is placed on probation for four (4) years on the following terms and conditions:

6 1. **EDUCATION COURSE.** Within 60 calendar days of the effective date of this
7 Decision, and on an annual basis thereafter, Respondent shall submit to the Board or its designee
8 for its prior approval educational program(s) or course(s) which shall not be less than 40 hours
9 per year, for each year of probation. The educational program(s) or course(s) shall be aimed at
10 correcting any areas of deficient practice or knowledge and shall be Category I certified. The
11 educational program(s) or course(s) shall be at Respondent's expense and shall be in addition to
12 the Continuing Medical Education (CME) requirements for renewal of licensure. Following the
13 completion of each course, the Board or its designee may administer an examination to test
14 Respondent's knowledge of the course. Respondent shall provide proof of attendance for 65
15 hours of CME of which 40 hours were in satisfaction of this condition.

16 2. **MEDICAL RECORD KEEPING COURSE.** Within 60 calendar days of the effective
17 date of this Decision, Respondent shall enroll in a course in medical record keeping approved in
18 advance by the Board or its designee. Respondent shall provide the approved course provider
19 with any information and documents that the approved course provider may deem pertinent.
20 Respondent shall participate in and successfully complete the classroom component of the course
21 not later than six (6) months after Respondent's initial enrollment. Respondent shall successfully
22 complete any other component of the course within one (1) year of enrollment. The medical
23 record keeping course shall be at Respondent's expense and shall be in addition to the Continuing
24 Medical Education (CME) requirements for renewal of licensure.

25 A medical record keeping course taken after the acts that gave rise to the charges in the
26 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board
27 or its designee, be accepted towards the fulfillment of this condition if the course would have
28 been approved by the Board or its designee had the course been taken after the effective date of

1 this Decision.

2 Respondent shall submit a certification of successful completion to the Board or its
3 designee not later than 15 calendar days after successfully completing the course, or not later than
4 15 calendar days after the effective date of the Decision, whichever is later.

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

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

20 Respondent shall submit a certification of successful completion to the Board or its
21 designee not later than 15 calendar days after successfully completing the program or not later
22 than 15 calendar days after the effective date of the Decision, whichever is later.

23 4. CLINICAL COMPETENCE ASSESSMENT PROGRAM. Within 60 calendar days
24 of the effective date of this Decision, Respondent shall enroll in a clinical competence assessment
25 program approved in advance by the Board or its designee. Respondent shall successfully
26 complete the program not later than six (6) months after Respondent's initial enrollment unless
27 the Board or its designee agrees in writing to an extension of that time.

28 The program shall consist of a comprehensive assessment of Respondent's physical and

1 mental health and the six general domains of clinical competence as defined by the Accreditation
2 Council on Graduate Medical Education and American Board of Medical Specialties pertaining to
3 Respondent's current or intended area of practice. The program shall take into account data
4 obtained from the pre-assessment, self-report forms and interview, and the Decision(s),
5 Accusation(s), and any other information that the Board or its designee deems relevant. The
6 program shall require Respondent's on-site participation for a minimum of three (3) and no more
7 than five (5) days as determined by the program for the assessment and clinical education
8 evaluation. Respondent shall pay all expenses associated with the clinical competence
9 assessment program.

10 At the end of the evaluation, the program will submit a report to the Board or its designee
11 which unequivocally states whether the Respondent has demonstrated the ability to practice
12 safely and independently. Based on Respondent's performance on the clinical competence
13 assessment, the program will advise the Board or its designee of its recommendation(s) for the
14 scope and length of any additional educational or clinical training, evaluation or treatment for any
15 medical condition or psychological condition, or anything else affecting Respondent's practice of
16 medicine. Respondent shall comply with the program's recommendations.

17 Determination as to whether Respondent successfully completed the clinical competence
18 assessment program is solely within the program's jurisdiction.

19 If Respondent fails to enroll, participate in, or successfully complete the clinical
20 competence assessment program within the designated time period, Respondent shall receive a
21 notification from the Board or its designee to cease the practice of medicine within three (3)
22 calendar days after being so notified. The Respondent shall not resume the practice of medicine
23 until enrollment or participation in the outstanding portions of the clinical competence assessment
24 program have been completed. If the Respondent did not successfully complete the clinical
25 competence assessment program, the Respondent shall not resume the practice of medicine until a
26 final decision has been rendered on the accusation and/or a petition to revoke probation. The
27 cessation of practice shall not apply to the reduction of the probationary time period.

28 5. MONITORING - PRACTICE. Within 30 calendar days of the effective date of this

1 Decision, Respondent shall submit to the Board or its designee for prior approval as a practice
2 monitor, the name and qualifications of one or more licensed physicians and surgeons whose
3 licenses are valid and in good standing, and who are preferably American Board of Medical
4 Specialties (ABMS) certified. A monitor shall have no prior or current business or personal
5 relationship with Respondent, or other relationship that could reasonably be expected to
6 compromise the ability of the monitor to render fair and unbiased reports to the Board, including
7 but not limited to any form of bartering, shall be in Respondent's field of practice, and must agree
8 to serve as Respondent's monitor. Respondent shall pay all monitoring costs.

9 The Board or its designee shall provide the approved monitor with copies of the Decision(s)
10 and Accusation(s), and a proposed monitoring plan. Within 15 calendar days of receipt of the
11 Decision(s), Accusation(s), and proposed monitoring plan, the monitor shall submit a signed
12 statement that the monitor has read the Decision(s) and Accusation(s), fully understands the role
13 of a monitor, and agrees or disagrees with the proposed monitoring plan. If the monitor disagrees
14 with the proposed monitoring plan, the monitor shall submit a revised monitoring plan with the
15 signed statement for approval by the Board or its designee.

16 Within 60 calendar days of the effective date of this Decision, and continuing throughout
17 probation, Respondent's practice shall be monitored by the approved monitor. Respondent shall
18 make all records available for immediate inspection and copying on the premises by the monitor
19 at all times during business hours and shall retain the records for the entire term of probation.

20 If Respondent fails to obtain approval of a monitor within 60 calendar days of the effective
21 date of this Decision, Respondent shall receive a notification from the Board or its designee to
22 cease the practice of medicine within three (3) calendar days after being so notified. Respondent
23 shall cease the practice of medicine until a monitor is approved to provide monitoring
24 responsibility.

25 The monitor(s) shall submit a quarterly written report to the Board or its designee which
26 includes an evaluation of Respondent's performance, indicating whether Respondent's practices
27 are within the standards of practice of medicine, and whether Respondent is practicing medicine
28 safely, billing appropriately or both. It shall be the sole responsibility of Respondent to ensure

1 that the monitor submits the quarterly written reports to the Board or its designee within 10
2 calendar days after the end of the preceding quarter.

3 If the monitor resigns or is no longer available, Respondent shall, within 5 calendar days of
4 such resignation or unavailability, submit to the Board or its designee, for prior approval, the
5 name and qualifications of a replacement monitor who will be assuming that responsibility within
6 15 calendar days. If Respondent fails to obtain approval of a replacement monitor within 60
7 calendar days of the resignation or unavailability of the monitor, Respondent shall receive a
8 notification from the Board or its designee to cease the practice of medicine within three (3)
9 calendar days after being so notified. Respondent shall cease the practice of medicine until a
10 replacement monitor is approved and assumes monitoring responsibility.

11 In lieu of a monitor, Respondent may participate in a professional enhancement program
12 approved in advance by the Board or its designee that includes, at minimum, quarterly chart
13 review, semi-annual practice assessment, and semi-annual review of professional growth and
14 education. Respondent shall participate in the professional enhancement program at
15 Respondent's expense during the term of probation.

16 6. SOLO PRACTICE PROHIBITION. Respondent is prohibited from engaging in the
17 solo practice of medicine. Prohibited solo practice includes, but is not limited to, a practice
18 where: 1) Respondent merely shares office space with another physician but is not affiliated for
19 purposes of providing patient care, or 2) Respondent is the sole physician practitioner at that
20 location.

21 If Respondent fails to establish a practice with another physician or secure employment in
22 an appropriate practice setting within 60 calendar days of the effective date of this Decision,
23 Respondent shall receive a notification from the Board or its designee to cease the practice of
24 medicine within three (3) calendar days after being so notified. The Respondent shall not resume
25 practice until an appropriate practice setting is established.

26 If, during the course of the probation, the Respondent's practice setting changes and the
27 Respondent is no longer practicing in a setting in compliance with this Decision, the Respondent
28 shall notify the Board or its designee within five (5) calendar days of the practice setting change.

1 If Respondent fails to establish a practice with another physician or secure employment in an
2 appropriate practice setting within 60 calendar days of the practice setting change, Respondent
3 shall receive a notification from the Board or its designee to cease the practice of medicine within
4 three (3) calendar days after being so notified. The Respondent shall not resume practice until an
5 appropriate practice setting is established.

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

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

15 8. SUPERVISION OF PHYSICIAN ASSISTANTS AND ADVANCED PRACTICE
16 NURSES. During probation, Respondent is prohibited from supervising physician assistants and
17 advanced practice nurses.

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

21 10. QUARTERLY DECLARATIONS. Respondent shall submit quarterly declarations
22 under penalty of perjury on forms provided by the Board, stating whether there has been
23 compliance with all the conditions of probation.

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

26 11. GENERAL PROBATION REQUIREMENTS.

27 Compliance with Probation Unit

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

1 Address Changes

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

7 Place of Practice

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

11 License Renewal

12 Respondent shall maintain a current and renewed California physician's and surgeon's
13 license.

14 Travel or Residence Outside California

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

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

21 12. INTERVIEW WITH THE BOARD OR ITS DESIGNEE. Respondent shall be
22 available in person upon request for interviews either at Respondent's place of business or at the
23 probation unit office, with or without prior notice throughout the term of probation.

24 13. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or
25 its designee in writing within 15 calendar days of any periods of non-practice lasting more than
26 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is
27 defined as any period of time Respondent is not practicing medicine as defined in Business and
28 Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct

1 patient care, clinical activity or teaching, or other activity as approved by the Board. If
2 Respondent resides in California and is considered to be in non-practice, Respondent shall
3 comply with all terms and conditions of probation. All time spent in an intensive training
4 program which has been approved by the Board or its designee shall not be considered non-
5 practice and does not relieve Respondent from complying with all the terms and conditions of
6 probation. Practicing medicine in another state of the United States or Federal jurisdiction while
7 on probation with the medical licensing authority of that state or jurisdiction shall not be
8 considered non-practice. A Board-ordered suspension of practice shall not be considered as a
9 period of non-practice.

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

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

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

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

22 14. COMPLETION OF PROBATION. Respondent shall comply with all financial
23 obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the
24 completion of probation. Upon successful completion of probation, Respondent's certificate shall
25 be fully restored.

26 15. VIOLATION OF PROBATION. Failure to fully comply with any term or condition
27 of probation is a violation of probation. If Respondent violates probation in any respect, the
28 Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and

1 carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke
2 Probation, or an Interim Suspension Order is filed against Respondent during probation, the
3 Board shall have continuing jurisdiction until the matter is final, and the period of probation shall
4 be extended until the matter is final.

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

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

20 18. FUTURE ADMISSIONS CLAUSE. If Respondent should ever apply or reapply for
21 new license or certification, or petition for reinstatement of a license, by any other health care
22 licensing action agency in the State of California, all of the charges and allegations contained in
23 Accusation No. 800-2018-045294 shall be deemed to be true, correct, and admitted by
24 Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or
25 restrict license.

26 ACCEPTANCE

27 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
28 discussed it with my attorney, Jeffrey G. Keane, Esq.. I understand the stipulation and the effect


1 it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement
2 and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the
3 Decision and Order of the Medical Board of California.

4
5 DATED: 09/02/21


6 DAVID WONG, M.D.
7 Respondent

8 I have read and fully discussed with Respondent David Wong, M.D. the terms and
9 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
10 I approve its form and content.

11 DATED: 9.3-21


12 JEFFREY G. KEANE, ESQ.
13 Attorney for Respondent

14 **ENDORSEMENT**


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

17 DATED: _____

18 Respectfully submitted,

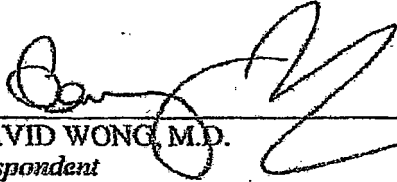
19 ROB BONTA
20 Attorney General of California
21 JUDITH T. ALVARADO
22 Supervising Deputy Attorney General

23 EDWARD KIM
24 Deputy Attorney General
25 Attorneys for Complainant

26 LA2021600367 

1 it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement
2 and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the
3 Decision and Order of the Medical Board of California.


4
5 DATED: 09/02/21


6 DAVID WONG, M.D.
7 Respondent

8 I have read and fully discussed with Respondent David Wong, M.D. the terms and
9 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.

10 I approve its form and content.

11 DATED: 9-3-21


12 JEFFREY G. KEANE, ESQ.
13 Attorney for Respondent


14 **ENDORSEMENT**

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

17 DATED: 9/15/21

18 Respectfully submitted,

19 ROB BONTA
20 Attorney General of California
21 JUDITH T. ALVARADO
22 Supervising Deputy Attorney General


23 EDWARD KIM
24 Deputy Attorney General
25 Attorneys for Complainant


26
27
28
LA2021600367 

Exhibit A

Accusation No. 800-2018-045294

1 XAVIER BECERRA
Attorney General of California
2 JUDITH T. ALVARADO
Supervising Deputy Attorney General
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Deputy Attorney General
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5 300 So. Spring Street, Suite 1702
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6 Telephone: (213) 269-6000
Facsimile: (916) 731-2117
7 *Attorneys for Complainant*

8 **BEFORE THE**
9 **MEDICAL BOARD OF CALIFORNIA**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 800-2018-045294

13 **DAVID WONG, M.D.**
79841 Morris Avenue
La Quinta, CA 92253

A C C U S A T I O N

14 **Physician's and Surgeon's**
15 **Certificate No. G 85258,**

16 Respondent.

17 **PARTIES**

18 1. William Prasifka (Complainant) brings this Accusation solely in his official capacity
19 as the Executive Director of the Medical Board of California, Department of Consumer Affairs
20 (Board).

21 2. On or about June 11, 1999, the Medical Board issued Physician's and Surgeon's
22 Certificate Number G 85258 to David Wong, M.D. (Respondent). The Physician's and Surgeon's
23 Certificate was in full force and effect at all times relevant to the charges brought herein and will
24 expire on October 31, 2022, unless renewed.

25 **JURISDICTION**

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

1 **STATUTORY PROVISIONS**

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

6 5. Section 2234 of the Code, states:

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

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

11 (b) Gross negligence.

12 (c) Repeated negligent acts. To be repeated, there must be two or more
13 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.

14 (1) An initial negligent diagnosis followed by an act or omission medically
15 appropriate for that negligent diagnosis of the patient shall constitute a single
negligent act.

16 (2) When the standard of care requires a change in the diagnosis, act, or
17 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
18 licensee's conduct departs from the applicable standard of care, each departure
constitutes a separate and distinct breach of the standard of care.

19 (d) Incompetence.

20 (e) The commission of any act involving dishonesty or corruption that is
21 substantially related to the qualifications, functions, or duties of a physician and
surgeon.

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

23 (g) The failure by a certificate holder, in the absence of good cause, to attend
24 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.

25 6. Section 2266 of the Code states:

26 The failure of a physician and surgeon to maintain adequate and accurate
27 records relating to the provision of services to their patients constitutes unprofessional
conduct.

28 ///

1 **FACTUAL ALLEGATIONS**

2 7. The Board received a complaint about Respondent's care for Patient A,¹ a seventy-
3 four-year-old man who passed away following repeat hospitalizations and a stay at a nursing
4 facility. His prior medical history included² hypertension, atrial fibrillation,³ cerebrovascular
5 accident with dysarthria, chronic obstructive pulmonary disease, diabetes, congestive heart
6 failure, mild tricuspid regurgitation, hyperlipidemia and a history of alcohol use. Patient A's
7 prior level of function included living with his son in a single level home where he ambulates
8 without "AD [assistive devices] however [he] has FWW [front wheel walker] at home." The
9 patient also suffered from hearing deficiency and uses glasses. The complainant alleged that
10 Respondent suspended Patient A's medications, including his antibiotics for pneumonia and
11 Zolofit and placed him on an NPO (nothing by mouth) order, which led him to become dehydrated
12 and malnourished. The complainant further alleged that after his initial assessment, Respondent
13 never returned to check on the patient in person and managed his care remotely.

14 8. On or about August 20, 2020, an investigator and medical consultant interviewed
15 Respondent on behalf of the Board ("Interview"). During the Interview, Respondent stated that
16 he worked for an HMO which also provided services to skilled nursing facilities such as
17 California Nursing and Rehabilitation Center ("CNRC") where Patient A was a patient. He
18 further stated that when he provided services to skilled nursing facilities, he would initially see
19 the patient and perform a history and physical, and that he would only do a follow-up visit once a
20 month thereafter.

21 9. On or about March 19, 2018, Patient A was transported to the emergency department
22 of Desert Regional Medical Center ("DRMC") with multiple medical conditions, including, acute
23 respiratory distress and atrial fibrillation with rapid ventricular response. He was "extremely
24 breathless" and unable to be understood. Prior to admission, he had a two-week history of

25 _____
26 ¹ The patient is designated by a letter to address privacy concerns. The identity of the patient is
known to Respondent.

27 ² As used herein, "included" or "including" means, "including, but not limited to."

28 ³ Atrial fibrillation is an irregular heartbeat (arrhythmia) that can lead to blood clots, stroke, heart
failure and other heart-related complications.

1 progressive shortness of breath. During his March 2018 hospitalization at DRMC, the patient
2 also suffered the following complications: severe respiratory distress (and concomitant multiple
3 intubations), sepsis (right upper and lower lobe consolidation/pneumonia related), intravenous
4 administration of antibiotics for E. coli, Klebsiella pneumoniae and MSSA.⁴ Prior to admission
5 to the hospital patient had been treated with Tamiflu and oral antibiotics.

6 10. On or about March 28, 2018, Patient A was discharged from DRMC to CNRC. His
7 discharge diagnosis included, "1: CAP (community acquired pneumonia) due to MRSA
8 (methicillin resistant Staphylococcus aureus); AKI (acute kidney injury); Lobar pneumonia;
9 Pneumonia; Respiratory distress; Sepsis." The patient's orders included a pureed diet with thick
10 liquids and precautions to protect against aspiration. Upon arrival at CNCR the patient was noted
11 to be alert, oriented. His medications at DRMC included Lovenox[®]⁵ (later switched to
12 Xarelto[®]⁶) for anticoagulation, and a DRMC note stated that the patient would "likely start tube
13 feeds if not intubated."

14 11. On or about March 29, 2018 (Thursday), Respondent saw Patient A for the first and
15 only time. He prepared a history and physical chart note which included the patient's chief
16 complaint of shortness of breath with a diagnosis of pneumonia treated with antibiotics. The
17 patient had a full code advanced directive. Respondent placed the patient on NPO (nothing by the
18 mouth) except medications, and ordered a speech evaluation, barium swallow and IV fluids. He
19 started the patient on Lasix[®]⁷ and lisinopril.⁸

20 ⁴ Methicillin-susceptible Staphylococcus aureus.

21 ⁵ "Lovenox[®]" is a brand name for enoxaparin, which is an anticoagulant medication used to treat
22 or prevent a type of blood clot called deep vein thrombosis (DVT), which can lead to blood clots in the
lungs (pulmonary embolism). It is a dangerous drug pursuant to Business and Professions Code section
4022.

23 ⁶ "Xarelto[®]" is a brand name for Rivaroxaban, which is medication used to treat and prevent
24 blood clots. This may lower the risk of stroke, deep vein thrombosis (DVT), pulmonary embolism (PE),
and similar conditions. It is a dangerous drug pursuant to Business and Professions Code section 4022.

25 ⁷ "Lasix[®]" is a brand name for furosemide is a diuretic medication used to treat fluid retention
(edema) and swelling caused by congestive heart failure, liver disease, kidney disease, and other medical
conditions. It is dangerous drug as defined in Business and Professions Code section 4022.

26 ⁸ "Lisinopril" is a medication used to treat high blood pressure and heart failure. It can also
27 reduce the risk of death after a heart attack. It belongs to a class of drugs known as angiotensin-converting
enzyme (ACE) inhibitors, which are heart medications that widen, or dilate, blood vessels to increase the
28 amount of blood pumped by the heart and lower blood pressure. They work by causing relaxation of
blood vessels as well as a decrease in blood volume, which leads to lower blood pressure and decreased

1 12. On or about March 29, 2018, Respondent faxed an order to provide the patient with
2 antibiotics, clindamycin, stat chest x-ray, a speech therapy consult and a modified barium
3 swallow, and NPO except medications and IV fluids for hydration and nutrition. Respondent
4 stated at his Interview that he issued this order when he was rounding the patient, and saw that the
5 patient's son was "force feeding the patient" and the patient was "coughing and shortness of
6 breath and "tearing [sic] and he was choking." He further stated that "I was so surprised to see
7 her [sic] – him take this [and] so that's why I put the patient on the n.p.o. and then also, you
8 know, ordered all the chest x-ray STAT . . ."

9 13. On or about March 30, 2018, the speech therapist recommended that the patient be
10 placed on NPO for both medications (including the antibiotic medications) and food. Respondent
11 failed to provide that the patient's medication would be administered in intravenous form. At the
12 Interview, Respondent stated that the patient was stable and there was "no reason" to convert the
13 order to IV antibiotics. When asked at the Interview why he ceased the antibiotics after only a
14 day after ordering that it be administered to the patient, Respondent explained that the patient's x-
15 rays looked unchanged from the hospital and his blood count was normal. When further asked
16 why he failed to document his rationale for this medication change, he stated that he "didn't know
17 – um – make the progress note on that." The patient remained NPO over the next few days and
18 nursing notes reported that the patient's son was administering medication and liquids orally to
19 the patient despite the order.

20 14. On or about March 31, 2018, an order for lorazepam⁹ "IVP prn" was issued.

21 15. On or about April 2, 2018, Respondent ordered that the patient undergo a hospice
22 evaluation.

23 16. On or about April 3, 2018 the patient underwent a modified barium swallow study
24

25 oxygen demand from the heart. It is sold under the brand name Qbrelis®, Zestril®, and Prinivil®. It is a
26 dangerous drug pursuant to Business and Professions Code section 4022.

27 ⁹ "Lorazepam," is a benzodiazepine medication. It is used to treat anxiety disorders, trouble
28 sleeping, active seizures including status epilepticus, alcohol withdrawal, and chemotherapy induced
nausea and vomiting, as well as for surgery to interfere with memory formation and to sedate those who
are being mechanically ventilated. It is sold under the brand name Ativan® among others. It is a
Schedule IV controlled substance pursuant to Health and Safety Code section 11057, subdivision (d)(16),
and a dangerous drug pursuant to Business and Professions Code section 4022.

1 and was noted to have dysphagia and continued to be at a very high risk for aspiration. On that
2 same day, Respondent ordered interventional radiology to place a PEG (percutaneous endoscopic
3 gastrostomy) tube for nutrition. He also ordered that the patient receive Ativan® po/sublingual
4 every six hours as needed until the G-tube placement.

5 17. On or about April 5, 2018, at approximately 9:00 am, Patient A suffered from sudden
6 onset of shortness of breath and other concerning symptoms and paramedics were called who
7 transferred the patient to DRMC. His resident transfer form listed Respondent as the physician in
8 charge at the time of transfer and diagnoses of pneumonia and "SOB."

9 18. At DRMC, Patient A was diagnosed with pneumonia, sepsis and acute kidney failure.
10 He was intubated and moved to ICU. Doctors gave him a poor prognosis, and the family was
11 consulted and made him a DNR and withdrew care. He was pronounced dead at 1925 hours.

12 **FIRST CAUSE FOR DISCIPLINE**

13 **(Gross Negligence)**

14 19. Respondent is subject to disciplinary action under Code section 2234, subdivision (b)
15 in that Respondent was grossly negligent in connection with the care and treatment of Patient A.
16 The circumstances are as follows:

17 20. Paragraphs 7 through 18, inclusive, are incorporated herein by reference as if fully set
18 forth.

19 21. On or about March 28, 2018 and thereafter, Respondent committed the following acts
20 of gross negligence in connection with Patient A as follows:

21 A. Respondent was grossly negligent when he failed to adequately engage
22 Patient A's decision-maker in the informed consent process and/or adequately and/or
23 accurately document Patient A's informed consent, including in connection with
24 explaining the risks and benefits of treatment, alternatives thereto and full information
25 with respect to nutrition for Patient A, including enteral feeding, a temporary or
26 permanent gastric or nasogastric feeding tube versus intravenous fluid administration or
27 no intervention and discussion of advance directives and Physician Orders for Life-
28 Sustaining Treatment (POLST).

1 B. Respondent was grossly negligent when he failed to adequately engage
2 Patient A's decision-maker in the informed consent process and/or adequately and/or
3 accurately document Patient A's informed consent and/or his rationale for his decision
4 making, including in connection with explaining the risks and benefits of treatment,
5 alternatives thereto and full information with respect to medication management for
6 Patient A, including discontinuing/withholding or starting new medications and
7 alternative methods of administration of them, including in respect to oral or IV
8 antibiotics and other medications.

9 **SECOND CAUSE FOR DISCIPLINE**

10 **(Repeated Negligent Acts)**

11 22. Respondent is subject to disciplinary action under Code section 2234, subdivision (c)
12 in that Respondent committed repeated negligent acts in connection with his provision of medical
13 services to Patient A. The circumstances are as follows:

14 23. The allegations of the First Cause for Discipline are incorporated herein by reference
15 as if fully set forth, and represent repeated negligent acts and incompetence.

16 24. In addition, on or about March 28, 2018 and thereafter, Respondent committed
17 negligence in connection with Patient A in connection with his failure upon Patient A's admission
18 to CNRC to adequately communicate with Patient A's decision-maker about the goals of
19 treatment and care of the patient and his treatment plan, and/or adequately and/or accurately
20 document the same. Respondent failed to adequately document any communication with the
21 patient or family about his treatment plan and the goals of treatment in this elderly and seriously
22 ill patient.

23 **THIRD CAUSE FOR DISCIPLINE**

24 **(Incompetence)**

25 25. Respondent is subject to disciplinary action under Code section 2234, subdivision (d)
26 in that Respondent was incompetent in connection with the care and treatment of Patient A. The
27 circumstances are as follows:

28 26. The allegations of the First and Second Causes for Discipline are incorporated herein

1 by reference as if fully set forth, and represent incompetence.

2 **FOURTH CAUSE FOR DISCIPLINE**

3 **(Record Keeping)**

4 27. Respondent is subject to disciplinary action under Code section 2266 in that he failed
5 to maintain adequate and accurate records relating to the provision of services to Patient A. The
6 circumstances are as follows:

7 28. The allegations of the First, Second and Third Causes for Discipline, inclusive, are
8 incorporated herein by reference as if fully set forth.

9 29. In addition, Respondent, despite Patient A's deteriorating condition, failed to
10 adequately and/or accurately document his rationale for his decision making, including why he
11 failed to continue to treat Patient A with medications orally and/or intravenously.

12 **FIFTH CAUSE FOR DISCIPLINE**

13 **(General Unprofessional Conduct)**

14 30. Respondent is subject to disciplinary action under Code section 2234 in that he
15 committed unprofessional conduct, generally. The circumstances are as follows:

16 31. The allegations of the First, Second, Third and Fourth Causes for Discipline,
17 inclusive, are incorporated herein by reference as if fully set forth.

18 **PRAYER**

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

21 1. Revoking or suspending Physician's and Surgeon's Certificate Number G 85258,
22 issued to David Wong, M.D.;

23 2. Revoking, suspending or denying approval of David Wong, M.D.'s authority to
24 supervise physician assistants and advanced practice nurses;

25 3. Ordering David Wong, M.D., if placed on probation, to pay the Board the costs of
26 probation monitoring; and

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

DATED: March 3, 2021



WILLIAM PRASIFKA
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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