

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

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

Shigeru Chino, M.D.

**Physician's and Surgeon's
Certificate No. A 21671**

Case No.: 800-2018-045921

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 July 19, 2023.

IT IS SO ORDERED: June 19, 2023.

MEDICAL BOARD OF CALIFORNIA



**Laurie Rose Lubiano, J.D., Chair
Panel A**

1 ROB BONTA
Attorney General of California
2 ROBERT MCKIM BELL
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10 **BEFORE THE**
MEDICAL BOARD OF CALIFORNIA
11 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA
12

13 In the Matter of the Accusation Against:

14 SHIGERU CHINO, M.D.

15 27601 Forbes Road, Suite 58
16 Laguna Niguel, California 92677

17 Physician's and Surgeon's Certificate No. A
21671
18

19 Respondent.

Case No. 800-2018-045921

OAH No. 2021080143

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

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

23 **PARTIES**

24 1. William Prasifka (Complainant) is the Executive Director of the Medical Board of
25 California (Board). He brought this action solely in his official capacity and is represented in this
26 matter by Rob Bonta, Attorney General of the State of California, by Wendy Widlus, Deputy
27 Attorney General.
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2. Respondent Shigeru Chino, M.D. (Respondent) is represented in this proceeding by attorney Raymond J. McMahon, whose address is 5440 Trabuco Road, Irvine, California 92620.

3. On July 8, 1965, the Board issued Physician's and Surgeon's Certificate No. A 21671 to Shigeru Chino, M.D. (Respondent). That license was in full force and effect at all times relevant to the charges brought in First Amended Accusation No. 800-2018-045921, and will expire on March 31, 2022, unless renewed.

JURISDICTION

4. The First Amended Accusation No. 800-2018-045921 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 February 17, 2022. Respondent timely filed his Notice of Defense contesting the First Amended Accusation.

5. A copy of the First Amended Accusation in Case No. 800-2018-045921 is attached as Exhibit A and is incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in the First Amended Accusation in case No. 800-2018-045921. 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 First Amended Accusation; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

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

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1 CULPABILITY

2 9. Respondent understands and agrees that the charges and allegations in First Amended
3 Accusation No. 800-2018-045921; if proven at a hearing, constitute cause for imposing discipline
4 upon his Physician's and Surgeon's Certificate Number A 21671.

5 10. For the purpose of resolving the First Amended Accusation without the expense and
6 uncertainty of further proceedings, Respondent does not contest that, at an administrative hearing,
7 complainant could establish a *prima facie* case with respect to the charges and allegations
8 contained in the First Cause for Discipline in First Amended Accusation No. 800-2018-045921.

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 or his counsel. By signing the
17 stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek
18 to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails
19 to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary
20 Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal
21 action between the parties, and the Board shall not be disqualified from further action by having
22 considered this 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. 800-2018-
26 045921 (not just the First Cause for Discipline) shall be deemed true, correct and fully admitted
27 by respondent for purposes of any such proceeding or any other licensing proceeding involving
28 Respondent in the State of California.

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

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

DISCIPLINARY ORDER

IT IS HEREBY ORDERED THAT Physician's and Surgeon's Certificate No. A 21671 issued to Respondent Shigeru Chino, M.D. is revoked. However, the revocation is stayed and Respondent is placed on probation for 35 months on the following terms and conditions:

1. EDUCATION COURSE. Within 60 calendar days of the effective date of this Decision, and on an annual basis thereafter, Respondent shall submit to the Board or its designee for its prior approval educational program(s) or course(s) which shall not be less than 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 in the area of lung surgery, recordkeeping and/or proper presurgical evaluations/considerations/preparations 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 advance by the Board or its designee. Respondent shall provide the approved course provider with any information and documents that the approved course provider may deem pertinent. Respondent shall participate in and successfully complete the classroom component of the course not later than six (6) months after Respondent's initial enrollment. Respondent shall successfully complete any other component of the course within one (1) year of enrollment. The medical

1 record keeping course shall be at Respondent's expense and shall be in addition to the Continuing
2 Medical Education (CME) requirements for renewal of licensure.

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

8 Respondent shall submit a certification of successful completion to the Board or its
9 designee not later than 15 calendar days after successfully completing the course, or not later than
10 15 calendar days after the effective date of the Decision, whichever is later.

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

20 The Board or its designee shall provide the approved monitor with copies of the Decision(s)
21 and First Amended Accusation(s), and a proposed monitoring plan. Within 15 calendar days of
22 receipt of the Decision(s), First Amended Accusation(s), and proposed monitoring plan, the
23 monitor shall submit a signed statement that the monitor has read the Decision(s) and First
24 Amended Accusation(s), fully understands the role of a monitor, and agrees or disagrees with the
25 proposed monitoring plan. If the monitor disagrees with the proposed monitoring plan, the
26 monitor shall submit a revised monitoring plan with the signed statement for approval by the
27 Board or its designee.

28 Within 60 calendar days of the effective date of this Decision, and continuing throughout

1 probation, Respondent's practice shall be monitored by the approved monitor. Respondent shall
2 make all records available for immediate inspection and copying on the premises by the monitor
3 at all times during business hours and shall retain the records for the entire term of probation.

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

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

15 If the monitor resigns or is no longer available, Respondent shall, within 5 calendar days of
16 such resignation or unavailability, submit to the Board or its designee, for prior approval, the
17 name and qualifications of a replacement monitor who will be assuming that responsibility within
18 15 calendar days. If Respondent fails to obtain approval of a replacement monitor within 60
19 calendar days of the resignation or unavailability of the monitor, Respondent shall receive a
20 notification from the Board or its designee to cease the practice of medicine within three (3)
21 calendar days after being so notified. Respondent shall cease the practice of medicine until a
22 replacement monitor is approved and assumes monitoring responsibility.

23 In lieu of a monitor, Respondent may participate in a professional enhancement program
24 approved in advance by the Board or its designee that includes, at minimum, quarterly chart
25 review, semi-annual practice assessment, and semi-annual review of professional growth and
26 education. Respondent shall participate in the professional enhancement program at Respondent's
27 expense during the term of probation.

28 4. NOTIFICATION. Within seven (7) days of the effective date of this Decision, the

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

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

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

12 6. INVESTIGATION/ENFORCEMENT COST RECOVERY. Respondent is hereby
13 ordered to reimburse the Board its costs of investigation and enforcement, including, but not
14 limited to, expert review, amended First Amended Accusations, legal reviews, investigation(s),
15 and subpoena enforcement, as applicable, in the amount of \$18,000.00 (eighteen thousand
16 dollars). Costs shall be payable to the Medical Board of California. Failure to pay such costs
17 shall be considered a violation of probation.

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

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

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

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

1 8. GENERAL PROBATION REQUIREMENTS.

2 Compliance with Probation Unit

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

4 Address Changes

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

10 Place of Practice

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

14 License Renewal

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

17 Travel or Residence Outside California

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

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

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

27 10. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or
28 its designee in writing within 15 calendar days of any periods of non-practice lasting more than

1 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is
2 defined as any period of time Respondent is not practicing medicine as defined in Business and
3 Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct
4 patient care, clinical activity or teaching, or other activity as approved by the Board. If
5 Respondent resides in California and is considered to be in non-practice, Respondent shall
6 comply with all terms and conditions of probation. All time spent in an intensive training
7 program which has been approved by the Board or its designee shall not be considered non-
8 practice and does not relieve Respondent from complying with all the terms and conditions of
9 probation. Practicing medicine in another state of the United States or Federal jurisdiction while
10 on probation with the medical licensing authority of that state or jurisdiction shall not be
11 considered non-practice. A Board-ordered suspension of practice shall not be considered as a
12 period of non-practice.

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

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

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

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

25 11. COMPLETION OF PROBATION. Respondent shall comply with all financial
26 obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the
27 completion of probation. This term does not include cost recovery, which is due within 30
28 calendar days of the effective date of the Order, or by a payment plan approved by the Medical

1 Board and timely satisfied. Upon successful completion of probation, Respondent's certificate
2 shall be fully restored.

3 12. VIOLATION OF PROBATION. Failure to fully comply with any term or condition
4 of probation is a violation of probation. If Respondent violates probation in any respect, the
5 Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and
6 carry out the disciplinary order that was stayed. If a First Amended Accusation, or Petition to
7 Revoke Probation, or an Interim Suspension Order is filed against Respondent during probation,
8 the Board shall have continuing jurisdiction until the matter is final, and the period of probation
9 shall be extended until the matter is final.

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

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

25 15. FUTURE ADMISSIONS CLAUSE. If Respondent should ever apply or reapply for
26 a new license or certification, or petition for reinstatement of a license, by any other health care
27 licensing action agency in the State of California, all of the charges and allegations contained in
28 First Amended Accusation No. 800-2018-045921 shall be deemed to be true, correct, and

1 admitted by Respondent for the purpose of any Statement of Issues or any other proceeding
2 seeking to deny or restrict license.

3 **ACCEPTANCE**


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

9
10 DATED: 11 November 2022


SHIGERU CHINO, M.D.
Respondent

12 I have read and fully discussed with Respondent Shigeru Chino, M.D. the terms and
13 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
14 I approve its form and content.

15 DATED: November 8, 2022


RAYMOND J. McMAHON
Attorney for Respondent

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ENDORSEMENT

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

DATED: November 8, 2022

Respectfully submitted,

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

Wendy Widlus

WENDY WIDLUS
Deputy Attorney General
Attorneys for Complainant

LA2021600058
Stipulation 2.docx

Exhibit A
First Amended Accusation No. 800-2018-045921

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

12 In the Matter of the First Amended Accusation
Against:

Case No. 800-2018-045921

13 **SHIGERU CHINO, M.D.**
14 **27601 Forbes Road, Ste. 58**
Laguna Niguel, CA 92677

OAH No. 2021080143

FIRST AMENDED ACCUSATION

15 **Physician's and Surgeon's Certificate**
16 **No. A 21671,**

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 July 8, 1965, the Medical Board issued Physician's and Surgeon's
24 Certificate Number A 21671 to Shigeru Chino, 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 March 31, 2024, unless renewed.

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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 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.

...

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

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COST RECOVERY

7. Section 125.3 of the Code states:

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

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

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

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

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

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

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

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

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

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

(j) This section does not apply to any board if a specific statutory provision in

1 that board's licensing act provides for recovery of costs in an administrative
2 disciplinary proceeding.

3 **FACTUAL ALLEGATIONS**

4 8. Respondent is Board certified in general surgery. He specializes in non-cardiac
5 thoracic surgery.

6 9. During all relevant times, Respondent operated a solo private practice in Orange
7 County, California and held staff privileges at Mission Community Hospital and Saddleback
8 Hospital.

9 10. On February 17, 2015, Patient 1,¹ a 70-year-old female, presented to Respondent for
10 a lesion in the lower lobe of her left lung. Patient 1 and her pulmonary physician had been
11 following a ground glass area that had appeared on CT scans of her left lung since 2013. The
12 most recent imaging (x-ray and CT scans) showed that it had grown from 1.5 centimeters to 1.7.

13 11. Respondent recommended a preoperative biopsy, which demonstrated a non-oat cell
14 cancer of the lung (adenocarcinoma) on February 23, 2015.

15 12. Patient 1 had no pulmonary symptoms, history of asthma or smoking or symptoms
16 suggestive of metastatic disease. Respondent ordered a Pulmonary Function Test and her
17 pulmonary functions were within normal limits. She did not have a history of cancer.

18 13. Respondent also ordered a PET Scan, which was taken on February 25, 2015. The
19 area in question lit up without evidence of metastatic disease by PET-scan criteria.

20 14. According to Respondent's operative report, the pattern on the biopsy specimen
21 suggested an alveolar cell bronchoalveolar tumor.

22 15. On March 2, 2015, Patient 1 was admitted to Saddleback Hospital in Laguna Hills,
23 California, and prepared for surgery.

24 16. Respondent was to perform a resection of a localized cancer of the left lung.

25 17. Respondent did not order prophylactic antibiotics for Patient 1 prior to surgery.

26 18. Respondent did not blood type or cross-match Patient 1's blood prior to surgery.

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28 ¹ The patient whose care and treatment is at-issue in this charging document is designated
by number to address privacy concerns. The patient's identity is known to Respondent and will
be further disclosed during discovery.

1 19. Patient 1 was placed under general anesthesia with a double lumen tube intubation.
2 Respondent performed a bronchoscopy, which was negative.

3 20. According to Respondent, the anesthesiologist was unable to fully deflate Patient 1's
4 left lung so that it was flat during the surgery. Part of both the upper and lower lobes were
5 moderately inflated throughout. According to Respondent, it is not necessary to completely
6 deflate the lungs, but inflation makes the surgery more "difficult."

7 21. Respondent performed a left thoracotomy incision to enter the chest. Respondent
8 located a nodule in the superior segment of the left lower lobe by palpation.

9 22. Respondent then applied a stapling device to separate the upper lobe from the
10 superior segment of the lower lobe. Respondent used a TA-55 Stapler, provided by the hospital.

11 23. As Respondent divided the tissue and continued to staple the upper lobe near the
12 fissure in order to take a portion of the upper lobe with the lower lobe superior segment, Patient 1
13 began to bleed profusely through the staple line.

14 24. Respondent attributes the bleeding to a malformed or malfunctioning staple.

15 25. Respondent had not noticed any abnormality with the stapler as he was dividing the
16 upper lobe margin.

17 26. Respondent suspected the blood was from vessels that supply blood from the
18 pulmonary artery to the lung parenchyma; specifically, branches going to the apical posterior
19 segment of the upper lobe.

20 27. Respondent advised the attending anesthesiologist to put pressure on the bleeding
21 area. To control the bleeding, Respondent went anteriorly to clamp the main pulmonary artery.
22 This took approximately five (5) minutes.

23 28. Respondent was then able to release and remove the stapler, suture the area that was
24 bleeding and complete the resection of the superior segment of the left lower lobe. Respondent
25 used a different set of TA-55 staplers and a GIA stapler to complete the surgery. Respondent also
26 repaired a hole in the pulmonary artery left by the clamp.

27 29. Respondent carried out lymph node dissections. The lymph nodes were negative for
28 cancer.

1 30. The margins of the specimen removed from Patient 1's left lung were negative for
2 cancer.

3 31. The surgery lasted about an hour to an hour and a half.

4 32. Patient 1 lost about 2500 cc (over 2 liters) of blood and received 4 units of packed
5 cells due to bleeding. According to Respondent, the normal estimated blood loss is
6 approximately 150 cc.

7 33. Patient 1 was placed on a ventilator in the recovery room and was extubated the
8 following morning. The chest tubes were removed in the three days following the surgery.

9 34. A post-operative chest x-ray showed a deformed staple line.

10 35. On the fourth day after surgery, Patient 1 was short of breath. A CT scan was
11 ordered.

12 36. Chest x-rays demonstrated increased markings in the left lung and Patient 1 was taken
13 to the intensive care unit where pulmonary specialists took over her care and reintubated her.

14 37. Patient 1 was placed on a ventilator and various medications, including antibiotics
15 and steroids.

16 38. Patient 1 then had a left pneumothorax (air or gas in the cavity between the lungs and
17 chest wall) and Respondent was asked to put a chest tube in place.

18 39. Patient 1's condition continued to deteriorate.

19 40. On March 23, 2015, Patient 1's family decided not to continue additional efforts in
20 the intensive care unit and Patient 1 was extubated. She expired eighteen (18) minutes later.

21 **FIRST CAUSE FOR DISCIPLINE**

22 **(Gross Negligence)**

23 41. Respondent Shigeru Chino, M.D. is subject to disciplinary action under section 2234,
24 subdivision (b), of the Code, in that he committed gross negligence in his care and treatment of
25 Patient 1. The circumstances are as follows:

26 42. Paragraphs 8 through 40 herein are incorporated by reference as if fully set forth.

27 43. The standard of care in the medical community provides that placement of a double
28 lumen endotracheal tube or single tube with bronchial blocker is usually required to keep the lung

1 deflated during surgery. This not only allows for better and easier application of staplers than if
2 the lung is partially inflated, but also for better visualization of the vessels; especially in fissures.

3 44. Respondent committed an extreme departure from the standard of care when he failed
4 to ensure proper lung deflation before performing surgery on Patient 1. Specifically, Patient 1's
5 left lung was never fully deflated or flat during the operation. This partial inflation compromised
6 Respondent's ability to properly apply the stapler and identify the vessels in the fissure, which he
7 needed to divide; and some of the lingular arteries, which he needed to protect, while separating
8 the fissure between the two lobes. Following the bronchoscopy, Respondent should have
9 determined the position of the tube, and required the anesthesiologist to reposition the tube before
10 starting the operation, if the position was not appropriate. In the event that the tube became
11 displaced during the operation and he encountered an inflated lung, Respondent should have
12 stopped and requested that the tube be repositioned before proceeding. Respondent's failure to
13 take these steps, and instead to continue to apply staples to a moderately inflated lung, contributed
14 to the bleeding complications during the procedure.

15 45. In order to resect the superior segment of the lower lobe, the fissure between the two
16 lobes must be divided. The standard of care in the medical community requires that while
17 dividing the fissure, the posterior recurrent artery to the superior segment be identified and
18 divided. Following this, the superior segment can be safely resected with wedge resection.

19 46. Respondent committed an extreme departure from the standard of care when he
20 stapled along the fissure to incorporate a portion of the upper lobe with the lower lobe without
21 adequate justification or consideration of the pulmonary artery. More specifically, Respondent
22 failed to identify the branches of the pulmonary artery in the fissure, especially the posterior
23 recurrent artery to the superior segment of the lower lobe, and the lingular arteries prior to
24 applying the stapler. Respondent does not describe dividing the arterial branch from the
25 pulmonary artery to the superior segment of the lower lobe during the procedure. The massive
26 bleeding that ensued was likely related to the division of some of these arterial branches.
27 Respondent also does not describe why it was necessary to incorporate a portion of the upper lobe
28 when the lesion was discrete and in the superior segment of the lower lobe. There was never any

1 mention of any cancer in the upper lobe or fusion of the lobes across the fissure. The eventual
2 resected specimen did not include this portion of the upper lobe.

3 47. Respondent's acts and/or omissions as set forth in paragraphs 42 through 46,
4 inclusive above, whether proven individually, jointly, or in any combination thereof, constitute
5 gross negligence pursuant to section 2234, subdivision (b), of the Code. As such, cause for
6 discipline exists.

7 **SECOND CAUSE FOR DISCIPLINE**

8 **(Repeated Negligent Acts)**

9 48. Respondent is subject to disciplinary action under section 2234, subdivision (c), of
10 the Code in that he committed repeated negligent acts in his care and treatment of Patient 1. The
11 circumstances are as follows:

12 49. The allegations contained in the First Cause for Discipline herein are incorporated by
13 reference as if fully set forth.

14 50. The standard of care in the medical community requires that when dissecting in the
15 fissure to separate the upper and lower lobes that the appropriate stapler be used and arteries are
16 identified and preserved. Typically, a GIA Stapler is used after the artery to the superior segment
17 is identified. The artery always must be separately divided before proceeding with either a wedge
18 resection of the segment, or resection of the entire lobe. Depending on the extent of the surgery
19 contemplated, lingular arteries are preserved before division of the whole fissure if a complete
20 lobectomy is planned.

21 51. Respondent committed a departure from the standard of care when he applied the
22 TA55 Stapler to Patient 1 without identification, division or preservation of the arterial branches.

23 52. The standard of care in the medical community requires that prior to any major
24 surgery, the attending surgeon should make an order for the patient's blood type and to have some
25 units held that have been cross-matched. The order should be documented in the patient's record.
26 Autologous (self) blood donation also can be discussed. The goal is to shorten the time of
27 availability should a blood transfusion be necessary and to reduce complications during surgery.

28 53. Respondent's care and treatment of Patient 1 departed from the standard of care when

1 he failed to prepare for the possibility of a blood transfusion prior to performing major surgery.
2 Specifically, he performed surgery on Patient 1 without autologous blood available or having
3 typed her.

4 54. The standard of care in the medical community requires that prior to most major
5 surgery, in particular pulmonary surgery, pre-operative antibiotics should be recommended and
6 discussed with the patient.

7 55. Respondent departed from the standard of care when he failed to recommend or
8 institute pre-operative antibiotics in Patient 1. Respondent asserts that he routinely does not
9 prescribe pre-operative antibiotics because he conducts a pre-operative bronchoscopy and obtains
10 a culture during the procedure as a guide to determine whether and what antibiotics to institute.
11 This is not an adequate substitute for pre-operative antibiotics. Inadequate blood level, such as
12 that experienced by Patient 1 post-surgery, can decrease the efficacy of antibiotics. Here, Patient
13 1 ultimately suffered sepsis post-surgery and required antibiotics. Unlike a pre-operative course
14 of antibiotics, the bronchoscopy could not have prevented or minimized Patient 1's post-operative
15 sepsis.

16 56. Respondent's acts and/or omissions as set forth in paragraphs 49 through 55,
17 inclusive above, whether proven individually, jointly, or in any combination thereof, constitute
18 repeated negligent acts pursuant to section 2234, subdivision (c), of the Code. As such, cause for
19 discipline exists.

20 **THIRD CAUSE FOR DISCIPLINE**

21 **(Failure to Maintain Adequate and Accurate Records)**

22 57. Respondent is subject to disciplinary action under section 2266 of the Code, in that he
23 failed to maintain adequate and accurate records relating to the provision of services to Patient 1.
24 The circumstances are as follows:

25 58. The allegations contained in the First and Second Causes for Discipline herein are
26 incorporated by reference as if fully set forth, and represent the failure to maintain adequate and
27 accurate records in violation of Code 2266. As such, cause for discipline exists.

28 ///

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:

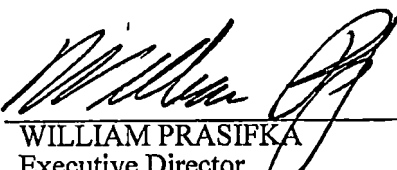
4 1. Revoking or suspending Physician's and Surgeon's Certificate Number A 21671,
5 issued to Shigeru Chino, M.D.;

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

8 3. Ordering Shigeru Chino, M.D., to pay the Board the costs of the investigation and
9 enforcement of this case, and if placed on probation, the costs of probation monitoring; and

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

11
12 DATED: FEB 17 2022



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