

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

**In the Matter of the Accusation
Against:**

Hai Tu Duong, M.D.

**Physician's and Surgeon's
License No. A 103786**

Respondent

Case No. 800-2018-041842

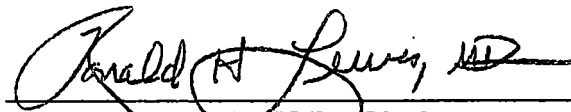
DECISION

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

This Decision shall become effective at 5:00 p.m. on July 2, 2021.

IT IS SO ORDERED: June 4, 2021.

MEDICAL BOARD OF CALIFORNIA



**Ronald H. Lewis, M.D., Chair
Panel A**

1 XAVIER BECERRA
Attorney General of California
2 STEVEN D. MUNI
Supervising Deputy Attorney General
3 MEGAN R. O'CARROLL
Deputy Attorney General
4 State Bar No. 215479
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 210-7543
Facsimile: (916) 327-2247
7 *Attorneys for Complainant*

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10
11 **BEFORE THE**
MEDICAL BOARD OF CALIFORNIA
12 **DEPARTMENT OF CONSUMER AFFAIRS**
13 **STATE OF CALIFORNIA**

14
15 In the Matter of the Accusation Against:

16 **HAI TU DUONG, M.D.**
17 **3321 M St.**
18 **Merced, CA 95348**

19 **Physician's and Surgeon's Certificate No. A**
20 **103786**

21 Respondent.

Case No. 800-2018-041842

OAH No. 2020070047

22 **STIPULATED SETTLEMENT AND**
23 **DISCIPLINARY ORDER**

24
25 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
26 entitled proceedings that the following matters are true:

27 **PARTIES**

28 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 Xavier Becerra, Attorney General of the State of California, by Megan R. O'Carroll,
Deputy Attorney General.

2. Respondent Hai Tu Duong, M.D. (Respondent) is represented in this proceeding by attorney Nicole D. Hendrickson, whose address is: 655 University Avenue, Suite 119 Sacramento, CA 95825.

3. On or about May 7, 2008, the Board issued Physician's and Surgeon's Certificate No. A 103786 to Hai Tu Duong, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2018-041842, and will expire on February 28, 2022, unless renewed.

JURISDICTION

4. Accusation No. 800-2018-041842 was filed before the Board, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on April 1, 2020. Respondent timely filed his Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 800-2018-041842 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 800-2018-041842. Respondent has also carefully read, fully discussed with his counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

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

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

///

1 **CULPABILITY**

2 9. Respondent understands and agrees that the charges and allegations in Accusation
3 No. 800-2018-041842, Causes for Discipline 2 through 4, if proven at a hearing, constitute cause
4 for imposing discipline upon his Physician's and Surgeon's Certificate.

5 10. Respondent agrees that, at a hearing, Complainant could establish a prima facie case
6 for the charges 2 through 4 in the Accusation, and that Respondent hereby gives up his right to
7 contest those charges.

8 11. Respondent does not contest that, at an administrative hearing, complainant could
9 establish a prima facie case with respect to the charges and allegations in Accusation No. 800-
10 2018-041842, Causes 2 through 4, a true and correct copy of which is attached hereto as Exhibit
11 A, and that he has thereby subjected his Physician's and Surgeon's Certificate, No. A 103786 to
12 disciplinary action.

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

16 **CONTINGENCY**

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

27 14. Respondent agrees that if he ever petitions for early termination or modification of
28 probation, or if an accusation and/or petition to revoke probation is filed against him before the

1 Board, charges 2 through 4, and allegations contained in Accusation No. 800-2018-041842 shall
2 be deemed true, correct and fully admitted by respondent for purposes of any such proceeding or
3 any other licensing proceeding involving Respondent in the State of California.

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

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

10 **DISCIPLINARY ORDER**

11 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 103786
12 issued to Respondent Hai Tu Duong, M.D. is revoked. However, the revocation is stayed and
13 Respondent is placed on probation for thirty-five (35) months on the following terms and
14 conditions:

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

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

1 this Decision.

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

5 2. PROFESSIONAL BOUNDARIES PROGRAM. Within 60 calendar days from the
6 effective date of this Decision, Respondent shall enroll in a professional boundaries program
7 approved in advance by the Board or its designee. Respondent, at the program's discretion, shall
8 undergo and complete the program's assessment of Respondent's competency, mental health
9 and/or neuropsychological performance, and at minimum, a 24 hour program of interactive
10 education and training in the area of boundaries, which takes into account data obtained from the
11 assessment and from the Decision(s), Accusation(s) and any other information that the Board or
12 its designee deems relevant. The program shall evaluate Respondent at the end of the training
13 and the program shall provide any data from the assessment and training as well as the results of
14 the evaluation to the Board or its designee.

15 Failure to complete the entire program not later than six (6) months after Respondent's
16 initial enrollment shall constitute a violation of probation unless the Board or its designee agrees
17 in writing to a later time for completion. Based on Respondent's performance in and evaluations
18 from the assessment, education, and training, the program shall advise the Board or its designee
19 of its recommendation(s) for additional education, training, psychotherapy and other measures
20 necessary to ensure that Respondent can practice medicine safely. Respondent shall comply with
21 program recommendations. At the completion of the program, Respondent shall submit to a final
22 evaluation. The program shall provide the results of the evaluation to the Board or its designee.
23 The professional boundaries program shall be at Respondent's expense and shall be in addition to
24 the Continuing Medical Education (CME) requirements for renewal of licensure.

25 The program has the authority to determine whether or not Respondent successfully
26 completed the program.

27 A professional boundaries course taken after the acts that gave rise to the charges in the
28 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board

1 or its designee, be accepted towards the fulfillment of this condition if the course would have
2 been approved by the Board or its designee had the course been taken after the effective date of
3 this Decision.

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

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

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

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

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

21 6. GENERAL PROBATION REQUIREMENTS.

22 Compliance with Probation Unit

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

24 Address Changes

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

1 and Professions Code section 2021, subdivision (b).

2 Place of Practice

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

6 License Renewal

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

9 Travel or Residence Outside California

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

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

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

19 8. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or
20 its designee in writing within 15 calendar days of any periods of non-practice lasting more than
21 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is
22 defined as any period of time Respondent is not practicing medicine as defined in Business and
23 Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct
24 patient care, clinical activity or teaching, or other activity as approved by the Board. If
25 Respondent resides in California and is considered to be in non-practice, Respondent shall
26 comply with all terms and conditions of probation. All time spent in an intensive training
27 program which has been approved by the Board or its designee shall not be considered non-
28 practice and does not relieve Respondent from complying with all the terms and conditions of

1 probation. Practicing medicine in another state of the United States or Federal jurisdiction while
2 on probation with the medical licensing authority of that state or jurisdiction shall not be
3 considered non-practice. A Board-ordered suspension of practice shall not be considered as a
4 period of non-practice.

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

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

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

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

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

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

28 ///

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

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

16 13. FUTURE ADMISSIONS CLAUSE. If Respondent should ever apply or reapply for
17 a new license or certification, or petition for reinstatement of a license, by any other health care
18 licensing action agency in the State of California, charges 2 through 4, and allegations contained
19 in Accusation No. 800-2018-041842 shall be deemed to be true, correct, and admitted by
20 Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or
21 restrict license.

22 ///

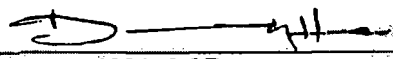
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24 ///

1 ACCEPTANCE

2 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
3 discussed it with my attorney, Nicole D. Hendrickson. I understand the stipulation and the effect
4 it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement
5 and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the
6 Decision and Order of the Medical Board of California.

7
8 DATED: 1/21/21


9 HAI TU DUONG, M.D.
Respondent

10 I have read and fully discussed with Respondent Hai Tu Duong, M.D. the terms and
11 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
12 I approve its form and content.

13 DATED: 1/22/2021


14 NICOLE D. HENDRICKSON
Attorney for Respondent

15
16 ENDORSEMENT

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

19
20 DATED: 1/22/2021

Respectfully submitted,

21 XAVIER BECERRA
Attorney General of California
22 STEVEN D. MUNI
Supervising Deputy Attorney General

23 
24 MEGAN R. O'CARROLL
25 Deputy Attorney General
26 Attorneys for Complainant

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Exhibit A

Accusation No. 800-2018-041842

1 XAVIER BECERRA
Attorney General of California
2 STEVEN D. MUNI
Supervising Deputy Attorney General
3 MEGAN R. O'CARROLL
Deputy Attorney General
4 State Bar No. 215479
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 210-7543
Facsimile: (916) 327-2247
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10 **BEFORE THE**
MEDICAL BOARD OF CALIFORNIA
11 **DEPARTMENT OF CONSUMER AFFAIRS**
12 **STATE OF CALIFORNIA**

13 In the Matter of the Accusation Against:

Case No. 800-2018-041842

14 **HAI TU DUONG, M.D.**
15 **3321 M St.**
Merced, CA 95348

A C C U S A T I O N

16 **Physician's and Surgeon's Certificate**
17 **No. A 103786,**

18 Respondent.

19
20
21 **PARTIES**

22 1. Christine J. Lally (Complainant) brings this Accusation solely in her official capacity
23 as the Interim Executive Director of the Medical Board of California, Department of Consumer
24 Affairs (Board).

25 2. On or about May 7, 2008, the Medical Board issued Physician's and Surgeon's
26 Certificate Number A 103786 to Hai Tu Duong, M.D. (Respondent). The Physician's and
27 Surgeon's Certificate was in full force and effect at all times relevant to the charges brought
28 herein and will expire on February 28, 2022, unless renewed.

JURISDICTION

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

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

5. Section 2234 of the Code, states:

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

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

(b) Gross negligence.

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

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

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

(d) Incompetence.

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

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

(g) The 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.

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

4 7. [REDACTED]

5 [REDACTED]
6 [REDACTED]
7 [REDACTED]

8 [REDACTED]
9 [REDACTED]

10
11 **FACTUAL ALLEGATIONS**

12 8. Respondent is an anesthesiologist in Merced, California. In spring of 2017, the
13 Confidential Patient (C.P.), then a 43-year-old woman, was referred to Respondent's practice for
14 treatment of back pain. Respondent had her initial appointment with Respondent on or about
15 April 18, 2017. During the appointment, Respondent evaluated her back pain and scheduled an
16 appointment for a steroid injection, which he performed on or about July 5, 2017.

17 9. C.P. continued to see Respondent for evaluation and treatment over approximately
18 the next six months. C.P. received an additional injection on or about November 18, 2017, and
19 continued to appear for evaluations and follow up throughout December of 2017. On or about
20 December 18, 2017, C.P. contacted Respondent's office complaining of intolerable pain, and
21 requesting additional pain medication to see her through to the next appointment. Respondent's
22 staff documented that they explained to C.P. that Respondent does not prescribe controlled
23 medications because his practice lacks the ability to monitor patients for proper use of those
24 medications. C.P. reported that she understood and would contact her primary care provider
25 instead.

26 10. On or about January 30, 2018, C.P. had her last appointment with Respondent. Her
27 appointment was at 5:00 p.m. C.P. arrived early to the appointment at approximately 4:00 p.m.,
28 in the hope that she might be seen earlier. After waiting, she had her appointment with

1 Respondent. During the appointment, Respondent scheduled C.P. for another injection in
2 February of 2018. C.P. explained that she did not think she would be continuing as a patient after
3 the injection. Respondent recommended that she continue treatment with him.

4 11. After leaving the examination room, C.P. stopped at the front desk to schedule an
5 appointment for the third injection on February 3, 2018. She then proceeded out of the building
6 to the parking lot at approximately 6:00 p.m. As she was walking through the parking lot toward
7 her parked car, Respondent also left the office and came to speak to her in the parking lot. C.P.
8 told Respondent she needed to leave because she was concerned about driving home at that hour
9 in the dark and in traffic. Respondent asked her to come look at his new truck. C.P. explained
10 that she needed to get coffee before she began her drive home. Respondent told her he knew
11 where the closest Starbucks was and he could drive her there in his new truck.

12 12. C.P. agreed to go with Respondent. She observed that Respondent's truck was a red
13 and orange Chevy Colorado with a tan interior and bucket seats. C.P. recalled this because her
14 friend owns a similar truck. While Respondent was driving C.P. to Starbucks, she asked him
15 whether he needed to get home to his wife. Respondent confirmed that he had a wife, but insisted
16 that it was fine for him to drive her to Starbucks. The two entered the Starbucks together where
17 C.P. ordered a large Frappuccino and Respondent ordered a regular coffee. C.P. attempted to pay
18 for her drink, but Respondent stopped her stating that he makes a lot of money working at two
19 different clinics, and he paid for their drinks. While they sat at a table, Respondent stated that he
20 was tired from working a long day and that most of his stress comes from problems with his wife.
21 C.P. told him he should address his concerns to his wife. C.P. observed that Respondent seemed
22 quiet and depressed. She estimates they were at Starbucks for approximately 30 minutes.

23 13. Respondent began to drive C.P. back to the parking lot of the clinic using a different
24 route than they had driven to Starbucks. During the drive Respondent was suddenly quiet, and
25 C.P. asked him if he was okay. He responded that he was okay but very tired. When they
26 returned to the parking lot C.P. noticed that the only cars in the lot were her car and a landscaping
27 truck. Respondent stopped his truck some distance from her parked car. As C.P. began to exit
28 the truck, Respondent suddenly began driving, preventing her from getting out. Respondent

1 drove out of the parking lot into a residential area and parked the truck under a light post. C.P.
2 asked him why he had stopped there and he responded that she was going to get him in a lot of
3 trouble. [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 14. [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 15. [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED] The next

19 day, C.P. got a call from Respondent's office canceling her February 3, 2018, appointment and
20 stating that her insurance would not cover the procedure. C.P. was upset and asked that
21 Respondent call her, but he never did. C.P. called her primary care provider's office and reported
22 what had happened. The primary care provider directed C.P. to file a complaint with the Medical
23 Board.

24 16. On or about May 25, 2018, a Board investigator went to Respondent's home address
25 and attempted to speak with him. As the investigator walked towards the front door, he was able
26 to see into the garage through clear windows. He observed a truck that appeared to be orange in
27 color. A woman answered the front door and reported that she was Respondent's wife. She
28 stated that Respondent was at work and not home. She confirmed that the truck in the garage

1 belonged to Respondent. She refused to open the garage or allow the investigator to inspect the
2 truck. She suggested that the investigator contact Respondent on his phone.

3 17. The investigator called Respondent and set up a meeting with him at his clinic on or
4 about May 29, 2018. When the investigator called to confirm the interview, Respondent stated
5 that he would meet the investigator at his attorney's office. The investigator met with
6 Respondent and his attorney at the attorney's office. Respondent recalled C.P. and stated that she
7 had been referred to his office for epidural shots. He reported that she had not appeared for her
8 final appointment to get an epidural shot, which he found strange. He recalled the last
9 appointment he had with her on or about January 30, 2018, and that she was the last patient of the
10 day at the clinic which closes at approximately 5:30 p.m. He recalled speaking to C.P. in the
11 parking lot, stating that she raised concerns about his front office staff. Respondent stated that he
12 wanted to get coffee and suggested that they could speak about his front office staff at Starbucks
13 since it was a public place. He admitted that he drove C.P. in his truck.

14 18. Respondent stated that while they were at Starbucks, C.P. made suggestions for how
15 his front office staff could improve their hospitality and asked him for a prescription for
16 OxyContin. Respondent stated that as he was driving back to his office, he stopped his truck on a
17 street adjacent to the office to explain to C.P. why he could not provide her with a prescription for
18 OxyContin. Respondent stated that after he explained this to her, he drove her to her car in the
19 parking lot of his office and she exited his truck. [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 [REDACTED]

26 [REDACTED]

27 [REDACTED]

28 [REDACTED]

1 **SECOND CAUSE FOR DISCIPLINE**

2 **(Gross Negligence)**

3 22. Respondent is subject to disciplinary action under section 2234, subdivision (b), of
4 the Code in that he was grossly negligence in his care and treatment of C.P. The circumstances
5 are set forth in Paragraphs 8 through 18, above, which are incorporated here by reference as if
6 fully set forth herein. Additional circumstances are as follows:

7 23. Respondent was grossly negligent in his care and treatment of C.P. for his acts and
8 omissions, including but not limited to, the following:

9 (a) Transporting C.P. to a secluded area in personal vehicle; and

10 [REDACTED]
11 **THIRD CAUSE FOR DISCIPLINE**

12 **(Repeated Negligent Acts)**

13 24. Respondent is subject to disciplinary action under section 2234, subdivision (c), of
14 the Code in that he was repeatedly negligent in his care and treatment of C.P. The circumstances
15 are set forth in Paragraphs 8 through 18, above, which are incorporated here by reference as if
16 fully set forth herein. Additional circumstances are as follows:

17 25. Respondent was repeatedly negligent in his care and treatment of C.P. for his acts and
18 omissions, including but not limited to, the following:

19 (a) Transporting C.P. to a secluded area in personal vehicle;

20 [REDACTED]
21 (c) Transporting C.P. to a public place in personal vehicle.

22 **FOURTH CAUSE FOR DISCIPLINE**

23 **(General Unprofessional Conduct)**

24 26. Respondent is subject to disciplinary action under section 2234 in that he has engaged
25 in conduct which breaches the rules or ethical code of the medical profession, or conduct which is
26 unbecoming to a member in good standing of the medical profession, and which demonstrated an
27 unfitness to practice medicine. The circumstances are set forth in Paragraphs 8 through 18,
28 above, which are incorporated here by reference as if fully set forth herein.

1 PRAYER

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

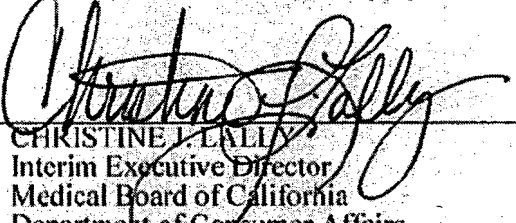
4 1. Revoking or suspending Physician's and Surgeon's Certificate Number A 103786,
5 issued to Hai Tu Duong, M.D.;

6 2. Revoking, suspending or denying approval of Hai Tu Duong, M.D.'s authority to
7 supervise physician assistants and advanced practice nurses;

8 3. Ordering Hai Tu Duong, M.D., if placed on probation, to pay the Board the costs of
9 probation monitoring; and

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

11
12 DATED: APR 01 2020

13 
14 CHRISTINE L. KELLY
15 Interim Executive Director
16 Medical Board of California
17 Department of Consumer Affairs
18 State of California
19 Complainant

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