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

In the Matter of the Accusation Against: David Wei Wang, M.D. Physician's and Surgeon's Certificate No. C 37520 Respondent.	Case No.: 800-2019-061455

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 April 11, 2022.

IT IS SO ORDERED: March 10, 2022.

MEDICAL BOARD OF CALIFORNIA

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

ROB BONTA
Attorney General of California
JUDITH T. ALVARADO
Supervising Deputy Attorney General
LATRICE R. HEMPHILL
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Attorneys for Complainant

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

In the Matter of the Accusation Against:	Case No. 800-2019-061455
DAVID WEI WANG, M.D. **318 Oaklawn Avenue** **South Pasadena, CA 91030**	OAH No. 2021060227
Physician's and Surgeon's Certificate No. C 37520,	**STIPULATED SETTLEMENT AND DISCIPLINARY ORDER**
Respondent.	

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 Rob Bonta, Attorney General of the State of California, by Latrice R. Hemphill, Deputy Attorney General.

2. Respondent David Wei Wang, M.D. (Respondent) is represented in this proceeding by attorney Constance A. Endelicato, Esq., whose address is: 10960 Wilshire Blvd., 18th Floor Los Angeles, CA 90024-3804.

3. On or about June 25, 1977, the Board issued Physician's and Surgeon's Certificate No. C 37520 to 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. 800-2019-061455, and will expire on March 31, 2022, unless renewed.

JURISDICTION

4. Accusation No. 800-2019-061455 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 April 27, 2021. Respondent timely filed his Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 800-2019-061455 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 800-2019-061455. Respondent has also carefully read, fully discussed with his counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

7. 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.

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

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CULPABILITY

9. Respondent admits the truth of each and every charge and allegation in Accusation No. 800-2019-061455.

10. ACKNOWLEDGMENT. Respondent acknowledges the Disciplinary Order below, requiring the disclosure of probation pursuant to Business and Professions Code section 2228.1, serves to protect the public interest.

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

CONTINGENCY

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

13. Respondent agrees that if he ever petitions for early termination or modification of probation, or if an accusation and/or petition to revoke probation is filed against him before the Board, all of the charges and allegations contained in Accusation No. 800-2019-061455 shall be deemed true, correct and fully admitted by respondent for purposes of any such proceeding or any other licensing proceeding involving Respondent in the State of California.

14. 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.

15. 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

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. C 37520 issued to Respondent DAVID WEI WANG, M.D. is revoked. However, the revocation is stayed and Respondent is placed on probation for two (2) years on the terms and conditions below. This Order is to run consecutive to, and shall take effect immediately upon completion of, the probationary order in Case No. 800-2016-022245.

1. EDUCATION COURSE. Within 60 calendar days of the effective date of this Decision, and on an annual basis thereafter, Respondent shall submit to the Board or its designee for its prior approval educational program(s) or course(s) in the content areas of Child Discipline, Rearing, and Child Psychology, which shall not be less than 15 hours per year, for each year of probation. The educational program(s) or course(s) shall be at Respondent's expense and shall be in addition to the 40 hours required by Respondent's current probationary order in Case No. 800-2016-022245 and in addition to the hours required by the Continuing Medical Education (CME) requirements for renewal of licensure. Following the completion of each course, the Board or its designee may administer an examination to test Respondent's knowledge of the course.

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

A professionalism program 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 program would have been approved by the Board or its designee had the program been taken after the effective date of this Decision.

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

3. 2019 DECISION AND ORDER. All terms and conditions issued in Decision and Order No. 800-2016-022245 shall remain in full force and effect during this probationary period.

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

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

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

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

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

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

8. GENERAL PROBATION REQUIREMENTS.

Compliance with Probation Unit

Respondent shall comply with the Board's probation unit.

Address Changes

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

Place of Practice

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

License Renewal

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

Travel or Residence Outside California

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

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

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

10. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or its designee in writing within 15 calendar days of any periods of non-practice lasting more than 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is defined as any period of time Respondent is not practicing medicine as defined in Business and Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct patient care, clinical activity or teaching, or other activity as approved by the Board. If Respondent resides in California and is considered to be in non-practice, Respondent shall comply with all terms and conditions of probation. All time spent in an intensive training program which has been approved by the Board or its designee shall not be considered non-practice and does not relieve Respondent from complying with all the terms and conditions of probation. Practicing medicine in another state of the United States or Federal jurisdiction while on probation with the medical licensing authority of that state or jurisdiction shall not be considered non-practice. A Board-ordered suspension of practice shall not be considered as a period of non-practice.

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

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

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

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

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

12. VIOLATION OF PROBATION. Failure to fully comply with any term or condition of probation is a violation of probation. If Respondent violates probation in any respect, the Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke Probation, or an Interim Suspension Order is filed against Respondent during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

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

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

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15. 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. 800-2019-061455 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, Constance A. Endelicato, Esq. 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: 12/08/2021

DAVID WEI WANG, M.D.
Respondent

I have read and fully discussed with Respondent David Wei 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: 12/08/2021

CONSTANCE A. ENDELICATO, ESQ.
Attorney for Respondent

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ENDORSEMENT

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

DATED: 12/8/2021

Respectfully submitted,

ROB BONTA
Attorney General of California
JUDITH T. ALVARADO
Supervising Deputy Attorney General

LATRICE R. HEMPHILL
Deputy Attorney General
Attorneys for Complainant

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Attachment: Accusation 800-2019-061455

ROB BONTA
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Attorneys for Complainant

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

In the Matter of the Accusation Against: **David Wei Wang, M.D.** **318 Oaklawn Avenue** **South Pasadena, CA 91030** **Physician's and Surgeon's Certificate No. C 37520,** Respondent.	Case No. 800-2019-061455 **ACCUSATION**

Complainant alleges:

PARTIES

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

2. On or about June 25, 1977, the Medical Board issued Physician's and Surgeon's Certificate Number C 37520 to David Wei 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 March 31, 2022, unless renewed.

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JURISDICTION

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

4. Section 2227 of the Code states:

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

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

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

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

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

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

(b) Any matter heard pursuant to subdivision (a), except for warning letters, medical review or advisory conferences, professional competency examinations, continuing education activities, and cost reimbursement associated therewith that are agreed to with the board and successfully completed by the licensee, or other matters made confidential or privileged by existing law, is deemed public, and shall be made available to the public by the board pursuant to Section 803.1.

5. Section 2234 of the Code, states:

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

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

(b) Gross negligence.

(c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or omissions. An initial negligent act or omission followed by a separate and distinct departure from the applicable standard of care shall constitute repeated negligent acts.

(1) An initial negligent diagnosis followed by an act or omission medically

appropriate for that negligent diagnosis of the patient shall constitute a single negligent act.

(2) When the standard of care requires a change in the diagnosis, act, or omission that constitutes the negligent act described in paragraph (1), including, but not limited to, a reevaluation of the diagnosis or a change in treatment, and the licensee's conduct departs from the applicable standard of care, each departure constitutes a separate and distinct breach of the standard of care.

(d) Incompetence.

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

(f) Any action or conduct that 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.

FIRST CAUSE FOR DISCIPLINE

(Gross Negligence)

6. Respondent David Wei Wang, M.D. is subject to disciplinary action under Code section 2234, subdivision (b), in that he committed gross negligence in his treatment of Patient A. The circumstances are as follows:

7. Respondent is a pediatrician.

8. On or about October 1, 2019, Patient A,[1] a four-year-old child, presented to Respondent for a well-child examination. Patient A was accompanied by his mother and his aunt.

9. Respondent documented his interactions with Patient A in an incident report, that was included in Patient A's medical records.

10. Respondent noted that, during the visit, Patient A was all over the office and repeatedly turned the lights off and on. Respondent complained that Patient A's mom and aunt did not intervene or say anything to the child.

11. Respondent told Patient A to stop turning the lights off and on and threatened to "spank his hand for doing it," if Patient A continued. Patient A again turned the lights off and on.

12. Respondent's records indicate that he told Patient A's mother that he needed to "carry out what [he] warned and let the child know the consequence of his action."

[1] The patient is identified as "Patient A" in this Accusation to protect his privacy.

13. Patient A's mother did not respond to Respondent's statement or consent to Respondent disciplining the child.

14. Respondent then took a ruler and hit Patient A's left hand with it. As a result, Patient A suffered redness and mild swelling to his left hand.

15. Patient A's aunt became upset and took Patient A out of the examination room. Consequently, the examination was terminated.

16. According to Respondent's records, Patient A's mother remained in the examination room and Respondent discussed consequences and disciplining children with her.

17. The standard of care requires pediatricians to interact positively with children and provide advice to families regarding anticipatory guidance and behavioral management that is supported by evidence-based data. Respondent engaged in a corporal punishment interaction with Patient A and no anticipatory guidance was given. Further, Respondent did not receive written or verbal consent from Patient A's mother to engage in corporal punishment. Respondent's interaction with Patient A was an extreme departure from the standard of care and constitutes gross negligence.

SECOND CAUSE FOR DISCIPLINE

(Unprofessional Conduct)

18. Respondent David Wei Wang, M.D. is subject to disciplinary action under Code section 2234, subdivision (a), in that he engaged in unprofessional conduct. The circumstances are as follows:

19. The allegations in the First Cause for Discipline, in paragraphs 6 through 17, above, are incorporated herein by reference as if fully set forth.

DISCIPLINARY CONSIDERATIONS

20. To determine the degree of discipline, if any, to be imposed on Respondent, Complainant alleges that on or about June 11, 2019, in a prior disciplinary action titled *In the Matter of the Accusation Against David Wei Wang, M.D.* before the Board, in Case Number 800-2016-022245, Respondent's license was revoked, with the revocation stayed, and Respondent was placed on probation for three (3) years, subject to terms and conditions. This action was taken

due to sustained allegations of gross negligence, repeated negligent acts, inadequate and inaccurate recordkeeping, and unprofessional conduct. Respondent is still on probation as a result of that decision, which is now final and is incorporated by reference as if fully set forth herein.

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 C 37520, issued to David Wei Wang, M.D.;

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

3. Ordering David Wei 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: April 27, 2021

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

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Attachment: Decision 800-2019-022245

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

In the Matter of the Accusation Against:	)	
	)	
	)	
DAVID WEI WANG, M.D.	)	**Case No. 800-2016-022245**
	)	
Physician's and Surgeon's Certificate No. C 37520	)	
	)	
Respondent	)	
	)	

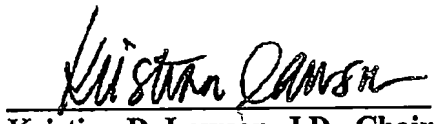
DECISION

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 July 11, 2019.

IT IS SO ORDERED: June 11, 2019.

MEDICAL BOARD OF CALIFORNIA



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

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Attorneys for Complainant

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

In the Matter of the Accusation Against: David Wei Wang, M.D. 318 Oaklawn Ave. South Pasadena, CA 91030 Physician's and Surgeon's Certificate No. C 37520, Respondent.	Case No. 800-2016-022245 OAH No. 2018100549 **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. Kimberly Kirchmeyer ("Complainant") is the Executive Director of the Medical Board of California ("Board"). She brought this action solely in her official capacity and is represented in this matter by Xavier Becerra, Attorney General of the State of California, by Claudia Ramirez, Deputy Attorney General.

2. Respondent David Wei Wang, M.D. ("Respondent") is represented in this proceeding by attorney Constance Endelicato, Esq., whose address is: Wood, Smith, Henning & Berman, LLP, 10960 Wilshire Blvd., 18th Floor, Los Angeles, California, 90024-3804.

3. On or about June 25, 1977, the Board issued Physician's and Surgeon's Certificate No. C 37520 to David Wei Wang, M.D. ("Respondent"). That Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2016-022245, and will expire on March 31, 2020, unless renewed.

JURISDICTION

4. Accusation No. 800-2016-022245 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 July 12, 2018. Respondent timely filed his Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 800-2016-022245 is attached as Exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 800-2016-022245. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

7. 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.

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

CULPABILITY

9. Respondent understands and agrees that the charges and allegations in Accusation No. 800-2016-022245, if proven at a hearing, constitute cause for imposing discipline upon his Physician's and Surgeon's Certificate.

10. 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 prima facie case for the charges in the Accusation, and that Respondent hereby gives up his right to contest those charges.

11. Respondent agrees that if he ever petitions for early termination or modification of probation, or if the Board ever petitions for revocation of probation, all of the charges and allegations contained in Accusation No. 800-2016-022245 shall be deemed true, correct, and fully admitted by Respondent for purposes of that proceeding or any other licensing proceeding involving Respondent in the State of California.

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

CONTINGENCY

13. 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.

14. 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.

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

Disciplinary Order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. C 37520 issued to Respondent David Wei Wang, M.D. is revoked. However, the revocation is stayed and Respondent is placed on probation for three (3) years on the following terms and conditions.

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

2. 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

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.

3. MONITORING - PRACTICE. Within 30 calendar days of the effective date of this Decision, Respondent shall submit to the Board or its designee for prior approval as a practice monitor, the name and qualifications of one or more licensed physicians and surgeons whose licenses are valid and in good standing, and who are preferably American Board of Medical Specialties (ABMS) certified. A monitor shall have no prior or current business or personal relationship with Respondent, or other relationship that could reasonably be expected to compromise the ability of the monitor to render fair and unbiased reports to the Board, including but not limited to any form of bartering, shall be in Respondent's field of practice, and must agree to serve as Respondent's monitor. Respondent shall pay all monitoring costs.

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

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

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

responsibility.

The monitor(s) shall submit a quarterly written report to the Board or its designee which includes an evaluation of Respondent's performance, indicating whether Respondent's practices are within the standards of practice of medicine, and whether Respondent is practicing medicine safely. It shall be the sole responsibility of Respondent to ensure that the monitor submits the quarterly written reports to the Board or its designee within 10 calendar days after the end of the preceding quarter.

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

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

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

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

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

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

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

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

8. GENERAL PROBATION REQUIREMENTS.

Compliance with Probation Unit

Respondent shall comply with the Board's probation unit.

Address Changes

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

Place of Practice

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

License Renewal

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

Travel or Residence Outside California

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

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

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

10. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or its designee in writing within 15 calendar days of any periods of non-practice lasting more than 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is defined as any period of time Respondent is not practicing medicine as defined in Business and Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct patient care, clinical activity or teaching, or other activity as approved by the Board. If Respondent resides in California and is considered to be in non-practice, Respondent shall comply with all terms and conditions of probation. All time spent in an intensive training program which has been approved by the Board or its designee shall not be considered non-practice and does not relieve Respondent from complying with all the terms and conditions of probation. Practicing medicine in another state of the United States or Federal jurisdiction while on probation with the medical licensing authority of that state or jurisdiction shall not be considered non-practice. A Board-ordered suspension of practice shall not be considered as a period of non-practice.

In the event Respondent's period of non-practice while on probation exceeds 18 calendar months, Respondent shall successfully complete the Federation of State Medical Boards's Special Purpose Examination, or, at the Board's discretion, a clinical competence assessment program that meets the criteria of Condition 18 of the current version of the Board's "Manual of Model

Disciplinary Orders and Disciplinary Guidelines" prior to resuming the practice of medicine.

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

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

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

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

12. VIOLATION OF PROBATION. Failure to fully comply with any term or condition of probation is a violation of probation. If Respondent violates probation in any respect, the Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke Probation, or an Interim Suspension Order is filed against Respondent during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

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

application shall be treated as a petition for reinstatement of a revoked certificate.

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

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Constance Endelicato, Esq. 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: 04/09/19

DAVID WEI WANG, M.D.
Respondent

I have read and fully discussed with Respondent David Wei 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: 4/9/19

CONSTANCE ENDELICATO, ESQ.
Attorney for Respondent

APR-09-2019 15:26 From:DR.WANG DAVID To:13104817650 Page:2/2

ENDORSEMENT

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

Dated: 4/10/19

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
E. A. JONES III
Supervising Deputy Attorney General

Claudia Ramirez

CLAUDIA RAMIREZ
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 800-2016-022245

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FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO July 12 2018
BY K. Voong ANALYST

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

In the Matter of the Accusation Against: David Wei Wang, M.D. 318 Oaklawn Ave. South Pasadena, CA 91030 Physician's and Surgeon's Certificate No. C 37520, Respondent.	Case No. 800-2016-022245 **ACCUSATION**

Complainant alleges:

PARTIES

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

2. On or about June 25, 1977, the Board issued Physician's and Surgeon's Certificate Number C 37520 to David Wei Wang, M.D. ("Respondent"). That Certificate was in full force and effect at all times relevant to the charges brought herein and will expire on March 31, 2020, unless renewed.

JURISDICTION

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

5. Section 2234 of the Code states:

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

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

"(b) Gross negligence.

"(c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or omissions. An initial negligent act or omission followed by a separate and distinct departure from the applicable standard of care shall constitute repeated negligent acts.

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

"(2) When the standard of care requires a change in the diagnosis, act, or omission that constitutes the negligent act described in paragraph (1), including, but not limited to, a reevaluation of the diagnosis or a change in treatment, and the licensee's conduct departs from the applicable standard of care, each departure constitutes a separate and distinct breach of the standard of care.

"(d) Incompetence.

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

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

"(g) The practice of medicine from this state into another state or country without meeting the legal requirements of that state or country for the practice of medicine. Section 2314 shall not

apply to this subdivision. This subdivision shall become operative upon the implementation of the proposed registration program described in Section 2052.5.

"(h) The repeated failure by a certificate holder, in the absence of good cause, to attend and participate in an interview by the board. This subdivision shall only apply to a certificate holder who is the subject of an investigation by the board."

6. Section 2266 of the Code states:

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

FIRST CAUSE FOR DISCIPLINE

(Gross Negligence)

7. Respondent David Wei Wang, M.D. is subject to disciplinary action under Code section 2234, subdivision (b), in that he was grossly negligent in the care and treatment of the Patient.[1] The circumstances are as follows:

8. On or about July 15, 2011, the Patient, a female, was born. Respondent was her assigned pediatrician. On or about August 12, 2011, the Patient saw Respondent for the first time. She was 28 days of age. Her weight appears most likely as 9 ½ pounds. The Patient's mother was breast feeding about 70% with formula supplementation, a maximum of 3 ½ ounces every 3 or 3 ½ hours. Respondent assessed a feeding problem due to inadequate weight gain. He recommended that the Patient's mother discontinue breast feeding and increase the volume of formula feedings.

9. On or about August 19, 2011, the Patient saw Respondent for a face rash. Her weight was 10 pounds, 7 ounces. Respondent diagnosed seborrheic dermatitis and prescribed hydrocortisone 1% cream, as needed.

10. On or about August 24, 2011, the Patient saw Respondent for a recheck. The recheck revealed target cells diagnosed as erythema multiforme. Respondent recommended continuation of the hydrocortisone cream and Benadryl. The Patient's documented weight of 10 pounds, 7

[1] The patient's name is not used in order to protect the patient's right of privacy.

ounces was crossed out in her medical record.

11. On or about September 16, 2011, the Patient saw Respondent for a routine two months old check-up. There were no problems reported. Her documented weight appears to be 12 pounds, ¼ ounces, or 12 pounds, 4 ounces. She received her first set of vaccinations that included Pentacel, Prevnar, and Rotateq. She received her second Hepatitis B vaccine.

12. On or about September 28, 2011, the Patient's mother brought her to see Respondent at 75 days of age for a complaint of diarrhea for the past three days. The stools were characterized as occurring with every feeding. It was questionable whether stools were watery or loose. Stools were small in size. The Patient's weight was 13 pounds. She was afebrile with a temperature of 98.9. Her abdominal examination was normal. Respondent assessed there was no real enteritis and recommended a change of formula to ProSobee.

13. On or about October 6, 2011, the Patient's mother brought her to see Respondent when she was 83 days old. The Patient's weight was 13 pounds, 3 ounces. The chief complaint was four days of fever with an episode of vomiting the previous night. There was no history of diarrhea or coryza. There was no one else sick at home. The Patient had a fever of 102.3 in the office. Respondent found the Patient to be in no distress with no abnormal findings on physical examination. Respondent's assessment was a viral syndrome or urinary tract infection ("UTI"). He sent a complete blood count ("CBC") and ordered urine for urinalysis and culture and sensitivity. He ordered Keflex as empiric antibiotic therapy. He advised the Patient's mother to give Tylenol and Advil combination antipyretic therapy and to return in 48 hours if the fever persisted.

14. Two days later, on or about October 8, 2011, the Patient's mother brought the Patient to see Respondent as her fever persisted. She had been treated at home 3 ½ hours earlier with Tylenol for a temperature of 100 axillary. She had been vomiting since the previous night despite diluted formula. Her parents had reportedly taken her the previous night to the San Gabriel Medical Center Emergency Department ("ED") where she was evaluated and discharged home. Respondent found the Patient to be in no distress. The Patient's weight was 12 pounds, 15 ounces, which was four ounces less than two days prior. Her temperature in the office was 99.

Respondent noted the urinalysis did not show any pyuria. He also noted mild anemia on the CBC. His assessment was a questionable protracted viral syndrome. Respondent advised the parents to continue antipyretic and antibiotic therapies, and to return in 48 hours, if needed.

15. Six days later, on or about October 14, 2011, the Patient's mother took her to Respondent's office when the Patient was 91 days old. The complaint was fever since the previous day and four episodes of vomiting. The stools were described as normal. Her weight was 13 pounds, 7 ounces. Respondent found the Patient to be in no distress. Her temperature was 101. It was noted that her last fever had lasted six days. The physical examination of the abdomen revealed no abnormalities. The note states there was no documented UTI and that the Patient had finished the course of Keflex that morning. Respondent diagnosed gastritis. He advised a change to Pedialyte to advance with volume control, followed by a change to dilute formula, as well as Tylenol, as needed. He also started Fer-in-Sol therapy for anemia. He advised the mother to return in 48 hours if the fever persisted.

16. The following day, on or about October 15, 2011, the Patient's mother brought her back to see Respondent. Respondent wrote that the Patient was feeding well; her vomiting was much decreased, only once that morning so far, and she had only vomited three times in the past 24 hours. He also documented that there was no excessive stooling. The Patient's weight was 13 pounds, 10 ounces. The Patient had a fever of 101.6. The physical examination stated that the Patient was in no distress, her anterior fontanelle was flat, and her abdominal exam was normal. Respondent assessed a viral syndrome or resolving gastritis. He advised cooling measures in addition to combination Tylenol and Advil antipyretic therapy, to continue to advance feedings, and to return in 48 hours if the fever persisted.

17. That same night, the Patient's parents took her to the San Gabriel Valley Medical Center ED. There, the history was documented as three days of fever with decreased feeding with vomiting four to five times per day. The Patient had a fever of 100.7 rectally upon admission to the ED. She had a tonic clonic seizure lasting two to three minutes within an hour of arrival at the ED. Her temperature had increased to 102.8 by that time. She was transferred to Huntington Memorial Hospital where she experienced a recurrence of seizures and suffered other medical

problems. The Patient was subsequently diagnosed with Salmonella meningitis. She suffered severe neurologic consequences from the Salmonella meningitis. She is blind and deaf, hydrocephalic, and has severe encephalopathy.

18. On or about August 12, 2011, Respondent committed an extreme departure from the standard of care for failing to support breastfeeding and recommending that breastfeeding be discontinued in favor of formula feeding.

19. On or about September 28, 2011, Respondent committed an extreme departure from the standard of care for failing to perform an adequate evaluation of an infant with a chief complaint of change in the stooling pattern. Respondent did not document how many times the Patient was feeding per day. Neither did he document the Patient's usual number of stools per day before the increase. Respondent placed double question marks in his progress note as to whether the stools were loose or watery. Respondent did not document whether or not the stools had blood or mucus; he did note they were small. Neither did he document that he had seen one of the Patient's stools. Respondent did not comment on the Patient's hydration status. He did not ask about a family history of illness. Respondent's diagnosis of "no real enteritis" was made without sufficient descriptive information about the stools or personal evaluation.

20. On or about October 8, 2011, Respondent committed an extreme departure from the standard of care for failing to order a follow-up CBC and blood culture as part of the ongoing evaluation for invasive bacterial infection of a well-appearing febrile infant 61 to 90 days of age. Even though Respondent documented that the Patient was in no distress, the Patient's parents were concerned enough to take her to the Emergency Room the night prior. She had ongoing symptoms of illness that were unlikely to be due to a UTI. The CBC from two days prior showed a borderline elevated white blood cell ("WBC") count and an elevated percentage of neutrophils. The Patient was losing weight. Respondent should have continued to investigate for an invasive bacterial infection with another CBC for comparison, a C-reactive Protein ("CRP") test if available, and a blood culture.

21. On or about October 14, 2011, Respondent committed an extreme departure from the standard of care for failing to perform a full sepsis evaluation for invasive bacterial infection of a

febrile infant younger than 90 days of age with a history of antibiotic therapy in the past 3 to 7 days. On that day, the Patient had returned to Respondent's office at 91 days of age. She had just finished her one week course of Keflex for a possible, but unlikely, UTI. She had gained 8 ounces since her last visit and Respondent found her to be in no distress. Her mother complained of one day of fever and four episodes of vomiting, symptoms that were similar to those of the previous week. Respondent simply diagnosed gastritis as a new illness without any diagnostic testing and recommended a change in diet. He advised to return in 48 hours if the fever persisted. Respondent attributed the fever spike to a new viral illness. However, he should also have considered a continuum of the same unknown infectious illness, more specifically, a suppressed bacterial illness partially treated by Keflex.

22. On or about October 15, 2011, Respondent committed an extreme departure from the standard of care for failing to perform a full sepsis evaluation for invasive bacterial infection of a febrile infant younger than 90 days of age with a history of antibiotic therapy in the past 3 to 7 days. The Patient's mother brought her back to see Respondent the day after the October 14, 2011, visit. Her temperature was 101.6. Respondent minimized the mother's complaints when he documented that the Patient was feeding well with less emesis, only three times in the past 24 hours. In contrast, the history in the San Gabriel Valley ED medical record later that evening stated that the Patient had three days of fever with decreased feeding and vomiting four to five times per day. Respondent indicated a negative finding on physical examination, namely that the anterior fontanelle was flat. Respondent was considering meningitis but was reassured by the negative clinical finding of a flat anterior fontanelle. He emphasized the typical sign of a bulging fontanelle. However, a bulging fontanelle is usually a later sign of meningitis, not a presenting sign. Respondent's assessment was viral syndrome or resolving gastritis. He advised the mother to continue to advance feedings, and return in 48 hours if the fever persisted.

23. From on or about August 12, 2011, to on or about October 15, 2011, Respondent committed an extreme departure from the standard of care for failing to keep adequate and accurate medical records. Inadequacies and inaccuracies include the following:

a) The Patient's birth History and Physical form does not state her gestational age. There is

no indication why a Cesarean section was performed;

b) The physical examination on August 12, 2011, is incomplete;

c) Respondent's office chart does not include a copy of the medical record of the Patient's October 5, 2011, evening visit to the San Gabriel Valley ED. Nor did Respondent reference that visit in his office note of the following day. He did not document a discussion of the reason for the visit, nor the findings and recommendations made at the visit.

d) Respondent did not document his thought processes regarding differential diagnoses in the following respective office visit progress notes: August 24, 2011 - etiology of erythema multiforme; and October 8, 2011, and October 14, 2011- etiology of anemia.

e) The documented weight and head circumference are illegible in the office notes of August 12, 2011, and September 16, 2011.

f) The documented weight was crossed out on August 24, 2011.

g) The Patient's documented weight is inaccurate. Respondent usually weighs a baby with a one layer of clothing and a diaper, therefore the weight "could be off by several ounces whether the child has peed or not peed." Respondent subtracts the estimated weight of clothing and diapers when following an infant's weight.

24. Respondent's acts and/or omissions as set forth in paragraphs 8 through 23, inclusive above, whether proven individually, jointly, or in any combination thereof, constitute gross negligence pursuant to Code section 2234, subdivision (b). Therefore, cause for discipline exists.

SECOND CAUSE FOR DISCIPLINE

(Repeated Negligent Acts)

25. Respondent David Wei Wang, M.D. is subject to disciplinary action under section Code section 2234, subdivision (c), in that he engaged in repeated negligent acts in the care and treatment of the Patient. The circumstances are as follows:

26. The facts and allegations in paragraphs 8 through 23, above, are incorporated by reference and re-alleged as if fully set forth herein.

27. Respondent's acts and/or omissions as set forth in paragraphs 8 through 23, inclusive above, whether proven individually, jointly, or in any combination thereof, constitute repeated

negligent acts pursuant to Code section 2234, subdivision (c). Therefore, cause for discipline exists.

THIRD CAUSE FOR DISCIPLINE

(Inadequate and Inaccurate Recordkeeping)

28. Respondent David Wei Wang, M.D. is subject to disciplinary action under Code section 2266 in that he maintained inadequate and inaccurate medical records for the Patient. The circumstances are as follows:

29. The facts and allegations in paragraphs 8 through 23, above, are incorporated by reference and re-alleged as if fully set forth herein.

30. Respondent's acts and/or omissions as set forth in paragraphs 8 through 23, inclusive above, whether proven individually, jointly, or in any combination thereof, constitute inadequate and inaccurate recordkeeping pursuant to Code section 2266. Therefore, cause for discipline exists.

FOURTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct)

31. Respondent David Wei Wang, M.D. is subject to disciplinary action under Code section 2234 in that he engaged in unprofessional conduct with respect to the care and treatment of the Patient. The circumstances are as follows:

32. The facts and allegations in paragraphs 7 through 30, above, are incorporated by reference and re-alleged as if fully set forth herein.

33. Respondent's acts and/or omissions as set forth in paragraphs 7 through 30, inclusive above, whether proven individually, jointly, or in any combination thereof, constitute unprofessional conduct pursuant to Code section 2234. Therefore, cause for discipline exists.

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 C 37520, issued to Respondent David Wei Wang, M.D.;

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

3. Ordering Respondent David Wei 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: July 12, 2018

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

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