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

In the Matter of the Accusation Against: James Thomas Lin, M.D. Physician's & Surgeon's Certificate No. A 86869 Respondent.	Case No. 800-2018-040169

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 October 7, 2022.

IT IS SO ORDERED: September 7, 2022.

MEDICAL BOARD OF CALIFORNIA

Laurie Rose Lubiano, J.D., Chair
Panel A

ROB BONTA
Attorney General of California
ROBERT MCKIM BELL
Supervising Deputy Attorney General
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BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: **JAMES THOMAS LIN, M.D.** **588 St. Charles Drive, Suite 110** **Thousand Oaks, CA 91360** **Physician's and Surgeon's Certificate Number A 86869** Respondent.	Case No. 800-2018-040169 OAH No. 2021041015 **STIPULATED SETTLEMENT AND DISCIPLINARY ORDER**

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

PARTIES

1. William Prasifka (Complainant) is the Executive Director of the Medical Board of California (Board). He brought this action solely in his official capacity and is represented in this matter by Rob Bonta, Attorney General of the State of California, by Colleen M. McGurrin, Deputy Attorney General.

2. Respondent James Thomas Lin, M.D. (Respondent) is represented in this proceeding by attorney Zachary Rosen, Esq., of Schaeffer Cota Rosen, LLP, whose address is: 500 Esplanade Drive, Suite 950, Oxnard, CA 93036.

3. On or about April 23, 2004, the Board issued Physician's and Surgeon's Certificate

Number A 86869 to James Thomas Lin, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2018-040169, and will expire on April 30, 2022, unless renewed.

JURISDICTION

4. Accusation No. 800-2018-040169 was filed before the Board, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on December 28, 2020. Respondent timely filed his Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 800-2018-040169 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. 800-2018-040169. 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 freely, 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. 800-2018-040169, if proven at a hearing, constitute cause for imposing discipline upon his Physician's and Surgeon's Certificate.

10. Respondent admit the truth of each and every charge and allegation set forth in the

Fourth Cause for Discipline contained in Accusation No. 800-2018-040169.

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 imposition of discipline 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. 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.

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

DISCIPLINARY ORDER

A. PUBLIC REPRIMAND

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate Number A 86869 issued to Respondent JAMES THOMAS LIN, M.D., shall be and is hereby Publicly Reprimanded pursuant to Business and Professions Code section 2227, subdivision (a)(4). This Public Reprimand, which is issued in connection with Respondent's care and treatment of Patient A as set forth in Accusation No. 800-2018-040169, is as follows and on the following conditions:

On or about November 2015 through December 2017, in caring for Patient A, you failed to adequately and accurately document in the patient's chart who prescribed Subsys (a fentanyl sublingual opioid pain medication) to the patient and when the medication was first prescribed, failed to document the diagnosis of Complex Regional Pain Syndrome (CRPS) in the patient progress notes and the criteria used to make this diagnosis, and failed to document the difficulties encountered during the spinal cord stimulator trial procedure on December 27, 2017, in violation of Business and Professions Code section 2266.

B. 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.

C. VIOLATION OF PUBLIC REPRIMAND. Failure to fully comply with any term or condition of this public reprimand is a violation of this stipulation. If Respondent violates the provisions of this stipulation in any respect, the Board, after giving Respondent notice and the opportunity to be heard, may take further disciplinary charges against Respondent. If an

Accusation, or Petition to Revoke Probation, or an Interim Suspension Order is filed against Respondent during the public reprimand, the Board shall have continuing jurisdiction until the matter is final, and the period of this public reprimand shall be extended until the matter is final.

D. **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 this public reprimand, Respondent may request to surrender his 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 this public reprimand. If Respondent re-applies for a medical license, the application shall be treated as a petition for reinstatement of a revoked certificate.

E. **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, the charges and allegations contained in Fourth Cause for Discipline in Accusation No. 800-2018-040169 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, Zachary Rosen, 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 freely, voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Medical Board of California.

DATED: 12/29/21

JAMES THOMAS LIN, M.D.
Respondent

I have read and fully discussed with Respondent James Thomas Lin, 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: 12-29-21

ZACHARY ROSEN, ESQ.
Attorney for Respondent

ENDORSEMENT

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

DATED: 12/29/2021

Respectfully submitted,

ROB BONTA
Attorney General of California
ROBERT MCKIM BELL
Supervising Deputy Attorney General

Colleen M. McGurrin

COLLEEN M. MCGURRIN
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 800-2018-040169

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

In the Matter of the Accusation Against: JAMES THOMAS LIN, M.D. 558 Saint Charles Drive, Suite 110 Thousand Oaks, California 91360 Physician's and Surgeon's Certificate No. A 86869, Respondent.	Case No. 800-2018-040169 **ACCUSATION**

PARTIES

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

2. On April 23, 2004, the Board issued Physician's and Surgeon's Certificate Number A 86869 to James Thomas Lin, M.D. (Respondent). That license was in full force and effect at all times relevant to the charges brought herein and will expire on April 30, 2022, unless renewed.

3. In a prior disciplinary action entitled *In the Matter of the Accusation Against James T. Lin, M.D.* before the Board, in Case No. 05-2008-19511, Respondent's license was publically reprimanded, effective September 30, 2011, for failure to perform opioid risk scales or urine

screens or tests, for failure to refer a patient to a mental health provider and for failure to maintain a complete opioid contract for a single patient. That decision is now final and is incorporated by reference as if fully set forth herein.

4. In a prior disciplinary action entitled *In the Matter of the Accusation Against James T. Lin, M.D.* before the Board, in Case No. 05-2011-212776, Respondent's license was publically reproved, effective July 23, 2014, for failure to maintain adequate medical records in his care and treatment of a single patient. That decision is now final and is incorporated by reference as if fully set forth herein.

JURISDICTION

5. 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.

6. Section 2220 of the Code provides, in pertinent part:

> Except as otherwise provided by law, the board may take action against all persons guilty of violating this chapter. The board shall enforce and administer this article as to physician and surgeon certificate holders, . . ., and the board shall have all the powers granted in this chapter for these purposes including, but not limited to:
>
> (a) Investigating complaints from the public, from other licensees, from health care facilities, or from the board that a physician and surgeon may be guilty of unprofessional conduct. The board shall investigate the circumstances underlying a report received pursuant to Section 805 or 805.01 within 30 days to determine if an interim suspension order or temporary restraining order should be issued. The board shall otherwise provide timely disposition of the reports received pursuant to Section 805 and Section 805.01.
>
> (b) . . . (c).

7. Section 2228 of the Code states, in pertinent part:

> The authority of the board . . . to discipline a licensee by placing him . . . on probation includes, but is not limited to, the following:
>
> (a) Requiring the licensee to obtain additional professional training and to pass an examination upon the completion of the training. The examination may be written or oral, or both, and may be a practical or clinical examination, or both, at the option of the board or the administrative law judge.
>
> (b) Requiring the licensee to submit to a complete diagnostic examination by one or more physicians and surgeons appointed by the board. If an examination is ordered, the board shall receive and consider any other report of a complete diagnostic examination given by one or more physicians and surgeons of the

licensee's choice.

(c) Restricting or limiting the extent, scope, or type of practice of the licensee, including requiring notice to applicable patients that the licensee is unable to perform the indicated treatment, where appropriate.

(d) . . .

8. Section 2227 of the Code provides, in pertinent part:

(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 . . . license revoked upon order of the board.

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

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

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

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

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

STATUTORY PROVISIONS

9. Section 2234 of the Code, provides, in pertinent part:

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

(a) Violating or attempting to violate, directly or indirectly, . . . 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) . . . (g).

10. Section 2266 of the Code states: The failure of a physician and surgeon to maintain adequate and accurate records relating to the provision of services to their patients constitutes unprofessional conduct.

FACTUAL ALLEGATIONS

11. Patient A[1], a then fifty-five (55) year old female patient, first presented to Respondent in or around the spring or summer of 2012,[2] for chronic pain after she suffered a very serious automobile accident in 1993 where she broke her neck and suffered an avulsion[3] of several cervical nerve roots on the right side of her neck resulting in a C1-C2 posterior fusion. She also had a splenectomy,[4] bilateral rods placed in her femurs for fractures in her lower extremities, surgery on her left elbow, and suffered paralysis of her right upper extremity except she had some

[1] For privacy, the patient is identified in this pleading as Patient A. The patient's full name will be disclosed to Respondent upon a timely request for discovery pursuant to Government Code section 11507.6.

[2] Respondent's electronic certified patient records produced to the Board begin with a progress note from August 28, 2013; however, there is a neurosurgical consultation report from another physician, dated May 21, 2012, contained within the certified records wherein that physician notes that the patient had recently transferred her care from another pain management specialist to Respondent.

[3] Avulsion is the tearing away of an attached or anchored tissue, as in the avulsion of a muscle from its insertion in bone (e.g., an avulsion fracture in which bone remains attached to the inserted muscle but loses its attachment to surrounding bone).

[4] A splenectomy is the surgical removal of the spleen, an organ that is part of the lymphatic system. The spleen is located in the abdomen's upper left side, just behind the bottom of the rib cage. Its functions include a role in the immune system; filtering foreign substances from the blood; removing worn-out blood cells from the blood; regulating blood flow to the liver; and sometimes storing blood cells, a process called sequestration.

wrists and finger movements as noted during a neurosurgical consultation conducted by another physician in May 2012.

12. The patient continued to treat with Respondent at his office where she was receiving trigger point injections[5] for myofascial[6] pain syndrome, and cervical epidural[7] steroid injections for cervical radiculopathy[8] and cervical degenerative disc disease in an attempt to control her pain, in addition to pain medications.

FIRST CAUSE FOR DISCIPLINE

(Gross Negligence)

13. The Respondent is subject to disciplinary action under section 2234, subdivision (b), of the Code for gross negligence in his care and treatment of Patient A. The circumstances are as follows:

14. On or about October 13, 2015, Respondent saw Patient A for a follow-up visit. At that time, she complained that her back and neck pain had worsened and her right hand pain was

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[5] Trigger point injections is a pain therapy that attenuates muscle spasms by loco-regional injection of a procaine solution into painful muscles.

[6] Myofascial pertains to or involves the fascia (sheet or band of fibrous connective tissue) surrounding and separating muscle tissue.

[7] Epidural refers to the space between the bone of vertebral column and the meninges of the brain or spinal cord as an epidural injection administered in the epidural space of the vertebral column. An epidural injection, also known as an epidural block, is a regional anesthesia injection into the epidural space (the space between the bone of vertebral column and the meninges of the brain or spinal cord), either between the vertebral spines, in the cervical, thoracic, or lumbar region.

[8] Radiculopathy, sometimes referred to as a pinched nerve, refers to compression of the nerve root-the part of a nerve between vertebrae. This compression causes pain to be perceived in areas to which the nerve leads.

severe. She was noted to be taking Soma,[9] Cymbalta,[10] Xanax,[11] Norco,[12] Celebrex,[13] Gralise[14] and ibuprofen. She also underwent a right stellate ganglion[15] injection in her cervical spine for her upper extremity neuralgia at that visit.[16]

15. On or about November 10, 2015, Respondent saw the patient again who reported no relief from the stellate ganglion injection on the prior visit. Respondent noted that the patient

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[9] Soma (carisoprodol) is a muscle relaxer that blocks pain sensations between the nerves and the brain and is used together with rest and physical therapy to treat skeletal muscle conditions such as pain or injury. It should only be used for short periods (up to two or three weeks) because there is no evidence of its effectiveness in long term use and most skeletal muscle injuries are generally of short duration.

[10] Cymbalta (duloxetine) is a selective serotonin and norepinephrine reuptake inhibitor antidepressant (SSNRI) that affects chemicals in the brain that may be unbalanced in people with depression. It is also used to treat major depressive disorder in adults, general anxiety disorder in adults and children who are at least seven years old, nerve pain caused by diabetes (diabetic neuropathy), or chronic muscle or joint pain (such as low back pain and osteoarthritis pain), and fibromyalgia (a chronic pain disorder) in adults and children at least 13 years old.

[11] Xanax (alprazolam) is a benzodiazepine that works by enhancing the activity of certain neurotransmitters in the brain and is used to treat anxiety disorders and anxiety caused by depression as well as panic disorders with or without a fear of places and situations that might cause panic, helplessness, or embarrassment (agoraphobia).

[12] Norco contains a combination of acetaminophen and hydrocodone (which is an opioid pain medication) and acetaminophen is a less potent pain reliever that increases the effects of hydrocodone. Norco is used to relieve moderate to moderately severe pain.

[13] Celebrex (celecoxib) is a nonsteroidal anti-inflammatory drug (NSAID) that works by reducing hormones that cause inflammation and pain in the body and is used to treat pain or inflammation caused by many conditions such as arthritis, ankylosing spondylitis, and menstrual pain, juvenile rheumatoid arthritis in children who are at least 2 years old, and in the treatment of hereditary polyps in the colon.

[14] Gralise (gabapentin) is a prescription medicine that affects chemicals in the body that are involved in some types of pain and is used in adults to treat pain from damaged nerves (neuropathic pain) that follows healing of shingles (a painful rash that comes after a herpes zoster infection).

[15] Stellate ganglion is the ganglion (an anatomically isolated cluster of nerve cells (neurons), nerve fibers, and tissues, found in the body) formed by the fusion of the inferior cervical and the first thoracic sympathetic ganglions. In vertebrates, ganglia are located along the nerve stems.

[16] Neuralgia is defined as an intense burning or stabbing pain caused by irritation of or damage to a nerve. The pain is usually brief but may be severe. It often feels as if it is shooting along the course of the affected nerve.

should continue Subsys[17] 200 mcg 1 spray; however, Respondent failed to document who had prescribed this medication to the patient, when it was prescribed, and a clear indication of why it was prescribed and continued to be prescribed.

16. On or about December 3, 2015, Respondent saw the patient again for another follow-up visit and noted that the patient should continue with Subsys; however, this medication is not listed as one of the patient's current medications, and Respondent failed to document who initially prescribed it to the patient, when it was prescribed and a clear discussion of why it was prescribed.

17. The patient continued to treat with Respondent and his physician assistants at his office throughout 2015 and into 2016.

18. On or about October 27, 2016, Respondent performed a right stellate ganglion injection on Patient A at his surgical center, St. Charles Surgical Center. Respondent's operative report lists right "Complex Regional Pain Syndrome"[18] as the pre and post-operative diagnosis; however, the patient had not been diagnosed with this syndrome, and Respondent failed to document this diagnosis in the progress notes and failed to document any allodynia[19] or

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[17] Subsys spray (fentanyl sublingual [under the tongue]) is an opioid pain medication used to treat "breakthrough" cancer pain that is not controlled by other medicines. Subsys is taken together with other non-fentanyl narcotic pain medicines that are used around the clock and is not for treating pain that is not cancer-related.

[18] Complex regional pain syndrome (CRPS) is a condition characterized by pain and tenderness associated with vasomotor instability, skin changes, and rapid development of bony demineralization (e.g., osteoporosis often following localized trauma, stroke, or peripheral nerve injury). According to the Mayo Clinic, the signs and symptoms of CRPS include continuous burning or throbbing pain, usually in the arm, leg, hand or foot, sensitivity to touch or cold, swelling of the painful area, changes in skin temperature — alternating between sweaty and cold, changes in skin color, ranging from white and blotchy to red or blue, changes in skin texture, which may become tender, thin or shiny in the affected area, changes in hair and nail growth, joint stiffness, swelling and damage, muscle spasms, tremors, weakness and loss (atrophy), and decreased ability to move the affected body part. Over time, the affected limb can become cold and pale and may undergo skin and nail changes as well as muscle spasms and tightening. There is no single test that can definitively diagnose CRPS, but the following procedures may provide important clues, including a bone scan that might help find bone changes; sweat production tests that can measure the amount of sweat on both limbs and uneven results may indicate CRPS; X-rays to show a loss of minerals from the bones which may show up on an X-ray in later stages of the disease; and magnetic resonance imaging (MRI) that may show tissue changes that rule out other conditions.

[19] Allodynia is the production of pain in response to normally innocuous stimuli that is the

hyperpathia,[20] temperature color asymmetry or abnormal sweating or swelling in her upper extremity. The patient's clawed right hand and upper extremity weakness are better explained by the avulsion of her right C4, C5 and C6 nerve roots that were torn off during the 1993 motor vehicle accident, versus a diagnosis of CRPS.

19. On or about December 29, 2016, Respondent performed another stellate ganglion injection in the patient's cervical spine, again noting the pre and post-operative diagnosis of CRPS; however, the patient had not been diagnosed with this syndrome and Respondent failed to document this diagnosis in the progress notes, and failed to document any allodynia or hyperpathia, temperature color asymmetry or abnormal sweating or swelling in her upper extremity.

20. On or about from March 1, 2017, through September 13, 2017, Patient A presented to Respondent's office for follow-up visits. Under physical examination, her neurological coordination was abnormal in diadochokinesis[21] and the finger-to-nose tests, which would be expected from a patient with avulsion of some of the nerve roots in her upper extremity. She was further noted to be unable to walk on her heels or toes.

21. On or about October 11, 2017, Respondent saw Patient A for a follow-up visit. Due to her continued complaints, they discussed the possibility of a spinal cord stimulator[22] for her chronic severe upper extremity pain, and her finger-to-nose neurological coordination examination was abnormal.

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result of molecular or structural changes in nerve cells.

[20] Hyperpathia is excessive sensitivity and a raised threshold to painful stimuli.

[21] Diadochokinesis is the normal capacity to bring a limb alternately into opposite positions, as in flexion and extension or pronation and supination.

[22] A spinal cord stimulator is a device used to exert pulsed electrical signals to the spinal cord to control chronic pain. Further applications are in motor disorders. The lumbar spinal cord is a preferred target for the control of spinal spasticity or augmentation of standing and stepping capabilities. Spinal cord stimulation (SCS), in the simplest form, consists of stimulating electrodes, implanted in the epidural space, an electrical pulse generator, implanted in the lower abdominal area or gluteal region, conducting wires connecting the electrodes to the generator, and the generator remote control. SCS has notable analgesic properties and, at present, is used mostly in the treatment of failed back surgery syndrome, complex regional pain syndrome, and refractory pain due to ischemia.

22. On or about November 8, 2017, she saw Respondent again who noted that they would seek authorization for the spinal cord stimulator trial for her upper extremity.

23. On or about November 30 and December 6, 2017, the patient saw Respondent again for follow-up visits, who noted that the patient's diadochokinesis and finger-to-nose neurology coordination tests were normal. This would not be expected in a patient with avulsion of some of the nerve roots in her upper extremity. In addition, she was now able to walk on her heels and her toes, something she had been unable to do for the previous seven (7) months, according to the progress notes. During these visits, they continued to discuss a spinal cord stimulator trial for her upper extremity; however, Respondent failed to include the CRPS diagnosis in the progress notes and failed to document the criteria used to make such a diagnosis.

24. On or about December 26, 2017, Patient A saw Respondent for another follow-up visit where they discussed proceeding with the spinal cord stimulator for her chronic severe upper extremity pain, and noted in his plan that they discussed that appeal will be initiated for the spinal cord stimulator; however, the spinal cord stimulator procedure was performed the following afternoon and there are no insurance appeal documents in the certified records obtained by the Board.

25. On or about December 27, 2017, Patient A arrived at Spanish Hills Surgical Center and consented to a percutaneous spinal cord stimulator trial with up to four leads to be performed by Respondent in her upper right extremity, under fluoroscopy[23] and monitored anesthesia care with sedation by an anesthesiologist. The anesthesiologist noted that the patient could not stay still during the procedure and required additional anesthesia. Respondent's operative report notes that the patient tolerated the procedure well with no complications; however, in his interview, Respondent stated that her placement was a little more difficult and during the procedure they had

[23] Fluoroscopy is the examination of the tissues and deep structures of the body by x-ray, using the fluoroscope or its successor, video fluoroscopy, which is an instrument for visual observation of the body by means of x-ray where the patient is put into position so that the part to be viewed is placed between an x-ray tube and a fluorescent screen. X-rays from the tube pass through the body and project the bones and organs as images on the screen. Examination by this method is called fluoroscopy. The advantage of the fluoroscope is that the action of joints, organs, and entire systems of the body can be observed directly and the use of radiopaque media and radiolucent agents aids in this process.

to go back to lateral views multiple times to make sure he was in the proper cervical epidural space, but he failed to document any difficulties in his operative report. In addition, Respondent further stated in his interview that he could not see where the tip of the needle was while performing the procedure under fluoroscopy; however, he failed to document this in the operative report.

26. After the procedure, while in the recovery room, Patient A's pain level was 10 out of 10, and she was unable to move her right lower extremity, which had no movement, and her left hand was numb. The staff at the facility called Respondent, notifying him that the patient had weakness in her right lower extremity and upper extremity with moderate to severe pain. When Respondent arrived back at the facility, the patient was being transported via ambulance to St. John's Regional Medical Center (St. John's) for increased pain, motor weakness in her hand and lower extremity, and did not have any motor strength with plantar flexion or dorsi flexion of her right foot. Respondent stated the main concern in transferring the patient to the hospital was that she may have suffered a nerve injury during the procedure as she did not have any loss of motor strength in her lower extremity before the procedure.

27. On or about December 28, 2017, a CT scan of the patient's thoracic spine was performed at St. John's, showing air within the spinal canal in the epidural space extending from the lower cervical spine to at least the twelve level that was greatest at T1-2 level. A CT scan of her cervical spine revealed intramedullary air within the spinal cord at C2-3 levels with three different foci, and there was epidural air seen within the spinal canal, narrowing the spinal cord to approximately 6 mm at T1-2 levels. During his interview, Respondent stated that the patient most likely sustained an injury to her spinal cord during the procedure when the needle used for the placement of the spinal cord stimulator leads was in the incorrect position and was past the dura when air was introduced into that space. Respondent saw the patient twice during her hospitalization at St. John's, which was the last time he saw the patient in a medical setting.

28. Respondent's acts and omissions constitute gross negligence in his care and treatment of Patient A when he:

A. Failed to properly determine the position of the needle before the injection of air; and

B. Failed to maintain adequate and accurate records.

SECOND CAUSE FOR DISCIPLINE

(Repeated Negligent Acts)

29. Respondent James Thomas Lin, M.D. is subject to disciplinary action under section 2234, subdivision (c) of the Code, in that he committed repeated negligent acts in his care and treatment of Patient A. The circumstances are as follows:

30. Paragraphs 14 through 27, above are incorporated by reference as if fully set forth herein.

31. Respondent's acts and omissions constitute repeated negligent acts in his care and treatment of Patient A when he:

A. Failed to properly determine the position of the needle before the injection of air; and

B. Failed to maintain adequate and accurate records.

THIRD CAUSE FOR DISCIPLINE

(Lack of Knowledge – Incompetence)

32. Respondent James Thomas Lin, M.D. is subject to disciplinary action under section 2234, subdivision (d) of the Code, in that he displayed a lack of knowledge (incompetence) in his care and treatment of Patient A, when he improperly diagnosed the patient with CRPS. The circumstances are as follows:

33. Paragraphs 14 through 27 above are incorporated by reference as if fully set forth herein.

FOURTH CAUSE FOR DISCIPLINE

(Failure to Maintain Adequate and Accurate Records)

34. Respondent James Thomas Lin, M.D. is subject to disciplinary action under section 2266 in that he failed to maintain adequate and accurate records in his care and treatment of Patient A. The circumstances are as follows:

35. Paragraphs 14 through 27 above are incorporated by reference as if fully set forth herein.

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DISCIPLINARY CONSIDERATIONS,

36. To determine the degree of discipline, if any, to be imposed on Respondent James Thomas Lin, M.D., Complainant alleges that on or about September 30, 2011, in a prior disciplinary action entitled *In the Matter of the Accusation Against James T. Lin, M.D.* before the Board, in Case No. 05-2008-19511, Respondent's license was publically reprimanded pursuant to Business and Professions Code section 2227, subdivision (a)(4). That decision is now final and is incorporated by reference as if fully set forth herein.

37. To determine the degree of discipline, if any, to be imposed on Respondent James Thomas Lin, M.D., Complainant alleges that on or about July 23, 2014, in a prior disciplinary action entitled *In the Matter of the Accusation Against James T. Lin, M.D.* before the Board, in Case No. 05-2011-212776, Respondent's license was publically reproved pursuant to Business and Professions Code section 495 after a hearing. That decision 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 A 86869, issued to James Thomas Lin, M.D.;

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

3. If placed on probation, ordering James Thomas Lin, M.D. to pay the Board the costs of probation monitoring; and

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

DATED: DEC 28 2020

REJI VARGHESE
DEPUTY DIRECTOR

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

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