

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

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

Tony Yuk Man Tam, M.D.

**Physician's and Surgeon's
Certificate No. G 71710**

Case No.: 800-2019-056906

Respondent.

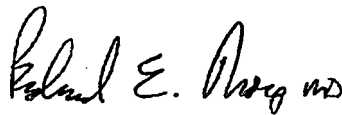
DECISION

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

This Decision shall become effective at 5:00 p.m. on June 16, 2023.

IT IS SO ORDERED: May 18, 2023.

MEDICAL BOARD OF CALIFORNIA



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

1 ROB BONTA
Attorney General of California
2 STEVEN MUNI
Supervising Deputy Attorney General
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8 *Attorneys for Complainant*

9
10 **BEFORE THE**
MEDICAL BOARD OF CALIFORNIA
11 **DEPARTMENT OF CONSUMER AFFAIRS**
12 **STATE OF CALIFORNIA**

13 In the Matter of the First Amended Accusation
Against:

14 **TONY YUK MAN TAM, M.D.**
15 **1700 Coffee Road**
Modesto, CA 95355

16 **Physician's and Surgeon's Certificate**
17 **No. G 71710**

18 Respondent.

Case No. 800-2019-056906

OAH No. 2022100578

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

19
20 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
21 entitled proceedings that the following matters are true:

22 **PARTIES**

23 1. Reji Varghese (Complainant) is the Interim Executive Director of the Medical Board
24 of California (Board). William Prasifka was the Executive Director of the Board when this action
25 was brought in his official capacity and both are represented in this matter by Rob Bonta,
26 Attorney General of the State of California, by Aaron L. Lent, Deputy Attorney General.

27 2. Respondent Tony Yuk Man Tam, M.D. (Respondent) is representing himself in this
28 proceeding and has chosen not to exercise his right to be represented by counsel.

3. On or about June 25, 1991, the Board issued Physician's and Surgeon's Certificate No. G 71710 to Tony Yuk Man Tam, 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 First Amended Accusation No. 800-2019-056906, and will expire on December 31, 2024, unless renewed.

JURISDICTION

4. First Amended Accusation No. 800-2019-056906 was filed before the Board, and is currently pending against Respondent. The First Amended Accusation and all other statutorily required documents were properly served on Respondent on July 27, 2022. Respondent timely filed his Notice of Defense contesting the First Amended Accusation.

5. A copy of First Amended Accusation No. 800-2019-056906 is attached as Exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, and understands the charges and allegations in First Amended Accusation No. 800-2019-056906. Respondent has also carefully read, 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 First Amended Accusation; the right to be represented by counsel at his own expense; 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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1 CULPABILITY

2 9. Respondent understands and agrees that the charges and allegations in First Amended
3 Accusation No. 800-2019-056906, if proven at a hearing, constitute cause for imposing discipline
4 upon his Physician's and Surgeon's Certificate.

5 10. Respondent does not contest that, at an administrative hearing, Complainant could
6 establish a *prima facie* case with respect to the charges and allegations contained in First
7 Amended Accusation No. 800-2019-056906 and that he has thereby subjected his license to
8 disciplinary action.

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

12 CONTINGENCY

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

23 13. Respondent agrees that if he ever petitions for early termination or modification of
24 probation, or if an accusation and/or petition to revoke probation is filed against him before the
25 Board, all of the charges and allegations contained in First Amended Accusation No. 800-2019-
26 056906 shall be deemed true, correct and fully admitted by respondent for purposes of any such
27 proceeding or any other licensing proceeding involving Respondent in the State of California.
28

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. The parties agree that copies of this Stipulated Settlement and Disciplinary Order, including copies of the signatures of the parties, may be used in lieu of original documents and signatures and, further, that such copies shall have the same force and effect as originals.

16. This Stipulated Settlement and Disciplinary Order is intended by the parties herein to be an integrated writing representing the complete, final, and exclusive embodiment of the agreements of the parties in the above-entitled matter.

17. 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 71710 issued to Respondent TONY YUK MAN TAM, M.D. is revoked. However, the revocation is stayed and Respondent is placed on probation for three (3) years on the following terms and conditions:

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

2. **MEDICAL RECORD KEEPING COURSE.** Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a course in medical record keeping approved in

1 advance by the Board or its designee. Respondent shall provide the approved course provider
2 with any information and documents that the approved course provider may deem pertinent.
3 Respondent shall participate in and successfully complete the classroom component of the course
4 not later than six (6) months after Respondent's initial enrollment. Respondent shall successfully
5 complete any other component of the course within one (1) year of enrollment. The medical
6 record keeping course shall be at Respondent's expense and shall be in addition to the Continuing
7 Medical Education (CME) requirements for renewal of licensure.

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

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

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

25 The Board or its designee shall provide the approved monitor with copies of the Decision(s)
26 and Accusation(s), and a proposed monitoring plan. Within 15 calendar days of receipt of the
27 Decision(s), Accusation(s), and proposed monitoring plan, the monitor shall submit a signed
28 statement that the monitor has read the Decision(s) and Accusation(s), fully understands the role

1 of a monitor, and agrees or disagrees with the proposed monitoring plan. If the monitor disagrees
2 with the proposed monitoring plan, the monitor shall submit a revised monitoring plan with the
3 signed statement for approval by the Board or its designee.

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

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

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

19 If the monitor resigns or is no longer available, Respondent shall, within 5 calendar days of
20 such resignation or unavailability, submit to the Board or its designee, for prior approval, the
21 name and qualifications of a replacement monitor who will be assuming that responsibility within
22 15 calendar days. If Respondent fails to obtain approval of a replacement monitor within 60
23 calendar days of the resignation or unavailability of the monitor, Respondent shall receive a
24 notification from the Board or its designee to cease the practice of medicine within three (3)
25 calendar days after being so notified. Respondent shall cease the practice of medicine until a
26 replacement monitor is approved and assumes monitoring responsibility.

27 In lieu of a monitor, Respondent may participate in a professional enhancement program
28 approved in advance by the Board or its designee that includes, at minimum, quarterly chart

1 review, semi-annual practice assessment, and semi-annual review of professional growth and
2 education. Respondent shall participate in the professional enhancement program at Respondent's
3 expense during the term of probation.

4 4. SOLO PRACTICE PROHIBITION. Respondent is prohibited from engaging in the
5 solo practice of medicine. Prohibited solo practice includes, but is not limited to, a practice
6 where: 1) Respondent merely shares office space with another physician but is not affiliated for
7 purposes of providing patient care, or 2) Respondent is the sole physician practitioner at that
8 location.

9 If Respondent fails to establish a practice with another physician or secure employment in
10 an appropriate practice setting within 60 calendar days of the effective date of this Decision,
11 Respondent shall receive a notification from the Board or its designee to cease the practice of
12 medicine within three (3) calendar days after being so notified. The Respondent shall not resume
13 practice until an appropriate practice setting is established.

14 If, during the course of the probation, the Respondent's practice setting changes and the
15 Respondent is no longer practicing in a setting in compliance with this Decision, the Respondent
16 shall notify the Board or its designee within five (5) calendar days of the practice setting change.
17 If Respondent fails to establish a practice with another physician or secure employment in an
18 appropriate practice setting within 60 calendar days of the practice setting change, Respondent
19 shall receive a notification from the Board or its designee to cease the practice of medicine within
20 three (3) calendar days after being so notified. The Respondent shall not resume practice until an
21 appropriate practice setting is established.

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

1 calendar days.

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

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

6 7. INVESTIGATION/ENFORCEMENT COST RECOVERY. Respondent is hereby
7 ordered to reimburse the Board its costs of investigation and enforcement, including, but not
8 limited to, expert review, amended accusations, legal reviews, investigation(s), and subpoena
9 enforcement, as applicable, in the amount of \$28,102.00 (twenty-eight thousand one hundred two
10 dollars). Costs shall be payable to the Medical Board of California. Failure to pay such costs
11 shall be considered a violation of probation.

12 Payment must be made in full within 30 calendar days of the effective date of the Order, or
13 by a payment plan approved by the Medical Board of California. Any and all requests for a
14 payment plan shall be submitted in writing by respondent to the Board. Failure to comply with
15 the payment plan shall be considered a violation of probation.

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

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

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

23 9. GENERAL PROBATION REQUIREMENTS.

24 Compliance with Probation Unit

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

26 Address Changes

27 Respondent shall, at all times, keep the Board informed of Respondent's business and
28 residence addresses, email address (if available), and telephone number. Changes of such

addresses shall be immediately communicated in writing to the Board or its designee. Under no circumstances shall a post office box serve as an address of record, except as allowed by Business and Professions Code section 2021, subdivision (b).

Place of Practice

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

License Renewal

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

Travel or Residence Outside California

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

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

10. 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.

11. 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

1 program which has been approved by the Board or its designee shall not be considered non-
2 practice and does not relieve Respondent from complying with all the terms and conditions of
3 probation. Practicing medicine in another state of the United States or Federal jurisdiction while
4 on probation with the medical licensing authority of that state or jurisdiction shall not be
5 considered non-practice. A Board-ordered suspension of practice shall not be considered as a
6 period of non-practice.

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

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

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

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

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

25 13. VIOLATION OF PROBATION. Failure to fully comply with any term or condition
26 of probation is a violation of probation. If Respondent violates probation in any respect, the
27 Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and
28 carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke Probation,

1 or an Interim Suspension Order is filed against Respondent during probation, the Board shall have
2 continuing jurisdiction until the matter is final, and the period of probation shall be extended until
3 the matter is final.

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

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

19 16. FUTURE ADMISSIONS CLAUSE. If Respondent should ever apply or reapply for
20 a new license or certification, or petition for reinstatement of a license, by any other health care
21 licensing action agency in the State of California, all of the charges and allegations contained in
22 First Amended Accusation No. 800-2019-056906 shall be deemed to be true, correct, and
23 admitted by Respondent for the purpose of any Statement of Issues or any other proceeding
24 seeking to deny or restrict license.

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DATED: 3-17-2023

DATED: March 20, 2023

STIPULATED SETTLEMENT AND DISCIPLINARY ORDER (800-2019-056906)

Exhibit A

First Amended Accusation No. 800-2019-056906

1 ROB BONTA
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6 *Attorneys for Complainant*

7
8 **BEFORE THE**
MEDICAL BOARD OF CALIFORNIA
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the First Amended Accusation
12 Against:

Case No. 800-2019-056906

FIRST AMENDED ACCUSATION

13 **Tony Yuk Man Tam, M.D.**
14 **1700 Coffee Road**
Modesto, CA 95355

15 **Physician's and Surgeon's Certificate**
16 **No. G 71710,**

17 Respondent.

18
19 **PARTIES**

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

23 2. On or about June 25, 1991, the Medical Board issued Physician's and Surgeon's
24 Certificate Number G 71710 to Tony Yuk Man Tam, M.D. (Respondent). The Physician's and
25 Surgeon's Certificate was in full force and effect at all times relevant to the charges brought
26 herein and will expire on December 31, 2022, unless renewed.

27 ///

28 ///

JURISDICTION

3. This First 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.

STATUTORY PROVISIONS

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

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

9 (d) Incompetence.

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

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

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

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

20 COST RECOVERY

21 7. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
22 administrative law judge to direct a licensee found to have committed a violation or violations of
23 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
24 enforcement of the case, with failure of the licensee to comply subjecting the license to not being
25 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
26 included in a stipulated settlement.

27 FACTUAL ALLEGATIONS

28 **Allegations Related to Patient 1.**

8. On or about October 11, 2018, Patient 1¹ was seen in the Memorial Medical Center
emergency room for an abscess and septic shock. The patient was treated surgically by providers
other than Respondent over several days, and discharged on or about October 20, 2018. The

¹ Patient names are redacted to protect privacy.

1 patient was given antibiotics, narcotic pain medication (Norco²) and diabetic medication, and was
2 instructed to call Respondent's office to set up her outpatient follow-up appointment.

3 9. The patient subsequently presented to Respondent for three outpatient appointments,
4 in November and December 2018, and January 2019, respectively. The patient saw Respondent
5 at his office, which is adjacent to the Memorial Medical Center. At the third visit, the patient
6 requested a referral to another provider. Respondent failed to make such a referral. Respondent
7 either failed to document these three encounters, or has lost his documentation.

8 10. On or about November 2, 2018, Respondent prescribed 30 tablets of Tylenol #3 (a
9 preparation containing the controlled substance Codeine), and two antibiotics to Patient 1.
10 Respondent has no records related to this prescription.

11 11. On or about December 7, 2018, Respondent prescribed 40 tablets of Tylenol #3 to
12 Patient 1. Respondent has no records related to this prescription.

13 **Allegations Related to Patient 2.**

14 12. In or about March, 2018, Patient 2 underwent colonoscopy related to a lower
15 gastrointestinal bleed. The colonoscopy revealed rectal cancer. The lesion was marked by tattoo,
16 and the patient was referred to Respondent for surgery.

17 13. On or about April 26, 2018, Patient 2 presented to Respondent, who discussed
18 surgery with the patient. The patient was undergoing neoadjuvant chemotherapy and radiation
19 therapy. Respondent discussed laparoscopic low anterior resection with a possible ostomy and
20 possible open conversion, and the decision was made to perform the surgery five weeks after
21 completion of radiation therapy.

22 14. On or about July 25, 2018, Patient 2 underwent a pre-operative examination by
23 another provider.

24 15. On or about July 30, 2018, Patient 2 was prepped for surgery, but the surgery was
25 subsequently cancelled because the anesthesiologist felt strongly that the patient should be
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27
28 ² Norco is a preparation of the Schedule II controlled substance hydrocodone and
acetaminophen.

1 cleared by cardiology prior to general anesthesia. The patient was evaluated by cardiology on or
2 about September 10, 2018, and his surgery was rescheduled for October 15, 2018.

3 16. On or about October 15, 2018, Patient 2 presented again for surgery. Respondent
4 performed a preoperative history and physical examination. Beginning at approximately 1 p.m.,
5 Respondent attempted a laparoscopic low anterior resection which was eventually converted to an
6 open procedure. After mobilizing the whole left colon at the splenic flexure laparoscopically,
7 Respondent directed his attention to the rectal area, but he was unable to identify or locate the
8 distal blue dye marker that had been injected in March, 2018. He was, however, able to see a
9 mass effect in the rectum which was felt to be the area of the rectal cancer. Respondent proceeded
10 to resect just distal to that mass and then mobilize the proximal rectum and sigmoid colon. Once
11 the rectosigmoid was quite mobile, the resected aspect of the rectum was brought out through a
12 slightly enlarged left lower quadrant (LLQ) incision. On exam of the specimen, it appeared that
13 the distal margin was very close to the rectal cancer and that a further segment of rectum would
14 need to be removed. This was not possible laparoscopically, so Respondent extended his LLQ
15 incision even further transversely and proceeded to resect another segment of rectum manually.
16 This segment appeared to be free of any lesions and was felt to be an adequate clear margin. An
17 end-to-end circular EEA³ stapled anastomosis was successfully created between the descending
18 colon and the remaining rectal stump. The anastomosis was reinforced with sutures and tested
19 with air through the rectum showing no obvious leak. The patient appeared to tolerate the
20 procedure well, and was extubated and taken out of the room at around 5:55 pm.

21 **FIRST CAUSE FOR DISCIPLINE**

22 **(Gross Negligence)**

23 17. Respondent Tony Yuk Man Tam, M.D. is subject to disciplinary action under section
24 2234, subdivision (b), in that he committed acts amounting to gross negligence. The
25 circumstances are set forth in paragraphs 8 through 11, above, which are incorporated here by
26 reference.

27
28 ³ An EEA stapler is a medical device that allows for circular end to end stapling to
facilitate anastomotic techniques.

1 18. The standard of care requires that any medical care be documented in an official
2 record. The record should contain the patient's main complaint, a history and physical
3 examination if necessary, an explanation of findings and recommendations of the treating
4 physician. Any prescription for controlled substances must be supported by documentation of a
5 history and physical examination justifying such a prescription. If the physician is writing a
6 prescription on behalf of another physician, then such an arrangement must be documented.
7 Respondent had three outpatient encounters with Patient 1, none of which are documented, and
8 two of which involved prescriptions for a controlled substance. Respondent's failure to document
9 his encounters with Patient 1, and specifically to document his justification for prescribing a
10 controlled substance, constitutes gross negligence.

11 **SECOND CAUSE FOR DISCIPLINE**

12 **(Repeated Negligent Acts)**

13 19. Respondent Tony Yuk Man Tam, M.D. is subject to disciplinary action under section
14 2234, subdivision (c), in that he committed repeated acts of negligence. The circumstances are
15 set forth in paragraphs 8 through 18, above, which are incorporated here by reference.

16 20. The standard of care requires that a physician make a referral to another provider
17 upon request. Respondent's failure to provide Patient 1 with a referral constitutes negligence.

18 21. The standard of care requires that a surgeon performing oncological rectal surgery
19 perform a thorough digital examination as well as a flexible or rigid proctoscopy prior to
20 commencing surgery. The surgeon must personally and accurately localize, visualize, and
21 evaluate the rectal cancer, even if the lesion was previously marked by a gastroenterologist,
22 because the slightest change in the location of the lesion can change the type of surgical
23 procedure that needs to be done, the technical difficulty of an adequate resection and the possible
24 postoperative complications that can occur. Respondent failed to perform a proctoscopy
25 preoperatively or intraoperatively on Patient 2 on or about October 15, 2018, and failed to
26 recognize that the chances were low of accurately finding tattoo markings on a tumor that had
27 previously been marked seven months prior, and had been subject to chemoradiation treatment in
28 the intervening time. These failures constitute negligence.

1 22. The standard of care for treatment of rectal cancer requires that surgical resection be
2 scheduled five to twelve weeks after completion of preoperative chemoradiation. This allows the
3 patient to complete postoperative chemotherapy approximately four weeks after surgery,
4 assuming no complications. Any delay in this sequence of preoperative treatment, surgery, and
5 postoperative treatment, can decrease the effectiveness of the treatment and increase the risk of
6 recurrence or persistence of the rectal cancer. Although Respondent initially scheduled surgery
7 on Patient 2 for July 30, 2018, approximately five weeks after completion of preoperative
8 radiation therapy, that surgery was cancelled. Respondent failed to promptly arrange for
9 clearance by cardiology, and to reschedule Patient 2's surgery within three to four weeks.
10 Instead, Patient 2's surgery was scheduled for October 15, 2018, nearly twenty weeks after the
11 patient's completion of preoperative radiation therapy. Respondent's failure to timely arrange for
12 cardiology consultation and to promptly reschedule the patient's surgery constitutes negligence.

13 **THIRD CAUSE FOR DISCIPLINE**

14 **(Recordkeeping)**

15 23. Respondent Tony Yuk Man Tam, M.D. is subject to disciplinary action under section
16 2266 in that he failed to maintain adequate records related to his treatment of Patient 1. The
17 circumstances are set forth in paragraphs 8 through 11, and 18, above, which are incorporated
18 here by reference.

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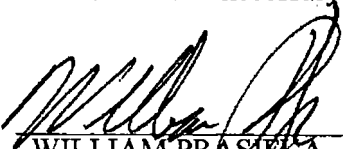
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PRAYER

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 71710, issued to Tony Yuk Man Tam, M.D.;
2. Revoking, suspending or denying approval of Tony Yuk Man Tam, M.D.'s authority to supervise physician assistants and advanced practice nurses;
3. Ordering Tony Yuk Man Tam, M.D., 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
4. Taking such other and further action as deemed necessary and proper.

DATED: JUL 27 2022



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

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