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

In the Matter of the Accusation/Petition to Revoke Probation Against: Son Ngoc Truong, M.D. Physician's and Surgeon's Certificate No. A 97261 Respondent.	Case No.: 800-2021-076708

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 14, 2022.

IT IS SO ORDERED: September 14, 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
PEGGIE BRADFORD TARWATER
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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 and Petition to Revoke Probation Against: **SON NGOC TRUONG, M.D.** **15643 Brookhurst Street** **Westminster, CA 92683-7556** **Physician's and Surgeon's Certificate No. A 97261,** Respondent.	Case No. 800-2021-076708 OAH No. 2021110099 **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 Peggie Bradford Tarwater, Deputy Attorney General.

2. Respondent Son Ngoc Truong, M.D. (Respondent) is represented in this proceeding by attorney Gary Wittenberg, whose address is: 1901 Avenue of the Stars, Suite 1750, Los Angeles, CA 90067.

3. On September 8, 2006, the Board issued Physician's and Surgeon's Certificate No. A 97261 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 and Petition to Revoke Probation No. 800-2021-076708, and will expire on December 31, 2023, unless renewed.

JURISDICTION

4. Accusation and Petition to Revoke Probation No. 800-2021-076708 was filed before the Board, and is currently pending against Respondent. The Accusation and Petition to Revoke Probation and all other statutorily required documents were properly served on Respondent on May 19, 2021. Respondent filed his Notice of Defense contesting the Accusation and Petition to Revoke Probation.

5. A copy of Accusation and Petition to Revoke Probation No. 800-2021-076708 is attached as Exhibit A and incorporated by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation and Petition to Revoke Probation No. 800-2021-076708. 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 and Petition to Revoke Probation; 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 understands and agrees that the charges and allegations in Accusation and Petition to Revoke Probation No. 800-2021-076708, if proven at a hearing, constitute cause for imposing discipline upon his Physician's and Surgeon's Certificate.

10. Respondent agrees that, at a hearing, Complainant could establish a prima facie case relating to the charges in the Accusation and Petition to Revoke Probation, and Respondent hereby gives up his right to contest those charges.

11. Respondent does not contest that, at an administrative hearing, complainant could establish a prima facie case with respect to the charges and allegations in Accusation and Petition to Revoke Probation No. 800-2021-076708, a true and correct copy of which is attached hereto as Exhibit A, and that he has thereby subjected his Physician's and Surgeon's Certificate, No. A 97261 to disciplinary action.

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.

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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 Respondent, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 97261 issued to Respondent SON NGOC TRUONG, M.D. is revoked. However, the revocation is stayed and Respondent is placed on probation for 35 months on the following terms and conditions: This Order is to run consecutive to the probationary order in case no. 18-2013-231897 and shall take effect immediately upon completion of the probationary order in case no. 18-2013-231897.

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. PRESCRIBING PRACTICES COURSE (Condition Satisfied). Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a course in prescribing practices 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 months after Respondent's initial enrollment.

Respondent shall successfully complete any other component of the course within one year of enrollment. The prescribing practices course shall be at Respondent's expense and shall be in addition to the CME requirements for renewal of licensure.

A prescribing practices 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. REPEAT MEDICAL RECORD KEEPING COURSE (Condition Satisfied). 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 months after Respondent's initial enrollment. Respondent shall successfully complete any other component of the course within one year of enrollment. The medical record keeping course shall be at Respondent's expense and shall be in addition to the 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.

4. REPEAT PROFESSIONALISM PROGRAM (ETHICS COURSE) (Condition Satisfied). 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 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 year after attending the classroom component. The professionalism program shall be at Respondent's expense and shall be in addition to the 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.

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

The program shall consist of a comprehensive assessment of Respondent's physical and mental health and the six general domains of clinical competence as defined by the Accreditation Council on Graduate Medical Education and American Board of Medical Specialties pertaining to Respondent's current or intended area of practice. The program shall take into account data obtained from the pre-assessment, self-report forms and interview, and the Decision(s),

Accusation(s), and any other information that the Board or its designee deems relevant. The program shall require Respondent's on-site participation for a minimum of three and no more than five days as determined by the program for the assessment and clinical education evaluation. Respondent shall pay all expenses associated with the clinical competence assessment program.

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

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

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

6. 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 Petition to Revoke Probation, and a proposed monitoring plan. Within 15 calendar days of receipt of the Decision(s), Accusation(s) and Petition to Revoke Probation and proposed monitoring plan, the monitor shall submit a signed statement that the monitor has read the Decision(s) and Accusation(s) and Petition to Revoke Probation, 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 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, billing appropriately or both. 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 five 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 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.

7. PROHIBITED PRACTICE. During probation, Respondent is prohibited from performing any procedures requiring any form of sedation in a non-accredited surgery center. After the effective date of this Decision, all patients for whom Respondent is performing any procedure(s) requiring any form of sedation shall be notified that Respondent is prohibited from performing the procedure(s) in a non-accredited surgery center.

Respondent shall maintain a log of all patients to whom the required oral notification was made. The log shall contain the: 1) patient's name, address and phone number; 2) patient's medical record number, if available; 3) the full name of the person making the notification; 4) the date the notification was made; and 5) a description of the notification given. Respondent shall keep this log in a separate file or ledger, in chronological order, shall make the log available for immediate inspection and copying on the premises at all times during business hours by the Board or its designee, and shall retain the log for the entire term of probation.

8. NOTIFICATION. Within seven days of the effective date of this Decision, Respondent shall provide a true copy of this Decision and Accusation and Petition to Revoke Probation 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.

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

10. 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.

11. INVESTIGATION/ENFORCEMENT COST RECOVERY. Respondent is hereby ordered to reimburse the Board its costs of investigation and enforcement, in the amount of $5,155. Costs shall be payable to the Medical Board of California. Failure to pay such costs shall be considered a violation of probation.

Any and all requests for a payment plan shall be submitted in writing by Respondent to the Board.

The filing of bankruptcy by Respondent shall not relieve Respondent of the responsibility to repay investigation and enforcement costs.

12. 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.

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13. 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 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.

14. 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.

15. 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 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.

16. 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.

17. 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.

18. 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.

19. 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.

20. 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 and Petition to Revoke Probation No. 800-2021-076708 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.

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Gary Wittenberg. 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: 05/19/2022

SON NGOC TRUONG, M.D.
Respondent

I have read and fully discussed with Respondent Son Ngoc Truong, 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: 5-19-22

GARY WITTENBERG, 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: _____

Respectfully submitted,

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

PEGGIE BRADFORD TARWATER
Deputy Attorney General
Attorneys for Complainant

LA2020601835

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Gary Wittenberg. 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: _____ _____

SON NGOC TRUONG, M.D.
Respondent

I have read and fully discussed with Respondent Son Ngoc Truong, 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: _____ _____

GARY WITTENBERG, 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: May 19, 2022

Respectfully submitted,

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

Peggie Bradford Tarwater
Digitally signed by Peggie Bradford Tarwater
Date: 2022.05.19 12:32:30 -07'00'

PEGGIE BRADFORD TARWATER
Deputy Attorney General
Attorneys for Complainant

LA2020601835

Exhibit A

Accusation and Petition to Revoke Probation No. 800-2021-076708

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

In the Matter of the Accusation and Petition to Revoke Probation Against: **SON NGOC TRUONG, M.D.** **15568 Brookhurst Street, Suite 368** **Westminster, CA 92683** **Physician's and Surgeon's Certificate No. A 97261,** Respondent.	Case No. 800-2021-076708 **ACCUSATION AND PETITION TO REVOKE PROBATION**

PARTIES

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

2. On or about September 8, 2006, the Medical Board issued Physician's and Surgeon's Certificate Number A 97261 to Son Ngoc Truong, 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 December 31, 2021, unless renewed.

JURISDICTION

3. This Accusation and Petition to Revoke Probation 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. On or about March 1, 2017 (effective March 30, 2017), in a prior disciplinary action titled *In the Matter of the Accusation Against Son Ngoc Truong, M.D.* before the Medical Board of California, in Case Number 18-2013-231897 (the "Decision"), Respondent's Physician's and Surgeon's certificate was revoked, but the revocation was stayed, and he was placed on probation for five years, with terms and conditions, for unprofessional conduct hereby admitted.

STATUTORY PROVISIONS

5. 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.

6. 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.

7. Section 2266 of the Code states:

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

8. Section 2216.2 of the Code states:

(a) It is unprofessional conduct for a physician and surgeon to fail to provide adequate security by liability insurance, or by participation in an interindemnity trust, for claims by patients arising out of surgical procedures performed outside of a general acute care hospital as defined in subdivision (a) of Section 1250 of the Health and Safety Code.

(b) For purposes of this section, the board shall determine what constitutes adequate security.

(c) Nothing in this section shall require an insurer admitted to transact liability insurance in this state to provide coverage to a physician and surgeon.

(d) The security required by this section shall be acceptable only if provided by any one of the following:

(1) An insurer admitted pursuant to Section 700 of the Insurance Code to transact liability insurance in this state.

(2) An insurer that is eligible pursuant to Section 1765.1 of the Insurance Code.

(3) A cooperative corporation authorized by Section 1280.7 of the Insurance Code.

(4) An insurer licensed to transact liability insurance in at least one state of the United States.

PROBATION

9. At all times after the effective date of the Decision, the Board's related disciplinary order contained the following conditions:

10. Condition 10 states:

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.

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11. Condition 11 states:

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.

12. Condition 12, in pertinent part, states:

GENERAL PROBATION REQUIREMENTS

Compliance with Probation Unit

Respondent shall comply with the Board's probation unit and all terms and conditions of this Decision.

. . .

13. Condition 16 states:

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 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.

FACTUAL ALLEGATIONS

Patient A.[1]

14. On or about March 26, 2018, Patient A, a 23-year-old woman, responded to a Craigslist offer from Struong Cosmetic for an abdominal liposuction for $2,500. She contacted the office via email and was told that she could have the procedure the same day as her consultation.

15. On or about March 27, 2018, Patient A presented to Respondent for an evaluation for cosmetic surgery. She was five feet, four inches tall and weighed 180 pounds. Respondent recommended that Patient A undergo "full abdominal" liposuction with "fat transfer to hips +

[1] A letter is used in lieu of the patient's name to address privacy concerns. The identity of the patient is known to the Respondent and will be further provided in response to an appropriate Request for Discovery.

buttocks $4.3K." Respondent also documented that he discussed the risks of "numbness, paresthesia, scars, bleeding, infection, bruising, cardiovascular abnormality, death" with the patient and she signed a consent document. She also completed various forms, including,[2] a "Pre-Treatment Recommendations for Tumescent Liposuction" form, which described utilizing Keflex®[3], Lorcet®[4], Colace®[5], and Phenergan®.[6] This form also described preoperative recommendations beginning two weeks prior to the procedure, including that the patient must arrange for a responsible adult to drive her to and from the procedure, stating that she would "not be allowed to leave on [her] own" and a "cab or bus driver will not be allowed to take [her] home after the procedure." The patient also acknowledged that she "should have a responsible adult drive [her] home after the procedure [and that] They will be required to sign a post-Tumescent Liposuction/Laser Lypolysis release form before [she] can be released into their care."

16. On or about March 31, 2018, Respondent performed surgical procedures on Patient A. The patient was taken to Respondent's procedure room and given Dilaudid®[7] and

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[2] As used herein, "including" means, "including, without limitation."

[3] "Keflex®" is a brand name for cephalexin, which is an antibiotic medication used to treat infections. It is a dangerous drug pursuant to Business and Professions Code section 4022.

[4] Lorcet® is a brand name for acetaminophen and hydrocodone. This combination of hydrocodone and acetaminophen is used to relieve pain severe enough to require opioid treatment and when other pain medicines do not work well enough or cannot be tolerate. Other brand names for this combination of drugs include Hycet®, Norco®, Lortab®, Maxidone®, Vicodin®, Zamicet® and Zydone®.

"Acetaminophen" is a widely used over-the-counter analgesic (pain reliever) and antipyretic (fever reducer). It is also known as paracetamol, or APAP. It is typically used for mild to moderate pain relief, such as relief of headaches. It is a major ingredient in numerous cold and flu remedies. In combination with opioid analgesics, paracetamol can also be used in the management of more severe pain such as post-surgical pain and providing palliative care in advanced cancer patients. Acute overdoses of paracetamol can cause potentially fatal liver damage and, in rare individuals, a normal dose can do the same; the risk is heightened by alcohol consumption. It is sold in varying forms, including under the brand name Tylenol®.

[5] "Colace®" is a brand name for docusate, an over-the-counter medication, used to treat constipation. Stool softeners such as docusate are often the first method used for preventing and treating this type of constipation.

[6] "Phenergan®" is a brand name for promethazine an antihistamine medication used to treat allergies, difficulty sleeping, and nausea. Promethazine is sold in its various forms under the brand names Phenadoz®, Promethegan®, and Phenergan®. It is a dangerous drug as defined in Business and Professions Code section 4022.

[7] "Dilaudid®" is a brand name for hydromorphone, an opioid pain medication used to treat moderate to severe pain. Hydromorphone is a Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision (b)(1)(J), and a dangerous drug as designated in Health and Safety Code section 4022.

Clonididne[8] and it is noted that Keflex® and Benadryl®[9] were administered. Tumescent solution was administered through an IV and 1.4 liters of fat solute were removed and 450 cc's of fat was injected into each hip/buttock area.

17. At the conclusion of the procedures, Patient A was given medications for home use, including Levaquin®[10] (five days), Colace® (for three days), and Dilaudid® (every 4-6 hours, three tablets). The time of discharge was not documented. Patient A's surgery was completed at 5:40 p.m., and the patient was picked up from Respondent's office by an Uber driver at 6:12 p.m. She arrived at her home in San Diego at 7:35 p.m., which was approximately 70 miles away.

18. On or about April 2, 2018, Patient A spoke to Respondent by phone and he instructed her to take Tylenol® for pain and asked her to return to his office.

19. On or about April 10, 2018, Patient A spoke to Respondent by phone again.

20. On or about June 9, 2018, Patient A saw Respondent with complaints about the results of the procedure.

21. No post-operative photos were included in Respondent's records.

22. On or about April 1, 2020, an investigator with the Department of Consumer Affairs interviewed Respondent (the "April Interview") and he stated to the investigator that he does not dispense narcotics to patients and that he did not give Dilaudid® to Patient A. When asked about his medical records which indicated that he did provide the medication to the patient, Respondent stated that his medical record included a standard form, and that he would "write a prescription" to "anybody who would need pain medication."

23. On or about June 4, 2020, investigators with the Department of Consumer Affairs conducted an inspection of Respondent's controlled substances at his office. During their

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[8] "Clonidine" is a medication used to treat high blood pressure, attention deficit hyperactivity disorder, drug withdrawal (alcohol, opioids, or smoking), menopausal flushing, diarrhea, spasticity and certain pain conditions. It is sold under the brand name Catapres®, among others. It is a dangerous drug as defined in Business and Professions Code section 4022.

[9] "Benadryl®" is a brand name for diphenhydramine, an antihistamine medication used to treat symptoms of seasonal allergies including sneezing, runny nose, and itching or watering eyes. It works by blocking the action of histamine which causes allergic symptoms. It is available over-the-counter.

[10] "Levaquin®" is a brand name for levofloxacin, an antibiotic medication used to treat infections. It is a dangerous drug pursuant to Business and Professions code section 4022.

inspection Respondent led the investigators to a room where he showed them where he stored medication for his procedures. Inside the room Respondent, showed the investigators a cabinet which contained multiple medications, including turmeric pills, bottles of Doxycycline Hyclate and Levofloxacin (which are antibiotics), Kirkland brand allergy medicine, Obagi Nu-Derma skin brightening products, Biopelle anti-aging products, boxes of Ondansetron injections (which are used to prevent nausea), Triamcinolone and Acetonide (topical ointments), boxes of hydromorphone injections and a bottle of lorazepam tablets. Respondent then showed the investigators a crash cart and kit log, which was located in an examination room. The crash cart, consisted of a very large unlocked box which contained several items including, emergency oxygen, suction equipment and a tank, diazepam[11] tablets, lidocaine, epinephrine, naloxone hydrochloride, a tourniquet, needles and syringes, activated charcoal, and dextrose injections. However, a majority of the medication contained in the kit were expired for several years. Respondent advised that he would replace everything in the kit. Inside the same room were cabinets containing surgical equipment, including surgical blades, hypodermic disposable needles, lidocaine and epinephrine injection solution, and sodium bicarbonate injection solution.

24. During their inspection of Respondent's office on or about June 4, 2020, investigators inquired about the brown envelopes that are given to patients and Respondent revealed the envelopes. Upon closer examination, the envelopes (which were stored in the cabinet drawer, behind the receptionist area) appeared to be prepackaged containing medication inside. Printed on the front of the envelopes were the names of the medication/dietary supplements, instructions in English and Vietnamese and a blank to write in the quantity and the expiration date. However, the quantity and expiration date on the envelopes containing medications were blank. With the envelopes grouped together, there was no way of determining when the medications would

[11] "Diazepam" is a psychotropic drug used for the management of anxiety disorders or for the short-term relief of the symptoms of anxiety. It can produce psychological and physical dependence and should be prescribed with caution particularly to addiction-prone individuals (such as drug addicts and alcoholics) because of the predisposition of such patients to habituation and dependence. It is sold under the brand name Valium®. It is a Schedule IV controlled substance as designated by Health and Safety Code section 11057(d)(1), and is a dangerous drug as designated in Health and Safety Code section 4022.

expire. The envelopes contained three different types of medications, Levogloxacin (antibiotics), Tylenol®, and Colace®. Respondent failed to have an adequate system for monitoring the number of Schedule III and IV controlled substances in his office. The investigators could see a bottle of lorazepam[12] and five boxes of Dilaudid® were stored in Respondent's drug cabinet. Drugs at Respondent's office viewed by the investigators during the inspection, including Dilaudid® were expired. In addition, Respondent failed to provide a log for all of the Schedule III and IV controlled substances he used in his office. On or about November 30, 2020, an investigator and medical consultant from the Department of Consumer Affairs interviewed Respondent (the "November Interview") and Respondent stated that he "dumped" the expired vials of Dilaudid "in the sink."

FIRST CAUSE FOR DISCIPLINE

(Gross Negligence)

25. Respondent is subject to disciplinary action under section 2234, subdivision (b), of the Code in that he committed gross negligence in his medical practice. The circumstances are as follows:

26. The allegations in paragraphs 14 through 24, inclusive, above are incorporated herein by reference as if fully set forth.

27. On or about March 26, 2018, and thereafter, Respondent was grossly negligent in his medical practice, including when he:

(a) failed to adequately maintain a log of all Schedule III and IV controlled substances in his office, tracking the number and use of those drugs; and

(b) failed to appropriately dispose of expired dangerous drugs by putting them in the drain and into waste water.

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

SECOND CAUSE FOR DISCIPLINE

(Repeated Negligent Acts)

28. Respondent is subject to disciplinary action under section 2234, subdivision (c), of the Code in that Respondent committed repeated negligent acts in the care and treatment of Patient A. The circumstances are as follows:

29. The allegations of the First Cause for Discipline are incorporated herein by reference as if fully set forth.

30. On or about March 26, 2018, and thereafter, Respondent was negligent in his medical practice and in the treatment and care of Patient A, including:

(a) when he failed to adequately release Patient A into the care of a responsible adult, and instead allowed the patient to leave his care and be transported approximately 70 miles away in a car driven by an Uber driver;

(b) when he failed to adequately and accurately document the medications he provided to Patient A in that his medical records stated that the patient received controlled substances (i.e., Dilaudid and Lorcet), but Respondent stated to Board representatives during his April Interview that he did not dispense narcotics to the patient;

(c) when he failed to adequately ensure that his medications were potent by periodically conducting inventories and replacing expired medications; and

(d) when he provided envelopes of medications to Patient A which did not indicate a quantity or expiration date for the medications.

THIRD CAUSE FOR DISCIPLINE

(Failure to Maintain Adequate and Accurate Medical Records)

31. Respondent is subject to disciplinary action under section 2266 of the Code in that Respondent failed to maintain adequate and/or accurate records related to the provision of medical services to a patient. The circumstances are as follows:

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

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FOURTH CAUSE FOR DISCIPLINE

(Failure to Maintain Malpractice Insurance)

33. Respondent is subject to disciplinary action under section 2216.2, subdivision (a) in that he failed to maintain adequate security by liability insurance or by participation in an interindemnity trust. The circumstances are as follows:

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

35. On or about November 30, 2020, an investigator and medical consultant with the Department of Consumer Affairs interviewed Respondent and he stated that he did not possess malpractice insurance.

FIFTH CAUSE FOR DISCIPLINE

(Misrepresentations)

36. Respondent is subject to disciplinary action under section 2261 in that he signed a certification or other document directly or indirectly related to the practice of medicine which falsely represented the existence or nonexistence of a state of facts. The circumstances are as follows:

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

38. On or about April 1, 2020, at his April Interview, Respondent stated that he did not dispense narcotics to patients and that he did not give Dilaudid to Patient A. However, this statement contradicts Respondent's medical records for Patient A, which indicate that he did provide Dilaudid to Patient A.

39. On or about July 21, 2020, an investigator with the Department of Consumer Affairs went to Respondent's office and interviewed Respondent and several of his employees, including a clerical office assistant, N.H.B.L. who had only worked for Respondent for approximately six months. In addition, on or about August 17, 2020, the investigator also interviewed L.M.P. a medical assistant who worked for Respondent for approximately three and one half months in or around March/April 2018 through July 2018. Her duties included assisting Respondent during

procedures and she remembered Patient A. According to L.M.P, patients were given Dilaudid by Respondent. In addition, Respondent signed several quarterly declarations from in or around 2017 through 2020. The forms required that Respondent "List any new staff and include the title and license number, if applicable. In all Respondent's forms he wrote, "none" in response to this inquiry.

SIXTH CAUSE FOR DISCIPLINE

(General Unprofessional Conduct)

40. Respondent is subject to disciplinary action under section 2234, in that his action and/or actions represent unprofessional conduct, generally. The circumstances are as follows:

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

FIRST CAUSE TO REVOKE PROBATION

(General Probation Requirements and Obey All Laws)

42. Respondent's probation is subject to revocation because he failed to comply with Probation Condition Numbers 10, 12 and 16 of his probationary order in his Decision, referenced above. The facts and circumstances regarding this violation are as follows:

43. The allegations of the First through Sixth Causes for Discipline, inclusive are incorporated herein by reference as if fully set forth.

44. Respondent has violated term and condition numbers 10, 12 and 16 by engaging in unprofessional conduct.

SECOND CAUSE TO REVOKE PROBATION

(Quarterly Reports)

45. Respondent's probation is subject to revocation because he failed to comply with Probation Condition Numbers 11 of his probationary order in his Decision, referenced above. The facts and circumstances regarding this violation are as follows:

46. The allegations of the First through Sixth Causes for Discipline, inclusive and the First Cause to Revoke Probation are incorporated herein by reference as if fully set forth.

47. On or about July 2, 2018, October 5, 2018, April 4, 2020 and June 3, 2020,

Respondent signed Quarterly Declarations and submitted them to the Board's probation unit. Those Quarterly Declarations failed to list his new employees, including but not limited to, N.H.B.L. and L.M.P.

DISCIPLINARY CONSIDERATIONS

48. To determine the degree of discipline, if any, to be imposed on Respondent, Complainant alleges that on or about March 1, 2017 (effective March 30, 2017), in the Decision, Respondent's Physician's and Surgeon's certificate was revoked, but the revocation was stayed, and he was placed on probation for five years, with terms and conditions, for admitted unprofessional conduct, in connection with the care and treatment of multiple patients. 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 the probation that was granted by the Board in Case Number 18-2013-231897 and imposing the disciplinary order that was stayed, thereby revoking Physician's and Surgeon's Certificate Number A 97261, issued to Son Ngoc Truong, M.D.;

2. Revoking or suspending Physician's and Surgeon's Certificate Number A 97261, issued to Son Ngoc Truong, M.D.;

3. Revoking, suspending or denying approval of Son Ngoc Truong, M.D.'s authority to supervise physician assistants and advanced practice nurses;

4. Ordering Son Ngoc Truong, M.D., if placed on probation, to pay the Board the costs of probation monitoring; and

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

DATED: MAY 19 2021

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

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