

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

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

Tuan Huu Nguyen, M.D.

**Physician's and Surgeon's
Certificate No. A 32393**

Respondent.

Case No.: 800-2018-047139

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 22, 2023.

IT IS SO ORDERED: May 23, 2023.

MEDICAL BOARD OF CALIFORNIA



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

1 ROB BONTA
Attorney General of California
2 JUDITH T. ALVARADO
Supervising Deputy Attorney General
3 CHRISTINA SEIN GOOT
Deputy Attorney General
4 State Bar No. 229094
California Department of Justice
5 300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
6 Telephone: (213) 269-6481
Facsimile: (916) 731-2117
7 *Attorneys for Complainant*

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

12 In the Matter of the Accusation Against:

13 **TUAN HUU NGUYEN, M.D.**
14 **22030 Sherman Way, Ste 211**
Canoga Park, CA 91303

15 **Physician's and Surgeon's Certificate**
16 **No. A 32393,**

17 Respondent.

Case No. 800-2018-047139

OAH No. 2022020860

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

18
19 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
20 entitled proceedings that the following matters are true:

21 **PARTIES**

22 1. William Prasifka (Complainant) is the Executive Director of the Medical Board of
23 California (Board). He brought this action solely in his official capacity and is represented in this
24 matter by Rob Bonta, Attorney General of the State of California, by Christina Sein Goot, Deputy
25 Attorney General.

26 2. Respondent Tuan Huu Nguyen, M.D. (Respondent) is represented in this proceeding
27 by attorney Seth Weinstein, whose address is: Law Offices of Seth Weinstein, P.C., 16133
28 Ventura Blvd., Suite 700, Encino, CA 91436.

3. On or about June 12, 1978, the Board issued Physician's and Surgeon's Certificate No. A 32393 to Tuan Huu Nguyen, 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. 800-2018-047139, and will expire on July 31, 2023, unless renewed.

JURISDICTION

4. Accusation No. 800-2018-047139 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 August 20, 2021. Respondent timely filed his Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 800-2018-047139 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. 800-2018-047139. 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.

CULPABILITY

9. Respondent understand and agrees that the charges and allegations in Accusation No. 800-2018-047139, if proven at a hearing, constitute cause for imposing discipline upon his Physician's and Surgeon's Certificate. Respondent hereby gives up his right to contest those

1 charges and allegations.

2 10. Respondent does not contest that, at an administrative hearing, Complainant could
3 establish a *prima facie* case with respect to the charges and allegations contained in Accusation
4 No. 800-2018-047139 and that he has thereby subjected his license to disciplinary action.

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

8 CONTINGENCY

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

19 13. Respondent agrees that if he ever petitions for early termination or modification of
20 probation, or if an accusation and/or petition to revoke probation is filed against him before the
21 Board, all of the charges and allegations contained in Accusation No. 800-2018-047139 shall be
22 deemed true, correct and fully admitted by Respondent for purposes of any such proceeding or
23 any other licensing proceeding involving Respondent in the State of California.

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

27 15. In consideration of the foregoing admissions and stipulations, the parties agree that
28 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. A 32393 issued to Respondent Tuan Huu Nguyen, 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. **CONTROLLED SUBSTANCES - MAINTAIN RECORDS AND ACCESS TO RECORDS AND INVENTORIES.** Respondent shall maintain a record of all controlled substances ordered, prescribed, dispensed, administered, or possessed by Respondent, and any recommendation or approval which enables a patient or patient's primary caregiver to possess or cultivate marijuana for the personal medical purposes of the patient within the meaning of Health and Safety Code section 11362.5, during probation, showing all of the following: 1) the name and address of the patient; 2) the date; 3) the character and quantity of controlled substances involved; and 4) the indications and diagnosis for which the controlled substances were furnished.

Respondent shall keep these records in a separate file or ledger, in chronological order. All records and any inventories of controlled substances shall be available for immediate inspection and copying on the premises by the Board or its designee at all times during business hours and shall be retained for the entire term of probation.

2. **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.

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1 3. PREScribing PRACTICES COURSE – Condition Satisfied. Within 60 calendar
2 days of the effective date of this Decision, Respondent shall enroll in a course in prescribing
3 practices approved in advance by the Board or its designee. Respondent shall provide the
4 approved course provider with any information and documents that the approved course provider
5 may deem pertinent. Respondent shall participate in and successfully complete the classroom
6 component of the course not later than six (6) months after Respondent's initial enrollment.
7 Respondent shall successfully complete any other component of the course within one (1) year of
8 enrollment. The prescribing practices course shall be at Respondent's expense and shall be in
9 addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

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

15 Respondent shall submit a certification of successful completion to the Board or its
16 designee not later than 15 calendar days after successfully completing the course, or not later than
17 15 calendar days after the effective date of the Decision, whichever is later.

18 4. MEDICAL RECORD KEEPING COURSE. Within 60 calendar days of the effective
19 date of this Decision, Respondent shall enroll in a course in medical record keeping approved in
20 advance by the Board or its designee. In satisfaction of this condition, Respondent may enroll in
21 the medical record keeping course offered by the University of California San Diego Physician
22 Assessment and Clinical Education Program. Respondent shall provide the approved course
23 provider with any information and documents that the approved course provider may deem
24 pertinent. Respondent shall participate in and successfully complete the classroom component of
25 the course not later than six (6) months after Respondent's initial enrollment. Respondent shall
26 successfully complete any other component of the course within one (1) year of enrollment. The
27 medical record keeping course shall be at Respondent's expense and shall be in addition to the
28 Continuing Medical Education (CME) requirements for renewal of licensure.

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

6 Respondent shall submit a certification of successful completion to the Board or its
7 designee not later than 15 calendar days after successfully completing the course, or not later than
8 15 calendar days after the effective date of the Decision, whichever is later.

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

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

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

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

24 8. INVESTIGATION/ENFORCEMENT COST RECOVERY. Respondent is hereby
25 ordered to reimburse the Board its costs of investigation and enforcement in the amount of
26 \$6,881.25 (six thousand eight hundred eighty-one dollars and twenty-five cents). Costs shall be
27 payable to the Medical Board of California. Failure to pay such costs shall be considered a
28 violation of probation.

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

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

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

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

12 10. GENERAL PROBATION REQUIREMENTS.

13 Compliance with Probation Unit

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

15 Address Changes

16 Respondent shall, at all times, keep the Board informed of Respondent's business and
17 residence addresses, email address (if available), and telephone number. Changes of such
18 addresses shall be immediately communicated in writing to the Board or its designee. Under no
19 circumstances shall a post office box serve as an address of record, except as allowed by Business
20 and Professions Code section 2021, subdivision (b).

21 Place of Practice

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

25 License Renewal

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

28 ///

1 Travel or Residence Outside California

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

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

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

11 12. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or
12 its designee in writing within 15 calendar days of any periods of non-practice lasting more than
13 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is
14 defined as any period of time Respondent is not practicing medicine as defined in Business and
15 Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct
16 patient care, clinical activity or teaching, or other activity as approved by the Board. If
17 Respondent resides in California and is considered to be in non-practice, Respondent shall
18 comply with all terms and conditions of probation. All time spent in an intensive training
19 program which has been approved by the Board or its designee shall not be considered non-
20 practice and does not relieve Respondent from complying with all the terms and conditions of
21 probation. Practicing medicine in another state of the United States or Federal jurisdiction while
22 on probation with the medical licensing authority of that state or jurisdiction shall not be
23 considered non-practice. A Board-ordered suspension of practice shall not be considered as a
24 period of non-practice.

25 In the event Respondent's period of non-practice while on probation exceeds 18 calendar
26 months, Respondent shall successfully complete the Federation of State Medical Boards's Special
27 Purpose Examination, or, at the Board's discretion, a clinical competence assessment program
28 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., restitution, 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

1 designee and Respondent shall no longer practice medicine. Respondent will no longer be subject
2 to the terms and conditions of probation. If Respondent re-applies for a medical license, the
3 application shall be treated as a petition for reinstatement of a revoked certificate.

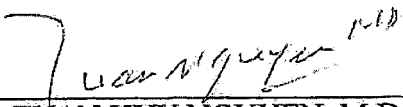
4 16. PROBATION MONITORING COSTS. Respondent shall pay the costs associated
5 with probation monitoring each and every year of probation, as designated by the Board, which
6 may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of
7 California and delivered to the Board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

9 17. FUTURE ADMISSIONS CLAUSE. If Respondent should ever apply or reapply for
10 a new license or certification, or petition for reinstatement of a license, by any other health care
11 licensing action agency in the State of California, all of the charges and allegations contained in
12 Accusation No. 800-2018-047139 shall be deemed to be true, correct, and admitted by
13 Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or
14 restrict license.

15
16 ACCEPTANCE

17 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
18 discussed it with my attorney, Seth Weinstein. I understand the stipulation and the effect it will
19 have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement and
20 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the
21 Decision and Order of the Medical Board of California.

22
23 DATED: 09-29-2022

24 
TUAN HUU NGUYEN, M.D.
Respondent

25
26 [Signatures continue on following page]
27
28

1 I have read and fully discussed with Respondent Tuan Huu Nguyen, M.D. the terms and
2 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.

3 I approve its form and content.

4 DATED: 09-29-2022



SETH WEINSTEIN, ESQ.
Attorney for Respondent

6
7 **ENDORSEMENT**

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

10 DATED: _____

Respectfully submitted,

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

14
15 CHRISTINA SEIN GOOT
16 Deputy Attorney General
17 *Attorneys for Complainant*

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19
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1 I have read and fully discussed with Respondent Tuan Huu Nguyen, M.D. the terms and
2 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
3 I approve its form and content.

4 DATED: _____

5 SETH WEINSTEIN, ESQ.
6 *Attorney for Respondent*

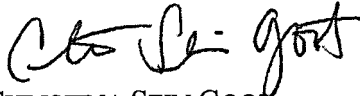
7 **ENDORSEMENT**

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

10 DATED: 9/30/22 _____

11 Respectfully submitted,

12 ROB BONTA
13 Attorney General of California
14 JUDITH T. ALVARADO
15 Supervising Deputy Attorney General

16 
17 CHRISTINA SEIN GOOT
18 Deputy Attorney General
19 *Attorneys for Complainant*

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Exhibit A

Accusation No. 800-2018-047139

1 ROB BONTA
Attorney General of California
2 JUDITH T. ALVARADO
Supervising Deputy Attorney General
3 TAN N. TRAN
Deputy Attorney General
4 State Bar No. 197775
California Department of Justice
5 300 South Spring Street, Suite 1702
Los Angeles, CA 90013
6 Telephone: (213) 269-6535
Facsimile: (916) 731-2117
7 *Attorneys for Complainant*

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

12 In the Matter of the Accusation Against:

Case No. 800-2018-047139

13 **Tuan Huu Nguyen, M.D.**
14 **22030 Sherman Way, Ste 211**
Canoga Park, CA 91303

A C C U S A T I O N

15 **Physician's and Surgeon's Certificate**
16 **No. A 32393,**

17 Respondent.

18
19 **PARTIES**

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

23 2. On or about June 12, 1978, the Medical Board issued Physician's and Surgeon's
24 Certificate Number A 32393 to Tuan Huu Nguyen, 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 July 31, 2023, unless renewed.

27 ///

28 ///

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 2004 of the Code states:

The board shall have the responsibility for the following:

(a) The enforcement of the disciplinary and criminal provisions of the Medical Practice Act.

(b) The administration and hearing of disciplinary actions.

(c) Carrying out disciplinary actions appropriate to findings made by a panel or an administrative law judge.

(d) Suspending, revoking, or otherwise limiting certificates after the conclusion of disciplinary actions.

(e) Reviewing the quality of medical practice carried out by physician and surgeon certificate holders under the jurisdiction of the board.

(f) Approving undergraduate and graduate medical education programs.

(g) Approving clinical clerkship and special programs and hospitals for the programs in subdivision (f).

(h) Issuing licenses and certificates under the board's jurisdiction.

(i) Administering the board's continuing medical education program.

5. 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.

1 (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.

2 (b) Any matter heard pursuant to subdivision (a), except for warning letters,
3 medical review or advisory conferences, professional competency examinations,
4 continuing education activities, and cost reimbursement associated therewith that are
5 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.

6 **STATUTORY PROVISIONS**

7 6. Section 2234 of the Code, states:

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

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

12 (b) Gross negligence.

13 (c) Repeated negligent acts. To be repeated, there must be two or more
14 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.

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

17 (2) When the standard of care requires a change in the diagnosis, act, or
18 omission that constitutes the negligent act described in paragraph (1), including, but
19 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.

20 (d) Incompetence.

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

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

24 (g) The failure by a certificate holder, in the absence of good cause, to attend
25 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.

26 7. Section 2241 of the Code states:

27 (a) A physician and surgeon may prescribe, dispense, or administer prescription
28 drugs, including prescription controlled substances, to an addict under his or her
treatment for a purpose other than maintenance on, or detoxification from,

1 prescription drugs or controlled substances.

2 (b) A physician and surgeon may prescribe, dispense, or administer prescription
3 drugs or prescription controlled substances to an addict for purposes of maintenance
4 on, or detoxification from, prescription drugs or controlled substances only as set
5 forth in subdivision (c) or in Sections 11215, 11217, 11217.5, 11218, 11219, and
6 11220 of the Health and Safety Code. Nothing in this subdivision shall authorize a
7 physician and surgeon to prescribe, dispense, or administer dangerous drugs or
8 controlled substances to a person he or she knows or reasonably believes is using or
9 will use the drugs or substances for a nonmedical purpose.

10 (c) Notwithstanding subdivision (a), prescription drugs or controlled substances
11 may also be administered or applied by a physician and surgeon, or by a registered
12 nurse acting under his or her instruction and supervision, under the following
13 circumstances:

14 (1) Emergency treatment of a patient whose addiction is complicated by the
15 presence of incurable disease, acute accident, illness, or injury, or the infirmities
16 attendant upon age.

17 (2) Treatment of addicts in state-licensed institutions where the patient is kept
18 under restraint and control, or in city or county jails or state prisons.

19 (3) Treatment of addicts as provided for by Section 11217.5 of the Health and
20 Safety Code.

21 (d)(1) For purposes of this section and Section 2241.5, addict means a person
22 whose actions are characterized by craving in combination with one or more of the
23 following:

24 (A) Impaired control over drug use.

25 (B) Compulsive use.

26 (C) Continued use despite harm.

27 (2) Notwithstanding paragraph (1), a person whose drug-seeking behavior is
28 primarily due to the inadequate control of pain is not an addict within the meaning of
this section or Section 2241.5.

8. Section 2242 of the Code states:

(a) Prescribing, dispensing, or furnishing dangerous drugs as defined in Section
4022 without an appropriate prior examination and a medical indication, constitutes
unprofessional conduct. An appropriate prior examination does not require a
synchronous interaction between the patient and the licensee and can be achieved
through the use of telehealth, including, but not limited to, a self-screening tool or a
questionnaire, provided that the licensee complies with the appropriate standard of
care.

(b) No licensee shall be found to have committed unprofessional conduct within
the meaning of this section if, at the time the drugs were prescribed, dispensed, or
furnished, any of the following applies:

1 (1) The licensee was a designated physician and surgeon or podiatrist serving in
2 the absence of the patient's physician and surgeon or podiatrist, as the case may be,
3 and if the drugs were prescribed, dispensed, or furnished only as necessary to
4 maintain the patient until the return of the patient's practitioner, but in any case no
5 longer than 72 hours.

6 (2) The licensee transmitted the order for the drugs to a registered nurse or to a
7 licensed vocational nurse in an inpatient facility, and if both of the following
8 conditions exist:

9 (A) The practitioner had consulted with the registered nurse or licensed
10 vocational nurse who had reviewed the patient's records.

11 (B) The practitioner was designated as the practitioner to serve in the absence
12 of the patient's physician and surgeon or podiatrist, as the case may be.

13 (3) The licensee was a designated practitioner serving in the absence of the
14 patient's physician and surgeon or podiatrist, as the case may be, and was in
15 possession of or had utilized the patient's records and ordered the renewal of a
16 medically indicated prescription for an amount not exceeding the original prescription
17 in strength or amount or for more than one refill.

18 (4) The licensee was acting in accordance with Section 120582 of the Health
19 and Safety Code.

20 9. Section 2266 of the Code states:

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

24 10. Section 725 of the Code states:

25 (a) Repeated acts of clearly excessive prescribing, furnishing, dispensing, or
26 administering of drugs or treatment, repeated acts of clearly excessive use of
27 diagnostic procedures, or repeated acts of clearly excessive use of diagnostic or
28 treatment facilities as determined by the standard of the community of licensees is
unprofessional conduct for a physician and surgeon, dentist, podiatrist, psychologist,
physical therapist, chiropractor, optometrist, speech-language pathologist, or
audiologist.

(b) Any person who engages in repeated acts of clearly excessive prescribing or
administering of drugs or treatment is guilty of a misdemeanor and shall be punished
by a fine of not less than one hundred dollars (\$100) nor more than six hundred
dollars (\$600), or by imprisonment for a term of not less than 60 days nor more than
180 days, or by both that fine and imprisonment.

(c) A practitioner who has a medical basis for prescribing, furnishing,
dispensing, or administering dangerous drugs or prescription controlled substances
shall not be subject to disciplinary action or prosecution under this section.

(d) No physician and surgeon shall be subject to disciplinary action pursuant to
this section for treating intractable pain in compliance with Section 2241.5.

FIRST CAUSE FOR DISCIPLINE

(Gross Negligence – 3 Patients)

11. Respondent Tuan Huu Nguyen, M.D. is subject to disciplinary action under section 2234, subdivision (b), of the Code for the commission of acts or omissions involving gross negligence in the care and treatment of Patients 1, 2, and 3.¹ The circumstances are as follows:

Patient 1

12. Patient 1 (or “patient”) is a 52 year old male who was treated by Respondent from approximately 2014 through 2018,² for various conditions including anxiety and chronic low back pain. Patient 1 also had a history of hypertension, and prior treatments for a gunshot wound and thyroid cancer. There was no documentation that Respondent had an adequate treatment plan/objectives for treating Patient 1’s conditions (e.g. progress notes, using a Pain Assessment and Documentation Tool (PADT), etc.).

13. During his treatment of Patient 1, Respondent prescribed to the patient Xanax (a benzodiazepine and a dangerous drug pursuant to section 4022 of the Code), as well as Norco (an opiate and a dangerous drug pursuant to section 4022 of the Code).³ There was no documentation in Respondent’s records of a history and physical to indicate whether Respondent had inherited Patient 1’s use of Norco and Xanax, nor was there any documentation showing that Respondent had confirmed Patient 1’s drug use prior to treating with Respondent (e.g. review of medication bottle labels or communication with pharmacists, etc.). There was no documentation of an order(s) for urine testing or in-house lab results of urine drug testing of any kind.

14. Additionally, there was no informed consent (discussion of risks and benefits, by Respondent to Patient 1, of the use of controlled substances), and no medical management agreement in the chart. There was no documented explanation by Respondent to justify the need for combining Xanax with Norco, or whether this combination was initiated by Respondent or

¹ The patients are identified by number to protect their privacy.

² These are approximate dates based on the medical records which were available to the Board. Patient 1 may have treated with Respondent before or after these dates.

³ Records indicate that Respondent no longer prescribed Norco to Patient 1 after June 28, 2016, but it is not clear whether Respondent was aware that Patient 1 was continuing to use Norco or other narcotics, which may have been prescribed by other doctors, after said date.

1 another doctor. Respondent failed to document the medical justification for prescribing this
2 potentially dangerous combination of benzodiazepines (e.g. Xanax) and opiates (e.g. Norco) to
3 Patient 1, and there was no documentation that Patient 1 gave adequate informed consent for
4 being prescribed this potentially dangerous combination of drugs. Moreover, there is no
5 indication that CURES (Controlled Substance Utilization Review and Evaluation System, a
6 California drug database which monitors Schedules II through V prescriptions for controlled
7 substances) was run on Patient 1 by Respondent,⁴ nor did Respondent perform adequate periodic
8 reviews of his treatment of Patient 1.

9 15. Overall, Respondent's care and treatment of Patient 1, as outlined above, represents
10 an extreme departure from the standard of care for his prescribing a benzodiazepine with an
11 opioid to Patient 1, as well as extreme departures from the standard of care for Respondent's
12 failure to perform an adequate history and physical examination for the patient, as well as
13 Respondent's failure to document an adequate treatment plan, failure to document giving the
14 patient informed consent, and failure to provide adequate periodic reviews of his treatment of the
15 patient.

16 **Patient 2**

17 16. Patient 2 (or "patient") is a 72 year old female who was treated by Respondent from
18 approximately 2012 through 2019.⁵ Patient 2 had a history of chronic pain from several spine
19 surgeries after a motor vehicle accident in 1959, severe bilateral knee arthritis, disc disease, and
20 advanced hip arthritis. Records indicate that from April 2012 onward, Respondent prescribed to
21 Patient 2 Fentanyl patches (an opioid and an dangerous drug pursuant to section 4022 of the
22 Code), Norco (an opioid), zolpidem (a sleep aid and a dangerous drug pursuant to section 4022 of
23
24

25 ⁴ Per CURES, Patient 1 was receiving prescriptions for oxycodone (an opioid) from
26 another doctor, while Patient 1 was receiving prescriptions for Xanax (a benzodiazepine) from
27 Respondent. This combination of taking an opioid with a benzodiazepine can be dangerous and
28 may be lethal. It is unclear whether Respondent was aware of the oxycodone prescription from
the other doctor.

⁵ These are approximate dates based on the medical records which were available to the
Board. Patient 2 may have treated with Respondent before or after these dates.

1 the Code), and from at least 2019, Patient 2 was prescribed diazepam (a benzodiazepine) from
2 another doctor.⁶

3 17. Similarly to Patient 1 above, there was no documentation that Respondent had an
4 adequate treatment plan or objectives for treating Patient 2's conditions (e.g. progress notes, using
5 a Pain Assessment and Documentation Tool (PADT), etc.). Specifically, there was no
6 documentation of informed consent, medication agreement, or urine drug screens for Patient 2 in
7 Respondent's medical charts. There was no documentation of a history and physical to determine
8 who began prescribing the combination of Fentanyl and Norco to Patient 2, nor was there
9 adequate documentation indicating that said combination of drugs was medically justified.
10 Despite prescribing dangerous controlled substances to Patient 2 for a long period of time,
11 Respondent failed to adequately perform periodic reviews to ensure that Patient 2 was properly
12 taking the medications prescribed.

13 18. Overall, Respondent's care and treatment of Patient 2, as outlined above, represents
14 an extreme departure from the standard of care for his prescribing a benzodiazepine with an
15 opioid to Patient 2, as well as extreme departures from the standard of care for Respondent's
16 failure to perform an adequate history and physical examination for the patient, as well as
17 Respondent's failure to document an adequate treatment plan, failure to document giving the
18 patient informed consent, and failure to provide adequate periodic reviews of his treatment of the
19 patient.

20 **Patient 3**

21 19. Patient 3 (or "patient") is a 52 year old female who was treated by Respondent from
22 approximately 2012 to 2019,⁷ for various conditions including obesity, chronic low back pain, hip
23 pain, hypothyroidism, anxiety, tobacco dependence, urinary incontinence, and abdominal pain,
24 as well as epilepsy, which was diagnosed by a neurologist. During the time period Respondent

25 ⁶ It is unclear whether or not Respondent was aware of prescriptions from other doctors,
26 and that Patient 2 was taking both opiates and a benzodiazepine. The medical chart indicates that
27 Respondent ran routine CURES reports, which should have made Respondent aware that Patient
28 2 was taking a potentially lethal combination of drugs.

⁷ Again, these are approximate dates based on the medical records which were available to
the Board. Patient 3 may have treated with Respondent before or after these dates.

1 treated Patient 3, Respondent prescribed various medications to Patient 3 including Norco, Soma,
2 Ambien, Xanax, and Dilaudid.⁸

3 20. Similar to Patients 1 and 2 above, there was no documentation that Respondent had
4 an adequate treatment plan or objectives for treating Patient 3's conditions (e.g. progress notes,
5 using a Pain Assessment and Documentation Tool (PADT), etc.). There was no documentation of
6 informed consent, medication agreement, or urine drug screens for Patient 3 in Respondent's
7 medical charts. Specifically, there was no documentation of a history and physical to indicate
8 whether Patient 3 was previously taking a potentially dangerous combination of benzodiazepines
9 and opioids, a fact which would have made an informed consent to continue this combination of
10 drugs essential. Moreover, Respondent failed to adequately document the medical justification
11 for said combination of drugs he was prescribing to Patient 3. Despite prescribing dangerous
12 controlled substances to Patient 3 for a long period of time, Respondent failed to adequately
13 perform periodic reviews to ensure that Patient 3 was properly taking the medications prescribed.

14 21. Overall, Respondent's care and treatment of Patient 3, as outlined above, represents
15 an extreme departure from the standard of care for his prescribing a benzodiazepine with an
16 opioid to Patient 3, as well as extreme departures from the standard of care for Respondent's
17 failure to perform an adequate history and physical examination for the patient, as well as
18 Respondent's failure to document an adequate treatment plan, failure to document giving the
19 patient informed consent, and failure to provide adequate periodic reviews of his treatment of the
20 patient.

21 **SECOND CAUSE FOR DISCIPLINE**

22 **(Repeated Negligent Acts – 3 Patients)**

23 22. By reason of the facts and allegations set forth in the First Cause for Discipline above,
24 Respondent is subject to disciplinary action under section 2234, subdivision (c), of the Code for

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26 ⁸ These medications are controlled substances, and have serious side effects and risk for
27 addiction. They are also dangerous drugs pursuant to section 4022 of the Code. It also appears
28 that Respondent ran a CURES report on Patient 3 in June and September 2019. This should have
alerted Respondent that Patient 3 was receiving simultaneous prescriptions for carisoprodol
(Soma-a muscle relaxant), phenobarbital (a barbiturate used to treat epilepsy), zolpidem (a sleep
aid), and hydromorphone/Dilaudid (a opioid pain reliever).

1 the commission of acts or omissions involving repeated negligent acts in the care and treatment of
2 Patients 1, 2, and 3, above.

3 **THIRD CAUSE FOR DISCIPLINE**

4 **(Excessive Prescribing – 3 Patients)**

5 23. By reason of the facts and allegations set forth in the First Cause for Discipline above,
6 Respondent is subject to disciplinary action under section 725 of the Code, in that Respondent
7 excessively prescribed dangerous drugs to Patients 1, 2 and 3, above.

8 **FOURTH CAUSE FOR DISCIPLINE**

9 **(Furnishing Dangerous Drugs without a Prior Examination or Medical Indication –**
10 **3 Patients)**

11 24. By reason of the facts and allegations set forth in the First Cause for Discipline above,
12 Respondent is subject to disciplinary action under section 2242 of the Code, in that Respondent
13 furnished dangerous drugs to Patients 1, 2 and 3, without conducting an appropriate prior
14 examination and/or medical indication, above.

15 **FIFTH CAUSE FOR DISCIPLINE**

16 **(Inadequate Records – 3 Patients)**

17 25. By reason of the facts and allegations set forth in the First Cause for Discipline above,
18 Respondent is subject to disciplinary action under section 2266 of the Code, in that Respondent
19 failed to maintain adequate and accurate records of his care and treatment of Patients 1, 2, and 3,
20 above.

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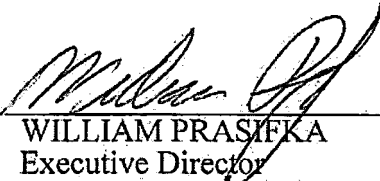
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PRAYER

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 A 32393, issued to Respondent Tuan Huu Nguyen, M.D.;
2. Revoking, suspending or denying approval of Respondent Tuan Huu Nguyen, M.D.'s authority to supervise physician assistants and advanced practice nurses;
3. Ordering Respondent Tuan Huu Nguyen, M.D., if placed on probation, to pay the Board the costs of probation monitoring; and
4. Taking such other and further action as deemed necessary and proper.

DATED: AUG 20 2021



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