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

In the Matter of the Second Amended Accusation Against: Richard David Chen, M.D. Physician's and Surgeon's Certificate No. G 78024 Respondent.	Case No.: 800-2018-047018

DECISION

The attached Stipulated Settlement and Disciplinary Order is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on March 2, 2023.

IT IS SO ORDERED: January 31, 2023.

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: RICHARD DAVID CHEN, M.D. P.O. Box 622 Penngrove, CA 94951 Physician's and Surgeon's Certificate G 78024, Respondent.	Case No. 800-2018-047018 OAH No. 2021120332 **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 Trina L. Saunders, Deputy Attorney General.

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2. Respondent Richard David Chen, M.D. (Respondent) is represented in this proceeding by attorney Mark B. Connely, of 444 Higuera Street, Third Floor, San Luis Obispo, CA 93401.

3. On December 1, 1993, the Board issued Physician's and Surgeon's Certificate No. G 78024 to Richard David Chen, M.D. (Respondent). That license was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2018-047018, and will expire on December 31, 2023, unless renewed.

JURISDICTION

4. A Second Amended Accusation in Case No. 800-2018-047018 was filed before the Board, and is currently pending against Respondent. The Second Amended Accusation and all other statutorily required documents were properly served on Respondent on April 22, 2022. Respondent timely filed his Notice of Defense contesting the Second Amended Accusation.

5. A copy of the Second Amended Accusation No. 800-2018-047018 is attached as Exhibit A and is incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Second Amended Accusation No. 800-2018-047018. 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 Second Amended Accusation; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

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

CULPABILITY

9. Respondent understands and agrees that the charges and allegations in Second Amended Accusation No. 800-2018-047018, 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 or factual basis for the charges in the Second Amended Accusation, and that 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 Second Amended Accusation No. 800-2018-047018, 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. G 78024 to disciplinary action.

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

13. 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.

RESERVATION

14. The admissions made by Respondent herein are only for the purposes of this proceeding, or any other proceedings in which the Medical Board of California or other professional licensing agency is involved, and shall not be admissible in any other criminal or civil proceeding.

CONTINGENCY

15. 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.

16. Respondent agrees that if he ever petitions for early termination or modification of probation, or if an accusation and/or petition to revoke probation is filed against him before the Board, all of the charges and allegations contained in Second Amended Accusation No. 800-2018-047018 shall be deemed true, correct and fully admitted by respondent for purposes of any such proceeding or any other licensing proceeding involving Respondent in the State of California.

17. 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.

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

DISCIPLINARY ORDER

IT IS HEREBY ORDERED THAT Physician's and Surgeon's Certificate No. G 78024 issued to Respondent Richard David Chen, M.D. is revoked. However, the revocation is stayed and Respondent is placed on probation for thirty-five (35) months on the following terms and conditions:

1. EDUCATION COURSE. Within 60 calendar days of the effective date of this Decision, and on an annual basis thereafter, Respondent shall submit to the Board or its designee for its prior approval educational program(s) or course(s) which shall not be less than 30 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 55 hours of CME of which 30 hours were in satisfaction of this condition.

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

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

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

3. PROFESSIONALISM PROGRAM (ETHICS COURSE). Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a professionalism program, that meets the requirements of Title 16, California Code of Regulations (CCR) section 1358.1. Respondent shall participate in and successfully complete that program. Respondent shall provide any information and documents that the program may deem pertinent. Respondent shall successfully complete the classroom component of the program not later than six (6) months after

Respondent's initial enrollment, and the longitudinal component of the program not later than the time specified by the program, but no later than one (1) year after attending the classroom component. The professionalism program shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

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

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

4. PROHIBITED PRACTICE. During probation, Respondent is prohibited from writing vaccine exemptions for any individual. After the effective date of this Decision, any new or returning patients seeking pediatric care, and any patient seeking a vaccination exemption of any type must be provided notification of this prohibition on Respondent's license at the time of their initial appointment.

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.

5. NOTIFICATION. Within seven (7) days of the effective date of this Decision, the Respondent shall provide a true copy of this Decision and Accusation to the Chief of Staff or the Chief Executive Officer at every hospital where privileges or membership are extended to

Respondent, at any other facility where Respondent engages in the practice of medicine, including all physician and locum tenens registries or other similar agencies, and to the Chief Executive Officer at every insurance carrier which extends malpractice insurance coverage to Respondent. Respondent shall submit proof of compliance to the Board or its designee within 15 calendar days.

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

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

7. 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.

8. INVESTIGATION/ENFORCEMENT COST RECOVERY. Respondent is hereby ordered to reimburse the Board its costs of investigation and enforcement, including, but not limited to, expert review, amended accusations, legal reviews, investigation(s), and subpoena enforcement, as applicable, in the amount of $8,000.00 (eight thousand dollars). Costs shall be payable to the Medical Board of California. Failure to pay such costs shall be considered a violation of probation.

Payment of $2,000.00 (two thousand dollars) must be made within 30 calendar days of the effective date of the Order. The remaining balance is to be paid in three quarterly payments of $2,000.00, each, to be made during the first year of probation, resulting in the full payment of $8,000.00, by the end of the first year of probation. Failure to comply with the payment plan shall be considered a violation of probation.

The filing of bankruptcy by respondent shall not relieve respondent of the responsibility to repay investigation and enforcement costs, including expert review costs.

9. 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.

10. 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).

License Renewal

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

Travel or Residence Outside California

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

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

11. 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.

12. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or its designee in writing within 15 calendar days of any periods of non-practice lasting more than 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is defined as any period of time Respondent is not practicing medicine as defined in Business and

Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct patient care, clinical activity or teaching, or other activity as approved by the Board. If Respondent resides in California and is considered to be in non-practice, Respondent shall comply with all terms and conditions of probation. All time spent in an intensive training program which has been approved by the Board or its designee shall not be considered non-practice and does not relieve Respondent from complying with all the terms and conditions of probation. Practicing medicine in another state of the United States or Federal jurisdiction while on probation with the medical licensing authority of that state or jurisdiction shall not be considered non-practice. A Board-ordered suspension of practice shall not be considered as a period of non-practice.

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

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

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

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

13. COMPLETION OF PROBATION. Respondent shall comply with all financial obligations (e.g., probation costs) not later than 120 calendar days prior to the completion of probation. This term does not include cost recovery, which is due within 30 calendar days of the effective date of the Order, or by a payment plan approved by the Medical Board and timely satisfied. Upon successful completion of probation, Respondent's certificate shall be fully restored.

14. 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.

15. 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 in California. Respondent will no longer be subject to the terms and conditions of probation. If Respondent re-applies for a medical license in California, the application shall be treated as a petition for reinstatement of a revoked certificate.

16. 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.

17. 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 Second Amended Accusation No. 800-2018-047018 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, Mark B. Connely. 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: 8/24/2022

RICHARD DAVID CHEN, M.D.
Respondent

I have read and fully discussed with Respondent Richard David Chen, 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: 8/24/2022

MARK B. CONNELY
Attorney for Respondent

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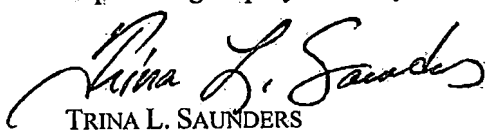
ENDORSEMENT

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

DATED: August 26, 2022

Respectfully submitted,

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



TRINA L. SAUNDERS
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 Second Amended Accusation Against: RICHARD DAVID CHEN, M.D. 1150 N McDowell Blvd #751181 Petaluma, CA 94975-8810 Physician's and Surgeon's Certificate No. G 78024, Respondent.	Case No. 800-2018-047018 OAH No. 2021120332 **SECOND AMENDED ACCUSATION**

PARTIES

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

2. On December 1, 1993, the Board issued Physician's and Surgeon's Certificate Number G 78024 to Richard David Chen, M.D. (Respondent). That license was in full force and effect at all times relevant to the charges brought herein and will expire on December 31, 2023, unless renewed.

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JURISDICTION

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

4. Section 2227 of the Code states:

> (a) A licensee whose matter has been heard by an administrative law judge of the Medical Quality Hearing Panel as designated in Section 11371 of the Government Code, or whose default has been entered, and who is found guilty, or who has entered into a stipulation for disciplinary action with the board, may, in accordance with the provisions of this chapter:
>
> (1) Have his or her license revoked upon order of the board.
>
> (2) Have his or her right to practice suspended for a period not to exceed one year upon order of the board.
>
> (3) Be placed on probation and be required to pay the costs of probation monitoring upon order of the board.
>
> (4) Be publicly reprimanded by the board. The public reprimand may include a requirement that the licensee complete relevant educational courses approved by the board.
>
> (5) Have any other action taken in relation to discipline as part of an order of probation, as the board or an administrative law judge may deem proper.
>
> (b) Any matter heard pursuant to subdivision (a), except for warning letters, medical review or advisory conferences, professional competency examinations, continuing education activities, and cost reimbursement associated therewith that are agreed to with the board and successfully completed by the licensee, or other matters made confidential or privileged by existing law, is deemed public, and shall be made available to the public by the board pursuant to Section 803.1.

5. Section 2234 of the Code, states:

> The board shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:
>
> (a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the violation of, or conspiring to violate any provision of this chapter.
>
> (b) Gross negligence.
>
> (c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or omissions. An initial negligent act or omission followed by a separate and distinct departure from the applicable standard of care shall constitute repeated negligent acts.

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

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

(d) Incompetence.

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

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

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

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

COST RECOVERY

7. Section 125.3 of the Code states:

(a) Except as otherwise provided by law, in any order issued in resolution of a disciplinary proceeding before any board within the department or before the Osteopathic Medical Board, upon request of the entity bringing the proceeding, the administrative law judge may direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

(b) In the case of a disciplined licensee that is a corporation or a partnership, the order may be made against the licensed corporate entity or licensed partnership.

(c) A certified copy of the actual costs, or a good faith estimate of costs where actual costs are not available, signed by the entity bringing the proceeding or its designated representative shall be prima facie evidence of reasonable costs of investigation and prosecution of the case. The costs shall include the amount of investigative and enforcement costs up to the date of the hearing, including, but not limited to, charges imposed by the Attorney General.

(d) The administrative law judge shall make a proposed finding of the amount of reasonable costs of investigation and prosecution of the case when requested pursuant to subdivision (a). The finding of the administrative law judge with regard to costs shall not be reviewable by the board to increase the cost award. The board may reduce or eliminate the cost award, or remand to the administrative law judge if the proposed decision fails to make a finding on costs requested pursuant to subdivision (a).

(e) If an order for recovery of costs is made and timely payment is not made as directed in the board's decision, the board may enforce the order for repayment in any appropriate court. This right of enforcement shall be in addition to any other rights the board may have as to any licensee to pay costs.

(f) In any action for recovery of costs, proof of the board's decision shall be conclusive proof of the validity of the order of payment and the terms for payment.

(g) (1) Except as provided in paragraph (2), the board shall not renew or reinstate the license of any licensee who has failed to pay all of the costs ordered under this section.

(2) Notwithstanding paragraph (1), the board may, in its discretion, conditionally renew or reinstate for a maximum of one year the license of any licensee who demonstrates financial hardship and who enters into a formal agreement with the board to reimburse the board within that one-year period for the unpaid costs.

(h) All costs recovered under this section shall be considered a reimbursement for costs incurred and shall be deposited in the fund of the board recovering the costs to be available upon appropriation by the Legislature.

(i) Nothing in this section shall preclude a board from including the recovery of the costs of investigation and enforcement of a case in any stipulated settlement.

(j) This section does not apply to any board if a specific statutory provision in that board's licensing act provides for recovery of costs in an administrative disciplinary proceeding.

disciplinary proceeding.

FIRST CAUSE FOR DISCIPLINE

(Gross Negligence – Patient A)

8. Respondent Richard David Chen, M.D. is subject to disciplinary action under section 2234, subdivision (b) of the Code for gross negligence in his care and treatment of Patient A, a minor. The circumstances are as follows:

9. On or about July 16, 2018, three-year-old Patient A was presented by her mother to Respondent for her first and only visit with him. The purpose of the visit was to obtain a vaccine exemption. Respondent was not Patient A's regular physician. Respondent either failed to examine the patient, or did not document an examination of the patient. During the visit, Respondent provided a permanent medical exemption for all school-required immunizations recorded on the American Academy of Pediatrics / California Academy of Family Physicians form, as well as some vaccines which are not required for school entry. The reasons stated on the

form for issuing this broad exemption were, "family history of genetic variant, autoimmune disease, neurological disorders, allergies, asthma, neuropsychiatric disease, autism, and vaccine reaction." Respondent also cited links between vaccines and vaccine adjuvants and excipients with risks of allergies, asthma, eczema, and autoimmune disease as well as autoimmune / inflammatory syndrome induced by adjuvants.

10. Respondent noted in the patient record that the mother stated that Patient A tolerated the first dose of the polio vaccine but had a fever up to 103-104 degrees after the second dose. Patient A's fever lasted three to four days, she said. She also relayed that the patient's sister had a fever, excessive sleepiness, and vomiting after immunization. Also included in the patient chart were results from genetic testing.

11. The medical record maintained by Respondent does not contain any documentation demonstrating that he examined Patient A.

12. The standard of care under such circumstances requires that a physician follow national standards for pediatric vaccination practices and immunization recommendations from the Centers for Disease Control and Prevention issued through the Advisory Committee on Immunization Practices in concert with medical organizations. Contraindications and precautions are conditions under which medical exemptions are appropriate. A licensed physician provides immunizations in California in a written statement that includes the following: (1) the patient has a physical condition or medical circumstance such that the required immunization is not indicated; (2) which vaccines are exempted; and (3) whether the exemption is permanent or temporary, and, if temporary, the expiration date.

13. Respondent was grossly negligent and departed from the standard of care in that he issued a broad and permanent exemption from immunization without appropriate indication. In addition, Respondent was grossly negligent in that he inappropriately issued an exemption for all vaccines. Furthermore, Respondent was grossly negligent in providing a permanent exemption to all vaccines. Whether proven as a whole or individually, Respondent committed gross negligence in the care and treatment he provided to Patient A.

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SECOND CAUSE FOR DISCIPLINE

(Gross Negligence – Patient B)

14. Respondent Richard David Chen, M.D. is subject to disciplinary action under section 2234, subdivision (b) of the Code for gross negligence in his care and treatment of Patient B, a minor. The circumstances are as follows:

15. Patient B's primary care physician filed a complaint with the Medical Board indicating that Respondent wrote an inappropriate medical exemption for the patient. The physician reported being Patient B's physician for several years, and advised that the patient does not have a medical condition exempting her from receiving immunizations. The Board investigated these matters.

16. The investigation revealed that Respondent issued three-year-old Patient B a vaccine exemption dated August 6, 2018. Respondent is not a pediatrician. Respondent was not Patient B's regular physician. Respondent either failed to examine the patient, or did not document an examination of the patient. Nonetheless, Respondent provided a permanent medical exemption for all vaccines, including school-required immunizations recorded on the American Academy of Pediatrics / California Academy of Family Physicians form, as well as some vaccines which are not required for school entry. The reasons stated for issuing this broad exemption were, "family history of allergies, vaccine reaction, developmental delay," and one additional reason which cannot be deciphered as written. Respondent indicated that Patient B is at increased risk for adverse effects from vaccination due to family history of genetic variant, allergies, skin disorders, developmental disorder, and vaccine reaction. The vaccine exemption states that Patient B is at an increased risk for adverse effects from vaccination due to family history of genetic variant, allergies, skin disorders, developmental disorder, and vaccine reaction. Respondent also cited risks of allergies, asthma, eczema, autoimmune disease and autoimmune/inflammatory syndrome induced by adjuvants.

17. The parent form states that Patient B has not received any immunizations. It also indicates that Patient B was dropped on the floor after birth, resulting in a skull fracture and bleeding, had an ear infection as an infant, but is otherwise healthy.

18. Respondent was grossly negligent and departed from the standard of care in that he issued a broad and permanent exemption from immunization without appropriate indication. In addition, Respondent was grossly negligent in that he inappropriately issued an exemption for all vaccines. Furthermore, Respondent was grossly negligent in providing a permanent exemption to all vaccines. Whether proven as a whole or individually, Respondent committed gross negligence in the care and treatment he provided to Patient B.

THIRD CAUSE FOR DISCIPLINE

(Gross Negligence – Patient C)

19. Respondent Richard David Chen, M.D. is subject to disciplinary action under section 2234, subdivision (b) of the Code for gross negligence in his care and treatment of Patient C, a minor. The circumstances are as follows:

20. Respondent issued twelve-year-old Patient C a vaccine exemption dated September 25, 2017. Respondent was not Patient's regular physician. Respondent either failed to examine the patient, or did not document an examination of the patient. The vaccine exemption was noted to be temporary for four months pending testing. The exemption is for all vaccines. The reasons stated for issuing this broad exemption were, "family history of autoimmune disease, neurologic disorders, neuropsychiatric disease, cancer, and attention deficit disorder." Respondent, also cited risks of allergies, asthma, eczema, autoimmune disease and autoimmune/inflammatory syndrome induced by adjuvants.

21. Patient C was noted to have been diagnosed with cerebral palsy at birth, had ASD and VSD with heart surgery at either ten months as in the chart note, or between 1-5 years of age per the parent questionnaire that was completed, and pyloric stenosis surgery at four months.

22. Respondent was grossly negligent and departed from the standard of care in that he issued a broad exemption from immunization without appropriate indication. In addition, Respondent was grossly negligent in that he inappropriately issued an exemption for all vaccines. Furthermore, Respondent was grossly negligent in providing a temporary exemption to all vaccines pending testing, and for lack of documenting a testing plan. Whether proven as a whole

or individually, Respondent committed gross negligence in the care and treatment he provided to Patient C.

FOURTH CAUSE FOR DISCIPLINE

(Repeated Negligent Acts)

23. Respondent Richard David Chen, M.D. is subject to disciplinary action under section 2234, subdivision (c) of the Code, in that he was repeatedly negligent in his care and treatment of Patients A, B. and C. The circumstances are as follows:

24. Paragraphs 8 through 22 are incorporated by reference as though fully set forth.

FIFTH CAUSE FOR DISCIPLINE

(Failure to Maintain Adequate and Accurate Records)

25. Respondent Richard David Chen, M.D. is subject to disciplinary action under section 2266 of the Code, in that he failed to maintain adequate and accurate records related to the care and treatment of Patients A, B, and C.

26. Specifically, Respondent did not document conducting a physical examination of the patients.

27. Respondent failed to document a testing plan for Patient C.

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 G 78024, issued to Richard David Chen, M.D.;

2. Revoking, suspending or denying approval of his authority to supervise physician assistants and advanced practice nurses;

3. Ordering him to pay the Board the costs of the investigation and enforcement of this case, and if placed on probation, the costs of probation monitoring; and

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

DATED: APR 22 2022

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

Complainant

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