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

In the Matter of the Accusation Against: Edwin Hyun-Kyu Choi, M.D. Physician's and Surgeon's Certificate No. A 54943 Respondent.	Case No.: 04-2013-231757

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

ROB BONTA
Attorney General of California
ROBERT MCKIM BELL
Supervising Deputy Attorney General
TRINA L. SAUNDERS
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California Department of Justice
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Attorneys for Complainant

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

In the Matter of the Accusation Against: EDWIN HYUN-KYU, CHOI, M.D. 3545 Wilshire Boulevard, Suite 247 Los Angeles, California 90010 Physician's and Surgeon's Certificate A54943, Respondent.	Case No. 04-2013-231757 OAH No. 2022030739 **STIPULATED SETTLEMENT AND DISCIPLINARY ORDER**

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

PARTIES

1. This matter was brought by William Prasifka in his official capacity as the Executive Director of the Medical Board of California (Board). The Complainant is represented in this matter by Rob Bonta, Attorney General of the State of California, by Trina L. Saunders, Deputy Attorney General.

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2. Respondent Edwin Hyun-Kyu, Choi, M.D. (Respondent) is represented in this proceeding by attorney Gary Wittenberg of Gold, Baranov & Wittenberg, 1901 Avenue of the Stars, Suite 1750, Los Angeles, California 90067.

3. On October 11, 1985, the Board issued Physician's and Surgeon's Certificate No. A54943 to Respondent. That license was in full force and effect at all times relevant to the charges brought in Accusation No. 04-2013-231757, and will expire on August 31, 2023, unless renewed.

JURISDICTION

4. Accusation No. 04-2013-231757 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 October 19, 2015. Respondent timely filed his Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 04-2013-231757 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 Accusation No. 04-2013-231757. 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.

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CULPABILITY

9. Respondent understands and agrees that the charges and allegations in Accusation No. 04-2013-231757, if proven at a hearing, constitute cause for imposing discipline upon his Physician's and Surgeon's Certificate.

10. Respondent agrees that, at a hearing, Complainant could establish a prima facie case or factual basis for the charges in the Accusation, and that Respondent hereby gives up his right to contest those charges.

11. Respondent does not contest that at an administrative hearing the Complainant could establish a prima facie case with respect to the charges and allegations in Accusation No. 04-2013-231757, a copy of which is attached hereto as Exhibit A, and that he has thereby subjected his Physician's and Surgeon's Certificate No. A54943 to disciplinary action. Respondent does not otherwise admit the truth or correctness of the allegations included in Accusation No. 04-2013-231757, for any purpose other than resolution of the Accusation by the Medical Board of California or other health care agencies.

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

CONTINGENCY

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

14. Respondent agrees that if he ever petitions for early termination or modification of probation, or if an accusation and/or petition to revoke probation is filed against him before the Board, all of the charges and allegations contained in Accusation No. 04-2013-231757 shall be deemed true, correct and fully admitted by respondent for purposes of any such proceeding or any other licensing proceeding involving Respondent in the State of California.

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

16. 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. A54943 issued to Respondent Edwin Hyun-Kyu Choi, M.D. is revoked. However, the revocation is stayed and Respondent is placed on probation for four (4) years on the following terms and conditions:

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

2. MEDICAL RECORD KEEPING COURSE. Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a course in medical record keeping approved in advance by the Board or its designee. Respondent shall provide the approved course provider

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

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

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

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

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

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been approved by the Board or its designee had the program been taken after the effective date of this Decision.

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

4. CLINICAL COMPETENCE ASSESSMENT PROGRAM. Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a clinical competence assessment program approved in advance by the Board or its designee. Respondent shall successfully complete the program not later than six (6) months after Respondent's initial enrollment unless the Board or its designee agrees in writing to an extension of that time.

The program shall consist of a comprehensive assessment of Respondent's physical and mental health and the six general domains of clinical competence as defined by the Accreditation Council on Graduate Medical Education and American Board of Medical Specialties pertaining to Respondent's current or intended area of practice. The program shall take into account data obtained from the pre-assessment, self-report forms and interview, and the Decision(s), Accusation(s), and any other information that the Board or its designee deems relevant. The program shall require Respondent's on-site participation for a minimum of three (3) and no more than five (5) days as determined by the program for the assessment and clinical education evaluation. Respondent shall pay all expenses associated with the clinical competence assessment program.

At the end of the evaluation, the program will submit a report to the Board or its designee which unequivocally states whether the Respondent has demonstrated the ability to practice safely and independently. Based on Respondent's performance on the clinical competence assessment, the program will advise the Board or its designee of its recommendation(s) for the scope and length of any additional educational or clinical training, evaluation or treatment for any medical condition or psychological condition, or anything else affecting Respondent's practice of medicine. Respondent shall comply with the program's recommendations.

Determination as to whether Respondent successfully completed the clinical competence

assessment program is solely within the program's jurisdiction.

If Respondent fails to enroll, participate in, or successfully complete the clinical competence assessment program within the designated time period, Respondent shall receive a notification from the Board or its designee to cease the practice of medicine within three (3) calendar days after being so notified. The Respondent shall not resume the practice of medicine until enrollment or participation in the outstanding portions of the clinical competence assessment program have been completed. If the Respondent did not successfully complete the clinical competence assessment program, the Respondent shall not resume the practice of medicine until a final decision has been rendered on the accusation and/or a petition to revoke probation. The cessation of practice shall not apply to the reduction of the probationary time period.

5. PROHIBITED PRACTICE. During probation, Respondent is prohibited from performing liposuction procedures. After the effective date of this Decision, any new or returning patients seeking a cosmetic procedure must be provided notification of this prohibition on Respondent's license. Any new patients must be provided this notification at the time of their initial appointment.

Respondent shall maintain a log of all patients to whom the required oral notification was made. The log shall contain the: 1) patient's name, address and phone number; 2) patient's medical record number, if available; 3) the full name of the person making the notification; 4) the date the notification was made; and 5) a description of the notification given. Respondent shall keep this log in a separate file or ledger, in chronological order, shall make the log available for immediate inspection and copying on the premises at all times during business hours by the Board or its designee, and shall retain the log for the entire term of probation.

6. NOTIFICATION. Within seven (7) days of the effective date of this Decision, the Respondent shall provide a true copy of this Decision and Accusation to the Chief of Staff or the Chief Executive Officer at every hospital where privileges or membership are extended to Respondent, at any other facility where Respondent engages in the practice of medicine, including all physician and locum tenens registries or other similar agencies, and to the Chief Executive Officer at every insurance carrier which extends malpractice insurance coverage to

Respondent. Respondent shall submit proof of compliance to the Board or its designee within 15 calendar days.

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

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

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

9. INVESTIGATION/ENFORCEMENT COST RECOVERY. Respondent is hereby ordered to reimburse the Board its costs of investigation and enforcement, including, but not limited to, expert review, amended accusations, legal reviews, investigation(s), and subpoena enforcement, as applicable, in the amount of $10,960.00 (ten thousand nine hundred and sixty dollars and zero cents). Costs shall be payable to the Medical Board of California. Failure to pay such costs shall be considered a violation of probation.

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

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

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

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

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11. GENERAL PROBATION REQUIREMENTS.

Compliance with Probation Unit

Respondent shall comply with the Board's probation unit.

Address Changes

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

Place of Practice

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

License Renewal

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

Travel or Residence Outside California

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

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

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

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

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

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

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

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

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

14. 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.

15. 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.

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

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

18. FUTURE ADMISSIONS CLAUSE. If Respondent should ever apply or reapply for a new license or certification, or petition for reinstatement of a license, by any other health care licensing action agency in the State of California, all of the charges and allegations contained in Accusation No. 04-2013-231757 shall be deemed to be true, correct, and admitted by Respondent

for the purpose of any Statement of Issues or any other proceeding seeking to deny or restrict license.

ACCEPTANCE

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

DATED: 1/6/2023

EDWIN HYUN-KYU, CHOI, M.D.
Respondent

I have read and fully discussed with Respondent Edwin Hyun-Kyu, Choi, M.D. the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: _____

GARY WITTENBERG
Attorney for Respondent

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for the purpose of any Statement of Issues or any other proceeding seeking to deny or restrict license.

ACCEPTANCE

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

DATED: _____ _____
EDWIN HYUN-KYU, CHOI, M.D.
Respondent

I have read and fully discussed with Respondent Edwin Hyun-Kyu, Choi, M.D. the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 1/6/23 _____
GARY WITTENBERG
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: January 7, 2022

Respectfully submitted,

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

Trina L. Saunders

TRINA L. SAUNDERS
Deputy Attorney General
Attorneys for Complainant

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Choi Stipulation SDAG Reviewed2.docx

Exhibit A

Accusation No. 04-2013-231757

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Attorneys for Complainant

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO Oct. 19. 20 15
BY D. Richards ANALYST

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

In the Matter of the Accusation Against: Edwin Hyun-Kyu Choi, M.D. 3545 Wilshire Blvd., Suite 247 Los Angeles, CA 90010 Physician's and Surgeon's Certificate No. A54943, Respondent.	Case No. 04-2013-231757 **A C C U S A T I O N**

Complainant alleges:

PARTIES

1. Kimberly Kirchmeyer ("Complainant") brings this Accusation solely in her official capacity as the Executive Director of the Medical Board of California, Department of Consumer Affairs ("Board").

2. On or about October 11, 1995, the Medical Board issued Physician's and Surgeon's Certificate number A54943 to Edwin Hyun-Kyu Choi, M.D. ("Respondent"). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought herein and will expire on August 31, 2017, unless renewed.

JURISDICTION

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

4. Section 2234 of the Code, states:

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

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

"(b) Gross negligence.

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

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

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

"(d) Incompetence.

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

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

"(g) The practice of medicine from this state into another state or country without meeting the legal requirements of that state or country for the practice of medicine. Section 2314 shall not apply to this subdivision. This subdivision shall become operative upon the implementation of the proposed registration program described in Section 2052.5.

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

5. Section 2264 of the Code states: "The employing, directly or indirectly, the aiding, or abetting of any unlicensed person or any suspended, revoked, or unlicensed practitioner to engage in the practice of medicine or any other mode of treating the sick or afflicted which requires a license to practice constitutes unprofessional conduct."

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."

FIRST CAUSE FOR DISCIPLINE

(Gross Negligence)

7. Respondent is subject to disciplinary action under section 2234(b) in that he was grossly negligent in the performance of an elective liposuction procedure and the follow-up care of patient H.L. The circumstances are as follows:

8. On September 14, 2012, H.L., a 52-year-old female patient, who lived in Houston, Texas, presented to Respondent, for a pre-surgical examination. She presented after having been referred to Respondent by a friend who previously received treatment from Respondent. She came for elective cosmetic procedures, including liposuction. Patient H.L. was 5'1", 116 pounds, with a BMI of 21.9. Standard laboratory studies were performed, demonstrating normal white blood cell count of 7,600, BUN/Cr of 17/0.7 and an elevated blood glucose of 162. An undated and untimed history documents a history of hypertension and a blood pressure of 141/90.

9. On September 17, 2012, patient H.L. returned to Respondent's office. She was hypertensive with preoperative blood pressures of 158/96 and 160/95 and pulse rates of 74 and 75. There was no documentation of a physical examination. Patient H.L. received Radiesse and Juvaderm injections, but there was no documentation to indicate what areas were injected. Patient H.L. also underwent liposuction. IV sedation was started with hydromorphone, diazepam and midazolam. However, there is no progress note included in the patient medical records for this

date, nor were intraoperative vital signs recorded, and no formal operative note was prepared. There is a liposuction procedure log in the records signed by "Ms. Lee," describing the total amount of tumescent solution used as 1700cc, and the total fat aspirated from the abdomen, flanks, low back, bra line and under the patient's arms, as 1650cc. It also describes the amount and time of the administration of the intravenous medications mentioned previously, as well as ondansetron.

10. There is no documentation related to the patient's recovery. There are no recovery room records and no discharge records contained in the patient chart.

11. Following the liposuction procedure, patient H.L. was driven to a local hotel, where she was left to care for herself.

12. On the following day, September 18, 2012, at approximately 8:40 a.m., patient H.L. returned to Respondent's office with complaints of dizziness, cold sweats and incisional pain. She was hypotensive with a blood pressure of 83/50. Shortly after arrival her heart rate was 104 and she had a temperature of 102 degrees.

13. Ms. Lee's documentation showed that over the next 19 hours, patient H.L. was persistently hypotensive with blood pressures in the 60's/40's and heart rates of up to 112. No bladder catheter was placed and 2L of IV fluids were administered.

14. A note dated September 18, 2012, at 3:00 p.m. states that the patient is hemodynamically stable with normal hemoglobin. There were additional notes written, but the time of those notes was not indicated. The notes show continuing low blood pressures running 64/48 to 80/50, with continued complaints of pain. Temperatures of 95.4 and 92.7 were recorded. Patient H.L. remained tachycardiac throughout this time with pulse rates as high as 112. Despite these findings, notes in the chart say, "most symptoms getting better."

15. At 5:00 p.m., lab studies supported a clinical picture of overwhelming sepsis and acute renal failure. Patient H.L.'s white blood count was 1,100, bands of 14, and a BUN/Cr of 28/1.4.

16. The patient chart consists of documentation that Respondent purports to be his concurrent measurements of blood pressure that he states he personally took manually. Those

readings are in the 90s/60s. Respondent indicates that he took the readings because his manual readings were more accurate.

17. On September 19, 2012, at 6:53 a.m., patient H.L. was admitted to La Palma Hospital Emergency Room. She had been transported by personal car, from Respondent's office. Patient H.L. was severely hypotensive. Patient H.L. was placed on vasopressors. Her respiratory status continued to deteriorate. Patient H.L. experienced multisystem failure. She experienced septic shock and expired at 8:30 p.m.

18. On September 19, 2012, Respondent told the Orange County Coroner investigator that when patient H.L. presented to his office on September 18, 2012, she had a temperature of 101.9 and blood pressure of 80/40. These readings are not recorded in the patient chart, but do closely resemble the clinical picture provided by Ms. Lee's notes of that day.

Failure to Follow Law Governing Liposuction

19. The rules for the amount of liposuction extraction have been mandated by the legislature in 16 California Code of Regulations Section 1356.6, which provides:

> "(a) A liposuction procedure that is performed under general anesthesia or intravenous sedation or that results in the extraction of 5,000 or more cubic centimeters of total aspirate shall be performed in a general acute-care hospital or in a setting specified in Health and Safety Code Section 1248.1." (Cal. Code Regs., tit. 16, § 1356.6.)
>
> "(b) The following standards apply to any liposuction procedure not required by subsection (a) to be performed in a general acute-care hospital or a setting specified in and Safety Code Section 1248.1:
>
> (1) Intravenous Access and Emergency Plan. Intravenous access shall be available for procedures that result in the extraction of less than 2,000 cubic centimeters or total aspirate and shall be required for procedures that result in the extraction of 2,000 or more cubic centimeters of total aspirate. There shall be a written detailed plan for handling medical emergencies and all staff shall be informed of that plan. The physician shall ensure that trained personnel, together with adequate and appropriate equipment, oxygen, and medication, are onsite and available to handle the procedure being performed and any medical emergency that may arise in connection with that procedure. The physician shall either have admitting privileges at a local general acute-care hospital or have a written transfer agreement with such a hospital or with a licensed physician who has admitting privileges at such a hospital.
>
> (2) Anesthesia. Anesthesia shall be provided by a qualified licensed practitioner. The physician who is performing the procedure shall not also administer or maintain the anesthesia or sedation unless a licensed

person certified in advanced cardiac life support is present and is monitoring the patient.

(3) Monitoring. The following monitoring shall be available for volumes greater than 150 and less than 2,000 cubic centimeters of total aspirate and shall be required for volumes between 2,000 and 5,000 cubic centimeters of total aspirate:

(A) Pulse oximeter

(B) Blood pressure (by manual or automatic means)

(C) Fluid Loss and replacement monitoring and recording

(D) Electrocardiogram

(4) Records. Records shall be maintained in the manner necessary to meet the standard of practice and shall include sufficient information to determine the quantities of drugs and fluids infused and the volume of fat, fluid and supernatant extracted and the nature and duration of any other surgical procedures performed during the same session as the liposuction procedure.

(5) Discharge and Postoperative-care Standards

(A) A patient who undergoes any liposuction procedure, regardless of the amount of total aspirate extracted, shall not be discharged from professionally supervised care unless the patient meets the discharge criteria described in either the Aldrete Scale or the White Scale. Until the patient is discharged, at least one staff person who holds a current certification in advanced cardiac life support shall be present at the facility.

(B) The patient shall only be discharged to a responsible adult capable of understanding postoperative instructions." (Cal. Code Regs., tit. 16, § 1356.6.)

20. Respondent violated the provisions of the 16 California Code of Regulations Section 1356.6 subdivision (b), as neither he nor his "nurse" were certified in Advanced Cardiac Life Support. Respondent performed liposuction in his office and there was no ongoing monitoring of patient H.L.'s blood pressure and oxygen saturations. His record keeping was poor to non-existent; he did not appropriately monitor and record vital signs every fifteen minutes and he failed to note vital signs and intake and output on a separate document. The untrained personnel present and providing post-operative care to patient H.L. did not meet the provisions of the California Code of Regulations.

Inappropriate Pre-Operative Evaluation

21. Elective cosmetic surgery, as with any surgical procedure in a patient over 50 years of age, requires a pre-operative evaluation.

22. Per patient H.L.'s chart, she had pre-existing hypertension with no recorded medical therapy as well as a new diagnosis of diabetes, given her preoperative blood glucose recording of 162. Her blood pressure on the morning of surgery was 160/95. Despite this clinical picture, her surgical procedure was commenced. Respondent failed to cancel the elective surgical procedure and work up and medically treat the patient's new diagnosis of diabetes. He failed to determine the reason that her diastolic blood pressure was well over 90 and manage her hypertension. He also failed to obtain a surgical clearance from the patient's primary care physician to ensure that H.L. was sufficiently stable to undergo a surgical procedure. Respondent's failure to perform a complete and proper pre-operative evaluation on H.L., control her pre-existing and newly diagnosed health conditions, and obtain a surgical clearance from her physician is an extreme departure from the standard of care.

Qualifications of Staff

23. When an invasive procedure is performed, the standard of care requires the presence of qualified staff to: assist with the procedure; perform intra-operative monitoring of the patient; assist with any complications that might arise; and to perform post-operative monitoring of the patient. Respondent did not have qualified staff on the premises to perform any of these described functions.

24. The only staff present during patient H.L.'s procedure was Respondent's "nurse", Ms. Lee. Ms. Lee was unlicensed in the state of California and lacked advanced cardiac life support certification. Respondent had Ms. Lee serve as a nurse anesthetist. She provided medications to H.L. during surgery. She was also charged with monitoring the patient's vital signs.

25. Ms. Lee also served as the recovery room nurse following H.L.'s surgery.

26. Respondent allowed Ms. Lee to perform these duties despite the fact that she lacked the requisite training of a nurse and a nurse anesthetist or patient monitor. The patient's vital signs were not appropriately monitored every five minutes or even every fifteen minutes. The patient's

fluid intake and output were not accurately monitored. No competent physician or surgeon would perform any type of procedure without the assistance of appropriately trained staff.

Inadequate Equipment

27. When performing out-patient liposuction procedures, the standard of care requires that the appropriate equipment be on hand for patient monitoring and for potential emergencies.

28. Respondent, however, did not have any equipment to properly monitor the patient. Respondent did not have a pulse oximeter to measure if the patient was receiving proper oxygenation. Respondent did not have an automatic blood pressure cuff which would provide a constant read-out of the patient's blood pressure. This would be extremely useful during tumescent liposuction when the patient's fluid balance is in constant flux. Most importantly, Respondent did not have a "crash cart." He did not maintain equipment to start an intravenous line or keep emergency life-saving medications on his premises.

29. Respondent's treatment of H.L. as set forth above in paragraphs 7 through 28 includes the following acts and/or omissions which constitute extreme departures from the standard of practice:

A. Respondent's failure to comply with the provisions of 16 California Code of Regulations Section 1356.6.

B. Respondent's failure to have qualified staff to assist with the surgical procedures he performed on H.L.

C. Respondent's failure to have qualified staff to perform intra-operative monitoring of H.L.

D. Respondent's failure to have qualified staff to assist with complications that might arise during the surgical procedures he performed on patient H.L.

E. Respondent's failure to have qualified staff to assist with post-operative monitoring of patient H.L.

F. Respondent's failure to have the appropriate equipment for intra-operative monitoring of H.L. and his failure to continuously monitor patient H.L., while she was intravenously sedated.

G. Respondent's failure to have life-saving emergency equipment available during the procedures he performed on patient H.L.

H. Respondent delayed in diagnosing the patient post-operatively. He failed to recognize that the patient's post-operative presentation was inconsistent with the procedure performed the day before, that she was hypotensive, and that she was rapidly declining and required transfer to the hospital by ambulance.

30. Respondent's acts and/or omissions as set forth in paragraphs 7 through 28, inclusive, above, whether proven individually, jointly, or in any combination thereof, constitute gross negligence pursuant to section 2234 subdivision (b) of the Code. Therefore, cause for discipline exists.

SECOND CAUSE FOR DISCIPLINE

(Repeated Negligent Acts)

31. Respondent is subject to disciplinary action under section 2234, subdivision (c) of the Code in that his care and treatment of patient H.L. constitutes repeated negligent acts. The circumstances are as follows:

32. The allegations of the First Cause for Discipline are incorporated herein by reference as if fully set forth.

33. Respondent's acts and/or omissions as set forth in paragraphs 7-29, inclusive, above, whether proven individually, jointly, or in any combination thereof, constitute repeated negligent acts pursuant to section 2234 subdivision (c) of the Code. Therefore, cause for discipline exists.

THIRD CAUSE FOR DISCIPLINE

(Aiding and Abetting and Unlicensed Person)

34. Respondent is subject to disciplinary action under section 2264 of the Code in that he aided and abetted the unlicensed practice of medicine. The circumstances are as follows:

35. The allegations in the First Cause for Discipline are incorporated herein by reference as if fully set forth.

36. As specifically set forth in paragraphs 7 and 8, Respondent allowed an unlicensed person, Ms. Lee to practice medicine without a license, in that she was allowed to provide patient H.L. with intravenous medications and injectables.

FOURTH CAUSE FOR DISCIPLINE

(Failure to Maintain Adequate Records)

37. Respondent is subject to disciplinary action under section 2266 of the Code in that Respondent failed to maintain adequate records of his care and treatment of patient H.L. The circumstances are as follows:

38. The allegations set forth in the First Cause for Discipline are incorporated by reference.

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 A54943, issued to Edwin Hyun-Kyu Choi, M.D.;

2. Revoking, suspending or denying approval of Edwin Hyun-Kyu Choi, M.D.'s authority to supervise physician assistants, pursuant to section 3527 of the Code;

3. Ordering Edwin Hyun-Kyu Choi, 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: October 19, 2015

KIMBERLY KIRCHMEYER
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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