

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

In the Matter of the Accusation and)	
Petition to Revoke Probation Against:)	
)	
)	
JOSEPH LING-HANG CHAN, M.D.)	Case No. 8002015013235
)	
Physician's and Surgeon's)	
Certificate No. G50691)	
)	
Respondent)	
_____)	

DECISION

The attached Stipulated Surrender of License and 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 September 11, 2015

IT IS SO ORDERED September 4, 2015.

MEDICAL BOARD OF CALIFORNIA

By: _____

Kimberly Kirchmeyer
**Kimberly Kirchmeyer
Executive Director**

1 KAMALA D. HARRIS
Attorney General of California
2 JANE ZACK SIMON
Supervising Deputy Attorney General
3 GREG W. CHAMBERS
Deputy Attorney General
4 State Bar No. 237509
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 703-5723
6 Facsimile: (415) 703-5480
Attorneys for Complainant
7

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

10 In the Matter of the Interim Suspension Order
11 Against:

Case No. 800-2015-013235

12 **JOSEPH CHAN, M.D.**
13 **P.O. Box 24381**
14 **Oakland, CA 94623**

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

15 **Physician's and Surgeon's Certificate No.**
G50691

16 Respondent.
17

18 In the interest of a prompt and speedy settlement of this matter, consistent with the public
19 interest and the responsibility of the Medical Board of California of the Department of Consumer
20 Affairs, the parties hereby agree to the following Stipulated Surrender and Disciplinary Order
21 which will be submitted to the Board for approval and adoption as the final disposition of the
22 Interim Suspension Order.

23 PARTIES
24

25 1. Kimberly Kirchmeyer ("Complainant") is the Executive Director of the Medical
26 Board of California. She brought this action solely in her official capacity and is represented in
27 this matter by Kamala D. Harris, Attorney General of the State of California, by Greg W.
28 Chambers, Deputy Attorney General.

1 2. Joseph Chan, M.D. (“Respondent”) is represented in this proceeding by attorney
2 Constance A. Endelicato, Esq., whose address is Wood, Smith, Henning & Berman LLP, 10960
3 Wilshire Boulevard, 18th Floor, Los Angeles, CA 90024-3804..

4 3. On or about July 18, 1983, the Medical Board of California issued Physician's and
5 Surgeon's Certificate No. G50691 to Respondent. On January 12, 2009, the license was revoked,
6 stayed, and Respondent was placed on seven (7) years probation. On January 18, 2012, the
7 license was again revoked, stayed, and Respondent was placed on two more years of probation.

8 JURISDICTION

9 4. On May 22, 2015, Stipulation and Order Re Interim Order of Suspension Pursuant to
10 Government Code section 11529 (“Stipulation and Order”) No. 800-2015-013235 was filed
11 before the Medical Board of California (“Board”), Department of Consumer Affairs, and is
12 currently pending against Respondent. A copy of Stipulation and Order No. 800-2015-013235 is
13 attached as Exhibit A and incorporated by reference.

14 ADVISEMENT AND WAIVERS

15 5. Respondent has carefully read, fully discussed with counsel, and understands the
16 charges and allegations in Stipulation and Order No. 800-2015-013235. Respondent also has
17 carefully read, fully discussed with counsel, and understands the effects of this Stipulated
18 Surrender of License and Order.

19 6. Respondent is fully aware of his legal rights in this matter, including the right to a
20 hearing on the charges and allegations in the Stipulation and Order; the right to be represented by
21 counsel, at his own expense; the right to confront and cross-examine the witnesses against him;
22 the right to present evidence and to testify on his own behalf; the right to the issuance of
23 subpoenas to compel the attendance of witnesses and the production of documents; the right to
24 reconsideration and court review of an adverse decision; and all other rights accorded by the
25 California Administrative Procedure Act and other applicable laws.

26 7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
27 every right set forth above.
28

1 CULPABILITY

2 8. Respondent understands that by signing this stipulation he enables the Board to issue
3 an order accepting the surrender of his Physician's and Surgeon's Certificate No. G50691 without
4 further process.

5 CONTINGENCY

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

16 10. The parties understand and agree that Portable Document Format ("PDF") and
17 facsimile copies of this Stipulated Surrender of License and Order, PDF and facsimile signatures
18 thereto, shall have the same force and effect as the originals.

19 11. In consideration of the foregoing admissions and stipulations, the parties agree that
20 the Board may, without further notice or formal proceeding, issue and enter the following Order:

21 ORDER

22 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. G50691, issued
23 to Respondent, is surrendered and accepted by the Medical Board of California.

24 1. Respondent shall lose all rights and privileges as a physician in California as of the
25 effective date of the Board's Decision and Order.

26 2. Respondent shall cause to be delivered to the Board his pocket license and, if one was
27 issued, his wall certificate on or before the effective date of the Decision and Order.

28

1 3. If Respondent ever applies for licensure or petitions for reinstatement in the State of
 2 California, the Board shall treat it as a petition for reinstatement. Respondent must comply with
 3 all the laws, regulations and procedures for licensure in effect at the time the application or
 4 petition is filed, and all of the charges and allegations contained in Stipulation and Order No. 800-
 5 2015-013235 shall be deemed to be true, correct and admitted by Respondent when the Board
 6 determines whether to grant or deny the application or petition.

7 ACCEPTANCE

8 I have carefully read the above Stipulated Surrender of License and Order and have fully
 9 discussed it with my attorney, Constance A. Endelicato, Esq. I understand the stipulation and the
 10 effect it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated
 11 Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound
 12 by the Decision and Order of the Medical Board of California.

13
 14 DATED: 6/22/15 Joseph Chan MD

15 JOSEPH CHAN, M.D.
 16 Respondent



17 I concur with this stipulated surrender.

18
 19 DATED: June 25, 2015 Michelle Bortz for
 20 CONSTANCE A. ENDELICATO, ESQ.
 21 Attorney for Respondent

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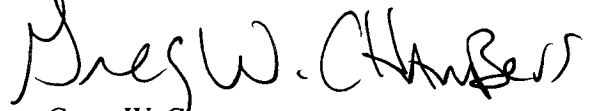
ENDORSEMENT

The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted for consideration by the Medical Board of California of the Department of Consumer Affairs.

Dated: 6/24/2015

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
JANE ZACK SIMON
Supervising Deputy Attorney General



GREG W. CHAMBERS
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

**Stipulation and Order Re Interim Order of Suspension Pursuant to Government Code
section 11529, Case No. 800-2015-013235**

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KAMALA D. HARRIS
Attorney General of California
JANE ZACK SIMON
Supervising Deputy Attorney General
GREG W. CHAMBERS
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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 Interim Suspension Order
Against:
JOSEPH CHAN, M.D.
P.O. Box 24381
Oakland, CA 94623

Physician's and Surgeon's Certificate No.
G50691

Respondent.

Case No. 800-2015-013235
OAH No. 2015050231

**STIPULATION AND ORDER RE
INTERIM ORDER OF SUSPENSION
PURSUANT TO GOVERNMENT CODE
SECTION 11529**

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

1. Petitioner Kimberley Kirchmeyer ("Petitioner") is the Executive Director of the Medical Board, Department of Consumer Affairs, State of California. She brought this action solely in her official capacity and is represented in this matter by her attorney, Kamala D. Harris, Attorney General of the State of California, by Greg W. Chambers, Deputy Attorney General.
2. Joseph Chan, M.D. ("Respondent") was issued Physician and Surgeon's Certificate No. G50691 by the Medical Board on July 18, 1983. Respondent is represented by Constance A. Endelicato, 10960 Wilshire Boulevard, 18th Floor, Los Angeles, CA 90024-3804.

///

1 3. The parties to the above-entitled matter have reached an agreement as to the
2 interim status of Respondent's medical license. Respondent willingly enters into this Stipulation
3 with full understanding of its terms and restrictions.

4 4. Respondent is aware of his rights under California Government Code section
5 11529 to a noticed hearing on a petition for an interim order of suspension, which include the
6 right to be represented by counsel at his own expense; to have a record made of the proceedings;
7 to present affidavits and other documentary evidence; and to present oral argument. Respondent
8 hereby knowingly and voluntarily waives each of the rights set forth above.

9 5. Respondent Joseph Chan, M.D. hereby stipulates and agrees that his license is
10 suspended. The suspension shall remain in force and effect until such time as the Board shall
11 have issued and adopted a final decision in the administrative proceeding to be filed against
12 Respondent's medical license.

13 6. Respondent further knowingly and voluntarily waives his right under Government
14 Code section 11529 to have an Accusation filed within 15 days of the issuance of an interim order
15 of suspension and to have a formal hearing, as described in Government Code 11500 *et seq.*, on
16 the allegations of the Accusation within 30 days of the filing of the Accusation.

17 7. Respondent stipulates and agrees that at a hearing on the Petition, if contested,
18 complainant could establish a factual basis for the issuance of an Interim Order of Suspension.
19 Respondent therefore stipulates and agrees that the Medical Quality Hearing Panel of the Office
20 of Administrative Hearings has jurisdiction and without further proceedings may issue an interim
21 order prohibiting Joseph Chan, M.D., Physician and Surgeon's Certificate No. G50691, from
22 practicing medicine.

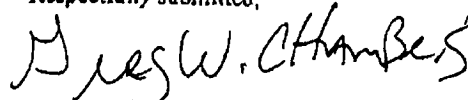
23 8. During the period of suspension, Respondent is prohibited from practicing or
24 attempting to practice as a physician and surgeon in California; possessing, prescribing,
25 dispensing, furnishing, administering or otherwise distributing any controlled substance or any
26 dangerous drug in California; possessing or holding his California physician's and surgeon's wall
27 and wallet certificates, any and all prescription blanks, and is further required to surrender any of
28 said documents which are in his possession or under his control to the Board pending further

1 order in this matter.

2 9. It is agreed that a facsimile or electronic copies of signatures to this Stipulation
3 shall be binding as originals, and that this Stipulation may be signed in counterpart.
4

5
6 Dated: May 20, 2015

Respectfully submitted,



KAMALA D. HARRIS
Attorney General of California
JOSE R. QUERRERO
Supervising Deputy Attorney General

GREG W. CHAMBERS
Deputy Attorney General
Attorneys for Petitioner

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14 I have carefully read the above Stipulation Re Interim Order of Suspension and have fully
15 discussed the terms and Implications of this Stipulation with my attorney, Constance A.
16 Endelicato. Pursuant to the terms of the Stipulation, I agree to the entry of an Interim Order of
17 Suspension under Government Code section 11529. I understand the effect this Stipulation will
18 have on my Physician and Surgeon's Certificate.

19 Dated: May 20, 2015



20
21 JOSEPH CHAN, M.D.



22
23 I have read and fully discussed the terms of this Stipulation with my client, Joseph Chan,
24 M.D. I approve the form and content of this Stipulation.

25 Dated: May 20, 2015



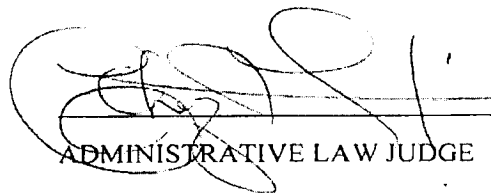
26
27 CONSTANCE A. ENDELICATO, Esq.
28

ORDER

Pursuant to the foregoing Stipulation, and good cause appearing, it is hereby ordered that Physician & Surgeon's Certificate G50691 issued to Joseph Chan, M.D. is immediately SUSPENDED. Respondent Joseph Chan, M.D. shall be and hereby is immediately restrained and prohibited from practicing or attempting to practice as a physician and surgeon in California pending a final decision and order by the Medical Board of California. Respondent shall be and hereby is immediately restrained and prohibited from: practicing or attempting to practice as a physician and surgeon in California; possessing, prescribing, dispensing, furnishing, administering or otherwise distributing any controlled substance or any dangerous drug in California; possessing or holding his California physician's and surgeon's wall and wallet certificates, possessing any and all prescription blanks. IT IS FURTHER ORDERED that Respondent shall, upon demand, turn over to the Medical Board all prescription pads and prescription blanks in his possession or under his custody or control.

This Order shall be deemed served upon Respondent upon service by FAX or via overnight delivery to his attorney, Constance A. Endelicato. The Order shall also be served by regular mail upon respondent at his address of record with the Medical Board.

IT IS SO ORDERED this 22nd day of May 2015.


ADMINISTRATIVE LAW JUDGE

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1 KAMALA D. HARRIS
Attorney General of California
2 JANE ZACK SIMON
Supervising Deputy Attorney General
3 GREG W. CHAMBERS
Deputy Attorney General
4 State Bar No. 237509
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Attorneys for Complainant
7

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO Aug 19 20 15
BY [Signature] ANALYST

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

12 In the Matter of the Accusation and Petition to
13 Revoke Probation Against:

Case No. 800-2015-013235

14 **JOSEPH CHAN, M.D.**
15 P.O. Box 24381
16 Oakland, CA 94623

**ACCUSATION AND PETITION TO
REVOKE PROBATION**

17 Physician's and Surgeon's Certificate No.
18 G50691

Respondent.

19 Complainant alleges:

PARTIES

20 1. Kimberly Kirchmeyer ("Complainant") brings this Accusation and Petition to Revoke
21 Probation solely in her official capacity as the Executive Director of the Medical Board of
22 California, Department of Consumer Affairs ("Board").

23 2. On or about July 18, 1983, the Medical Board issued Physician's and Surgeon's
24 Certificate No. G50691 to Joseph Chan, M.D. ("Respondent"). The certificate expired on June
25 30, 2015.

26 3. In a disciplinary action entitled "*In the Matter of Accusation/Petition to Revoke*
27 *Probation Against Joseph Ling-Hang Chan, M.D.*," Case No. D1-2006-174722, the Board issued
28 a decision, effective January 18, 2012, in which Respondent's Physician's and Surgeon's

1 certificate was revoked. However, the revocation was stayed and Respondent's Physician's and
2 Surgeon's certificate, Number G50691, was placed on probation for a period of seven (7) years
3 with certain terms and conditions. A copy of that decision is attached as Exhibit A and is
4 incorporated by reference.

5 4. On or about June 22, 2015, Respondent signed a Stipulated Surrender of License and
6 Order. A copy of that stipulation is attached as Exhibit B and is incorporated by reference.

7 JURISDICTION

8 5. This Accusation and Petition to Revoke Probation is brought before the Board, under
9 the authority of the following laws. All section references are to the Business and Professions
10 Code ("Code") unless otherwise indicated.

11 6. Section 2227 of the Business and Professions Code authorizes the Board to take
12 action against a licensee by revoking, suspending for a period not to exceed one year, placing the
13 license on probation and requiring payment of costs of probation monitoring, or taking such other
14 action taken as the Board deems proper.

15 7. Section 822 provides that if a licensing agency determines that a licensee's ability to
16 practice his or her profession safely is impaired because of mental or physical illness affecting
17 competency, the licensing agency may take action by revoking the licensee's certificate or license,
18 suspending the licensee's right to practice, placing the licensee on probation or taking such other
19 action in relation to the licensee as the licensing agency in its discretion deems proper.

20 FACTS

21 8. On or about January 12, 2009, Respondent's license was revoked, but stayed, and
22 Respondent was placed on probation for seven (7) years following disciplinary action for multiple
23 causes, including gross negligence, incompetence, excessive prescribing, and failure to keep
24 adequate and accurate records. Respondent was placed on probation with a stipulation for
25 monitoring of his practice. He has been enrolled in the PACE Physician Enhancement Program
26 since January 2012.

27 9. In May 2014, chart reviews revealed concerns for patient safety and a lack of
28 improvement in Respondent's notes. The results of a site visit on November 25, 2014, by K. L.,

1 MD revealed concerns about record keeping, lack of communication with other medical staff, and
2 lack of ordering lab testing. During a PACE assessment, Respondent did not perform well on the
3 MicroCog cognitive screening, resulting in a referral for a neuropsychological Fitness for Duty
4 Evaluation.

5 10. On January 27, 2015 and again on March 12, 2015, Respondent underwent
6 neuropsychological examination. Respondent has been advised that his impairment is severe
7 enough that he should not practice medicine, and he retired from practice in or about June, 2015.

8 11. Respondent's license is subject to Board action pursuant to Sections 822 and 2227 of
9 the Code in that Respondent is impaired in his ability to safely practice medicine by virtue of
10 physical illness affecting competency.

11 **PRAYER**

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


14 1. Revoking the probation that was granted by the Medical Board of California in Case
15 No. D1-2006-174722 and imposing the disciplinary order that was stayed thereby revoking
16 Physician's and Surgeon's certificate No. G50691 issued to Respondent;

17 2. Revoking, suspending or denying approval of Respondent's authority to supervise
18 physician assistants, pursuant to section 3527 of the Code;

19 3. Ordering Respondent, if placed on probation, to pay the Board the costs of probation
20 monitoring; and

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

22
23 DATED: August 19, 2015


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

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EXHIBIT A

Decision and Order

Medical Board of California Case No. D1-2006-174722

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

In the Matter of the Accusation/Petition)
To Revoke Probation Against:)
)
)
Joseph Ling-Hang Chan, M.D.) Case No. D1-2006-174722
)
Physician's and Surgeon's)
Certificate No. G 50691)
)
Respondent)
_____)

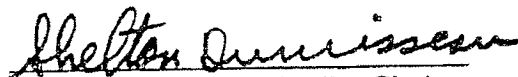
DECISION

The attached Proposed 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 January 18, 2012.

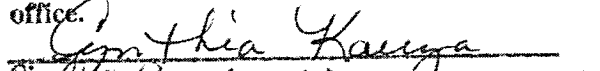
IT IS SO ORDERED: December 19, 2011.

MEDICAL BOARD OF CALIFORNIA


Shelton Duruisseau, Ph.D., Chair
Panel A

MEDICAL BOARD OF CALIFORNIA

I do hereby certify that this document is a true
and correct copy of the original on file in this
office.


Signature _____
Title Asst. Admin. & records
Date 4/20/2015

1 KAMALA D. HARRIS
Attorney General of California
2 JOSE R. GUERRERO
Supervising Deputy Attorney General
3 LAWRENCE MERCER (SBN 111898)
JANE ZACK SIMON (SBN 116564)
4 Deputy Attorneys General
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 703-5500
6 Facsimile: (415) 703-5480

7 *Attorneys for Petitioner/Complainant*

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

12 In the Matter of the Accusation/Petition to
13 Revoke Probation Against:

14 **JOSEPH LING-HANG CHAN, M.D.**
15 P.O. Box 24381
16 Oakland, CA 94623

17 Physician and Surgeon's Certificate No. G 50691

18 Respondent.

19 Case Nos. D1-2006-174722, 03-2008-193948
20 OAH No. 2011080680

21 **STIPULATED SETTLEMENT AND**
22 **DISCIPLINARY ORDER**

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

25 1. Linda K. Whitney is the Executive Director of the Medical Board of California. She
26 brought this disciplinary action solely in her official capacity and is represented by Kamala D.
27 Harris, Attorney General of the State of California, by Lawrence Mercer and Jane Zack Simon,
28 Deputy Attorneys General.

1. Joseph Ling-Hang Chan, M.D., is represented in this matter by Robert M. Slattery,
Esq. and McNamara, Ney, Beatty, Slattery, Borges & Brothers, LLP, 1211 Newell Avenue,
Walnut Creek, CA 94596.

3. On or about July 18, 1983, the Medical Board of California issued Physician's and
Surgeon's Certificate Number G50691 to Joseph Ling-Hang Chan, M.D. (respondent). Said
certificate was revoked, and the revocation stayed, and respondent was placed on seven years

1 probation, effective January 12, 2009. The Physician's and Surgeon's Certificate was in full force
2 and effect at all times relevant to the charges brought herein and will expire on June 30, 2013,
3 unless renewed.

4 JURISDICTION

5 4. Accusation and Petition to Revoke Probation No. D1-2006-174722 (hereinafter
6 "Petition") was duly filed and served on respondent on September 22, 2010. An Amended
7 Petition was filed and served on May 18, 2011. Respondent timely filed a Notice of Defense and
8 requested a hearing on the charges against him. A copy of the Petition is attached hereto as
9 Exhibit A and is incorporated herein by reference.

10 ADVISEMENT AND WAIVERS

11 5. Respondent has carefully read, fully discussed with his counsel and understands the
12 charges and allegations in the Petition. Respondent has also carefully read, fully discussed with
13 counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

14 6. Respondent is fully aware of his legal rights in this matter, including the right to a
15 hearing on the charges and allegations in the Petition; the right to be represented by counsel at his
16 own expense; the right to confront and cross-examine the witnesses against him; the right to
17 present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel
18 the attendance of witnesses and the production of documents; the right to reconsideration and
19 court review of an adverse decision; and all other rights accorded by the California
20 Administrative Procedure Act and other applicable laws.

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

23 CULPABILITY

24 8. Respondent does not contest that, at an administrative hearing, petitioner could
25 establish a *prima facie* case with respect to the charges and allegations set forth in the Petition and
26 that he has thereby subjected his license to disciplinary action.

27
28

1 9. Respondent agrees that his Physician's and Surgeon's Certificate is subject to
2 discipline and he agrees to be bound by the Board's imposition of discipline as set forth in the
3 Disciplinary Order below.

4 RESERVATION

5 10. The admissions made by respondent herein are only for the purposes of this
6 proceeding or any other proceedings in which the Medical Board of California or other
7 professional licensing agency in any state is involved, and shall not be admissible in any other
8 criminal or civil proceedings.

9 CONTINGENCY

10 11. This Stipulation shall be subject to the approval of the Board.
11 Respondent understands and agrees that Board staff and counsel for complainant may
12 communicate directly with the Board regarding this stipulation, without notice to or participation
13 by respondent or his counsel. If the Board fails to adopt this Stipulation as its Order in this
14 matter, the Stipulation shall be of no force or effect; it shall be inadmissible in any legal action
15 between the parties; and the Board shall not be disqualified from further action in this matter by
16 virtue of its consideration of this Stipulation. Respondent also understands and agrees that he will
17 not be able to withdraw or modify this Stipulation while it is before the Board for consideration.

18 12. The parties understand and agree that facsimile copies of this Stipulated Settlement
19 and Disciplinary Order, including facsimile signatures thereto, shall have the same force and
20 effect as the originals.

21 13. In consideration of the foregoing admissions and stipulations, the parties agree that
22 the Board may, without further notice or formal proceeding, issue and enter the following
23 Disciplinary Order:

24 DISCIPLINARY ORDER

25 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. G50691 is
26 revoked and, further, that the probation that was imposed in Medical Board Case No. 03-2006-
27 174722 is also revoked. However, the revocations are stayed and respondent's seven year
28

1 probation, which became effective January 12, 2009, is hereby extended for an additional two
2 years on the following terms and conditions:

3 1. PRACTICE MONITOR/PROFESSIONAL ENHANCEMENT PROGRAM Within
4 30 days of the effective date of this Decision, respondent shall enroll in the Professional
5 Enhancement Program (PEP) that is offered by the Physician Assessment and Clinical Education
6 Program at the University of California, San Diego School of Medicine, that includes, at
7 minimum, quarterly chart review, semi-annual practice assessment, and semi-annual review of
8 professional growth and education. Respondent shall participate in the professional enhancement
9 program at respondent's expense during the term of probation. Respondent shall participate in
10 the PEP Program for a minimum of three years from the effective date of the Decision.

11 Thereafter, with the written recommendation of the PEP Program and the approval of the Board
12 or its designee, respondent may submit for the prior approval of the Board or its designee the
13 name and qualifications of a licensed physician whose license is valid and in good standing and
14 who is preferably Board Certified in respondent's specialty. The monitor shall have no prior or
15 current business or personal relationship with respondent or other relationship that could
16 reasonably be expected to compromise the ability of the monitor to render fair and unbiased
17 reports to the Board, including but not limited to any form of bartering, and must agree to serve as
18 respondent's monitor. Respondent shall pay all monitoring costs. The Board or its designee shall
19 provide the approved monitor with copies of the Decision and the Petition, and a proposed
20 monitoring plan. Within 15 calendar days of receipt of the monitoring plan, the monitor shall
21 submit a signed statement that the monitor has read the Decision and Petition, fully understands
22 the role of a monitor, and agrees or disagrees with the proposed monitoring plan. If the monitor
23 disagrees with the proposed monitoring plan, the monitor shall submit a revised monitoring plan
24 with the signed statement.

25 The monitor shall submit a quarterly written report to the Board or its designee which
26 includes an evaluation of respondent's performance, indicating whether respondent's practices are
27 within the standards of practice of medicine, and whether respondent is practicing medicine
28 safely. It shall be the sole responsibility of respondent to ensure that the monitor submits the

1 quarterly written reports to the Board of its designee within 10 calendar days after the end of the
2 preceding quarter.

3 If the monitor resigns or is no longer available, respondent shall, within 5 calendar days of
4 such resignation or unavailability, submit to the Board or its designee, for prior approval, the
5 name and qualifications of a replacement monitor who will be assuming that responsibility within
6 15 calendar days. If respondent fails to obtain approval of a replacement monitor within 60 days
7 of the resignation or unavailability of the monitor, respondent shall be suspended from the
8 practice of medicine until a replacement monitor is approved and prepared to assume immediate
9 monitoring responsibility. Respondent shall cease the practice of medicine within 3 calendar
10 days after being so notified by the Board or its designee.

11 Failure to maintain all records, or to make all appropriate records available for immediate
12 inspection and copying on the premises, or to comply with this condition as outlined above is a
13 violation of probation.

14 2. NOTIFICATION Prior to engaging in the practice of medicine, the respondent shall
15 provide a true copy of the Decision and Petition to the Chief of Staff or the Chief Executive
16 Officer at every hospital where privileges or membership are extended to respondent, at any other
17 facility where respondent engages in the practice of medicine, including all physician and locum
18 tenens registries or other similar agencies, and to the Chief Executive Officer at every insurance
19 carrier which extends malpractice insurance coverage to respondent. Respondent shall submit
20 proof of compliance to the Board or its designee within 15 calendar days.

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

22 3. SUPERVISION OF PHYSICIAN ASSISTANTS During probation, respondent is
23 prohibited from supervising physician assistants.

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

27 5. QUARTERLY DECLARATIONS Respondent shall submit quarterly declarations
28 under penalty of perjury on forms provided by the Board, stating whether there has been

1 compliance with all the conditions of probation. Respondent shall submit quarterly declarations
2 not later than 10 calendar days after the end of the preceding quarter.

3 6. PROBATION UNIT COMPLIANCE Respondent shall comply and cooperate with
4 the Board's probation unit. Respondent shall, at all times, keep the Board informed of
5 respondent's business and residence addresses. Changes of such addresses shall be immediately
6 communicated in writing to the Board or its designee. Under no circumstances shall a post office
7 box serve as an address of record, except as allowed by Business and Professions Code section
8 2021(b).

9 Respondent shall not engage in the practice of medicine in respondent's place of residence.
10 Respondent shall maintain a current and renewed California physician's and surgeon's license.

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

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

18 8. RESIDING OR PRACTICING OUT OF STATE In the event respondent should
19 leave the State of California to reside or to practice, respondent shall notify the Board or its
20 designee in writing 30 calendar days prior to the dates of departure and return. Non-practice is
21 defined as any period of time exceeding 30 calendar days in which respondent is not engaging in
22 any activities defined in Sections 2051 and 2052 of the Business and Professions Code.

23 All time spent in an intensive training program outside the State of California which has
24 been approved by the Board or its designee shall be considered as time spent in the practice of
25 medicine within the State. A Board-ordered suspension of practice shall not be considered as a
26 period of non-practice. Periods of temporary or permanent residence or practice outside
27 California will not apply to the reduction of the probationary term. Periods of temporary or
28 permanent residence or practice outside California will relieve respondent of the responsibility to

1 comply with the probationary terms and conditions with the exception of this condition and the
2 following terms and conditions of probation: Obey All Laws; Probation Unit Compliance; and
3 Cost Recovery.

4 Respondent's license shall be automatically canceled if respondent's periods of temporary
5 or permanent residence or practice outside California total two years. However, respondent's
6 license shall not be canceled as long as respondent is residing and practicing medicine in another
7 state of the United States and is on active probation with the medical licensing authority of that
8 state, in which case the two year period shall begin on the date probation is completed or
9 terminated in that state.

10 9. FAILURE TO PRACTICE MEDICINE -- CALIFORNIA RESIDENT In the event
11 respondent resides in the State of California and for any reason respondent stops practicing
12 medicine in California, respondent shall notify the Board or its designee in writing within 30
13 calendar days prior to the dates of non-practice and return to practice. Any period of non-practice
14 within California, as defined in this condition, will not apply to the reduction of the probationary
15 term and does not relieve respondent of the responsibility to comply with the terms and
16 conditions of probation. Non-practice is defined as any period of time exceeding 30 calendar
17 days in which respondent is not engaging in any activities defined in sections 2051 and 2052 of
18 the Business and Professions Code.

19 All time spent in an intensive training program which has been approved by the Board or its
20 designee shall be considered time spent in the practice of medicine. For purposes of this
21 condition, non-practice due to a Board-ordered suspension or in compliance with any other
22 condition of probation, shall not be considered a period of non-practice.

23 Respondent's license shall be automatically cancelled if respondent resides in California
24 and for a total of two years, fails to engage in California in any of the activities described in
25 Business and Professions Code sections 2051 and 2052.

26 10. COMPLETION OF PROBATION Respondent shall comply with all financial
27 obligations (e.g., cost recovery, restitution, probation costs) not later than 120 calendar days prior
28

1 to the completion of probation. Upon successful completion of probation, respondent's certificate
2 shall be fully restored.

3 11. 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 an Accusation, Petition to Revoke Probation,
7 or an Interim Suspension Order is filed against respondent during probation, the Board shall have
8 continuing jurisdiction until the matter is final, and the period of probation shall be extended until
9 the matter is final.

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

21 13. PROBATION MONITORING COSTS Respondent shall pay the costs associated
22 with probation monitoring each and every year of probation, as designated by the Board, which
23 are currently set at \$3,999.00, but may be adjusted on an annual basis. Such costs shall be
24 payable to the Medical Board of California and delivered to the Board or its designee no later
25 than January 31 of each calendar year. Failure to pay costs within 30 calendar days of the due
26 date is a violation of probation.

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ENDORSEMENT

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

DATED: ~~Oct~~ November 4, 2011

KAMALA HARRIS, Attorney General
of the State of California
JOSE R. GUERRERO
Supervising Deputy Attorney General



LAWRENCE MERCER
JANE ZACK SIMON
Deputy Attorneys General

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FIRST AMENDED ACCUSATION/PETITION TO REVOKE PROBATION

D1-2006-174722

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO MAY 18 2011
BY: K. MONTAUSO ANALYST

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

10 In the Matter of the First Amended Accusation
11 and Petition to Revoke Probation Against:
12 **JOSEPH LING-HANG CHAN, M.D.**
13 P.O. Box 24381
Oakland, CA 94623
14
15 Physician's and Surgeon's Certificate
No. G50691

Case No. D1-2006-174722, 03-2008-193948

**FIRST AMENDED ACCUSATION AND
PETITION TO REVOKE PROBATION**

MEDICAL BOARD OF CALIFORNIA

I do hereby certify that this document is a true
and correct copy of the original on file in this
office.

Conthia Kanya
Signature
File Custodian & records
Title
4/20/2015
Date

Respondent.

Complainant alleges:

PARTIES

19 1. Linda K. Whitney (Complainant) brings this First Amended Accusation and
20 Petition to Revoke Probation (Accusation) solely in her official capacity as the Executive Director
21 of the Medical Board of California, Department of Consumer Affairs.

22 2. On or about July 18, 1983, the Medical Board of California issued Physician's and
23 Surgeon's Certificate Number G50691 to Joseph Ling-Hang Chan, M.D. (Respondent). Said
24 certificate was revoked, with the revocation stayed, suspended for 30 days, and placed on
25 probation (with terms and conditions as set forth below) for seven years, effective January 12,
26 2009. Unless renewed, the certificate will expire on June 30, 2013.

1 JURISDICTION

2 3. This First Amended Accusation is brought before the Medical Board of California
3 (Board¹) under the authority of the following laws. All section references are to the Business and
4 Professions Code unless otherwise indicated.

5 4. Section 2004 of the Code provides, pertinent part, that the Medical Board shall
6 have responsibility for:

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

9 (b) The administration and hearing of disciplinary actions.

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

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

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

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

20 6. Section 2228 of the Code provides that a probation imposed by the Board may
21 include, but is not limited to the following:

22 “(a) Requiring the licensee to obtain additional professional training and to pass
23 an examination upon the completion of training. The examination may be written or oral, or both,
24 and may be a practical or clinical examination, or both, at the option of the board or the
25 administrative law judge.”

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27 ¹ As used herein, the term “board” means the Medical Board of California. As used
28 herein, “Division of Medical Quality” shall also be deemed to refer to the board.

1 “(b) Requiring the licensee to submit to a complete diagnostic examination by one
2 or more physicians and surgeons appointed by the board. If an examination is ordered, the board
3 shall receive and consider any other report of a complete diagnostic examination given by one or
4 more physicians and surgeons of the licensee’s choice.”

5 “(c) Restricting or limiting the extend, scope, or type of practice of the licensee,
6 including requiring notice to applicable patients that the licenee is unable to perform the indicated
7 treatment, where appropriate.”

8 7. Section 2234 of the Code provides:

9 “The Division of Medical Quality shall take action against any licensee who is
10 charged with unprofessional conduct. In addition to other provisions of this article,
11 unprofessional conduct includes, but is not limited to, the following:

12 “(a) Violating or attempting to violate, directly or indirectly, assisting in or
13 abetting the violation of, or conspiring to violate any provision of this chapter [Chapter 5, the
14 Medical Practice Act].

15 “(b) Gross negligence.

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

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

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

26 “(d) Incompetence.

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

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

8. Section 725 of the Code provides, in pertinent part:

“(a) Repeated acts of clearly excessive prescribing, furnishing, dispensing or administering of drugs or treatment . . . is unprofessional conduct for a physician and surgeon”

9. Section 810 of the Code provides, in pertinent part:

“(a) It shall constitute unprofessional conduct and grounds for disciplinary action, including suspension or revocation of a license or certificate, for a health care professional to do any of the following in connection with his professional activities:

“(1) Knowingly present or cause to be presented any false or fraudulent claim for the payment of a loss under a contract of insurance:

“(2) Knowingly prepare, make, or subscribe any writing, with intent to present or use the same, or to allow it to be presented or used in support of any false or fraudulent claim”

10. Section 2261 of the Code provides, in pertinent part, that it is unprofessional conduct for a physician to make statements which falsely represent the existence or non-existence of a state of facts directly or indirectly related to the practice of medicine.

11. Section 2266 of the Code provides:

“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.”

DRUGS

12. At all relevant times, respondent prescribed multiple, sedating psychiatric medications for his patients, including but not limited to the following:

A. **Abilify** (aripiprazole) is a psychotropic drug used in the treatment of schizophrenia. Abilify is a dangerous drug within the meaning of Business and Professions Code section 4022. Abilify is not approved for the treatment of patients with dementia-related psychosis and there is an increased risk of death in elderly patients with dementia-related psychosis.

1 B. **Ambien** (zolpidem) is a non-benzodiazepine hypnotic used for treatment of
2 insomnia. Ambien is a Schedule IV controlled substance and a dangerous drug within the
3 meaning of Business and Professions Code section 4022. Downward dosage adjustment may be
4 necessary when Ambien is administered with agents having known CNS-depressant effects
5 because of the potentially additive effects. Elderly or debilitated patients may be especially
6 sensitive to the effects of this drug.

7 C. **Benzotropine** (which is marketed under the trade name Cogentin) is
8 indicated for use in the treatment of Parkinsonism and in the control of extrapyramidal disorders.
9 Benzotropine is a dangerous drug within the meaning of Business and Professions Code section
10 4022. Use of this drug in patients with mental disorders may intensify mental symptoms and
11 patients should be kept under careful observation, especially at the beginning of treatment or if
12 dosage is increased.

13 D. **Dalmane** (flurazepam) is a hypnotic agent used for the control of
14 insomnia. Dalmane is a Schedule IV controlled substance and is a dangerous drug within the
15 meaning of Business and Professions Code section 4022.

16 E. **Depakote** (divalproex) is indicated for the treatment of mania and manic
17 episodes associated with Bipolar Disorder. Depakote is a dangerous drug within the meaning of
18 Business and Professions Code section 4022. Administration of Depakote increases the risk for
19 liver failure and death and liver function tests should be performed prior to beginning therapy and
20 at frequent intervals thereafter, especially in the first six months.

21 F. **Lithium** (which is also marketed under the trade name Eskalith) is
22 indicated for the treatment of manic episodes of manic-depressive illness. Lithium is a dangerous
23 drug within the meaning of Business and Professions Code section 4022. Lithium toxicity is
24 closely related to serum lithium levels and frequent testing to measure serum levels is required in
25 the acute phase and until the serum level and the clinical condition of the patient have been
26 stabilized.

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1 G. **Risperdal** (risperidone) is an anti-psychotic agent indicated for the acute
2 maintenance and treatment of schizophrenia. Risperdal is a dangerous drug within the meaning
3 of Business and Professions Code section 4022. It is not approved for use in elderly patients with
4 dementia-related psychosis and there is an increased risk of death in such patients with its use. It
5 is recommended that the dose be reduced in patients who are elderly or debilitated. Elderly or
6 debilitated patients, and patients with renal impairment, may have less ability to eliminate
7 Risperdal than normal patients. Elderly patients and patients with a predisposition to hypotensive
8 reactions or for whom such reactions would pose a particular risk likewise need to be titrated
9 cautiously and carefully monitored.

10 H. **Seroquel** (quetiapine fumarate) is an anti-psychotic drug belonging to a
11 chemical class of dibenzothiazepine derivatives. Seroquel is a dangerous drug within the
12 meaning of Business and Professions Code section 4022. Seroquel is associated with increased
13 risk of mortality in elderly patients with dementia-related psychosis and may induce orthostatic
14 hypotension in patients with known cardiovascular disease, cerebrovascular disease and other
15 conditions predisposing them to orthostatic hypotension.

16 I. **Zyprexa** (olanzapine) is an anti-psychotic agent and is indicated for the
17 treatment of schizophrenia. Zyprexa is a dangerous drug within the meaning of Business and
18 Professions Code section 4022. Elderly patients with dementia-related psychosis that is treated
19 with atypical anti-psychotic drugs are at increased mortality risk. Elimination half-life of
20 Zyprexa is greater in the elderly and caution should be used in dosing the elderly, especially if
21 there are other factors that might additively influence drug metabolism and/or pharmacodynamic
22 sensitivity.

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1 FIRST CAUSE FOR DISCIPLINE

2 (Patient R.B.²)

3 (Gross Negligence/Repeated Negligent Acts/Incompetence/Excessive Prescribing)

4 13. Respondent is subject to disciplinary action under section 2234, including
5 subsections (b) and/or (c) and/or (d), and section 725 in that respondent was grossly negligent,
6 repeatedly negligent and/or incompetent and, further, that he excessively and inappropriately
7 prescribed, in his care and treatment of Patient R.B. The circumstances are as follows:

8 A. Beginning on or about February 12, 2007, Patient R.B., a 51 year old male
9 living in a Board and Care facility, came under respondent's care and treatment through Alameda
10 County Behavioral Health Care Services (ACBHCS).

11 B. Respondent gave R.B. a diagnosis of "Schizoaffective Disorder" on the
12 first visit, albeit his records contain no documentation of the DSM-IV criteria for that diagnosis.
13 Respondent's initial evaluation of the patient, which consisted largely of a one hour interview
14 with the patient, lacked essential components of a general psychiatric evaluation, such as a mental
15 status examination, a review of the patient's medical records or a physical examination. The data
16 that respondent did collect was neither sufficient to establish the nature of the patient's mental
17 disorder, nor to support a differential diagnosis and a comprehensive clinical formulation. A
18 sparse history and the patient's current list of medications were documented by respondent for the
19 apparent purpose of continuing the existing treatment, rather than to perform a reassessment of
20 Patient R.B. and -- based upon the data collected in the evaluation -- to arrive at a current
21 diagnosis and treatment plan. Respondent renewed the patient's medications, which included
22 three antipsychotic medications (Abilify, Risperdal and Seroquel) without a documented rationale
23 for the combination of multiple, sedating antipsychotic medications -- all directed to the same
24 neurotransmitter systems. In addition to Abilify (10 mg. 1 qhs), Risperdal (2 mg. 1 qam and 4
25 mg. 1 qhs), Seroquel (200 mg. hs), respondent renewed prescriptions for Lexapro (10 mg., 2
26 qam) and Benztropine (.5 mg. bid). For this regimen of sedating medications, respondent

27 _____
28 ² Patient names are abbreviated to protect privacy.

1 documented only a short and cryptic rationale (“Benefits: mood problems agitations and
2 insomnia controlled with medications; adequate benefits.”)

3 C. Respondent continued to treat Patient R.B. on a monthly basis. On April 3,
4 2007, respondent increased the patient’s Seroquel to 400 mg., 5hs, a dosage that is well above the
5 recommended maximum daily dosage when used alone and quite remarkably high when used in
6 combination with other antipsychotic medications. Despite the atypical and extremely high
7 dosage, respondent’s records contain no explanation beyond a repetition of the same rationale
8 (“Benefits: mood problems agitations and insomnia controlled with medications; adequate
9 benefits”). Respondent’s notes are also contradictory and inconsistent, for they state that
10 insomnia is “controlled with medications” and yet indicate that the amount of sedation is being
11 dramatically increased. In fact, on the same date respondent added Dalmane (15 mg. hs) to the
12 patient’s already intensely sedating regimen.

13 D. Respondent’s records for Patient R.B. are repetitive, on most dates simply
14 carrying forward the content of the previous notes without recording any change in the patient’s
15 condition, his response to treatment or the justification for the treatment plan. Respondent’s
16 records omit medications that the patient was taking, such as Lithium, and lack any coherent plan
17 for monitoring the effectiveness of the patient’s medications. His records relating to informed
18 consent to medication also omit medications that are documented in his notes. Respondent’s
19 records also do not contain any evidence of laboratory studies to assess serum lithium levels.

20 E. During the more than two years that he was treating Patient R.B.,
21 respondent failed to consult with R.B.’s other healthcare providers, failed to order laboratory tests
22 and failed to make referrals for appropriate consultations. As an example of the latter, despite his
23 treatment plan directed primarily to the patient’s insomnia and the patient’s lack of improvement
24 with that problem, respondent never ordered a sleep study for Patient R.B.

25 F. On March 11, 2010, respondent was interviewed regarding his care of
26 Patient R.B. and his record keeping. Respondent insisted that, by reason of the remedial clinical
27 education that he was required to complete as a condition of his Medical Board probation (supra,
28 p. 1, ¶2), he had improved the quality of his medical care. However, respondent was not able to

1 articulate the basis for his diagnosis of "Schizoaffective Disorder" or what the components of a
2 general psychiatric evaluation should include, nor could he explain the rationale for prescribing
3 multiple sedating antipsychotics and other sedating medications. Respondent admitted that his
4 notes were duplicative and that his records would fail to inform the reviewer regarding the
5 patient's condition, response to treatment and other necessary information; nevertheless, he
6 asserted that his current remedy for the problem of his record keeping was to simply change one
7 remark for each visit. By this means, respondent stated that he could satisfy the third party payer
8 that he had done his job and should be paid, which respondent repeatedly and erroneously
9 asserted was the purpose of medical record keeping.

10 14. Respondent's license is subject to discipline and respondent is guilty of
11 unprofessional conduct in violation of Business and Professions Code §§ 725 and/or 2234(b)
12 and/or (c) and/or (d) in that respondent was grossly negligent and/or repeatedly negligent and/or
13 incompetent in his care and treatment of R.B., and, further, that respondent excessively and
14 inappropriately prescribed medications, including but not limited to the following:

15 A. Respondent failed to perform an adequate and appropriate psychiatric
16 evaluation of R.B.;

17 B. Respondent failed to apply standard criteria and failed to appropriately
18 arrive at a diagnosis;

19 C. Respondent inappropriately prescribed multiple sedating, anti-psychotic
20 medications for R.B. and did so in excessive amounts;

21 D. Respondent failed to appropriately follow a patient suffering from a serious
22 psychiatric illness;

23 E. Respondent failed to consult R.B.'s prior medical records, or other
24 healthcare providers, or to obtain appropriate laboratory tests or consultations;

25 F. Respondent failed to maintain appropriate medical records for R.B.;

26 G. Respondent, despite remedial clinical education, failed to demonstrate
27 adequate medical knowledge or to understand the deficiencies of his medical practice.

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1 SECOND CAUSE FOR DISCIPLINE

2 (Patient A.R.)

3 (Gross Negligence/Repeated Negligent Acts/Incompetence/Excessive Prescribing)

4 15. Respondent is subject to disciplinary action under section 2234, including
5 subsections (b) and/or (c) and/or (d), and section 725 in that respondent was grossly negligent,
6 repeatedly negligent and/or incompetent and, further, that he excessively and inappropriately
7 prescribed, in his care and treatment of Patient A.R. The circumstances are as follows:

8 A. Beginning on or about July 6, 2006, Patient A.R., a 47 year old female
9 living in a Board and Care facility, came under respondent's care and treatment through Alameda
10 County Behavioral Health Care Services (ACBHCS).

11 B. Patient A.R. had a medical history significant for diabetes and a past
12 episode of hepatitis. Respondent's initial note lists no fewer than 21 prescribed and over-the-
13 counter medications, including Seroquel and Risperdal. When asked how he obtained this
14 information, he reported that he would note the medications that were "there in the house in the
15 locked cabinet" and write down what he found. Dr. Chan was also asked whether he considered
16 any of these medications to be inappropriate and he replied: "Yes, of course, it's just like any
17 practice where you get a mess and you don't know what it is about." Nevertheless, he maintained
18 the patient on the same medications through 2009, adding a few to the regimen. Although he was
19 aware that the patient had a primary care physician, who shared prescribing responsibilities, he
20 reported that he did not consult with that physician because he was "not easy to reach."

21 C. Respondent reported that he did a "minimal" physical examination, albeit
22 none is documented. He also stated that he performed a mental status examination, which is not
23 documented in his chart. He made a diagnosis of "schizoaffective disorder" for the patient
24 without performing a complete, standard of practice psychiatric evaluation or documenting the
25 DSM-IV criteria for that diagnosis. His entry for "plan" was limited to a cursory note that
26 indicated simply that he was going to maintain the patient on her current drug regimen.

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1 D. During his care and treatment of A.R., respondent billed either for
2 "psychotherapy" or "medication management" but disclosed in his interview that he actually
3 provided neither service and that the service codes entered were utilized solely for the purpose of
4 obtaining payment on his claim for professional services.

5 E. During his care and treatment of A.R., she was hospitalized multiple times
6 for kidney problems, liver problems and urinary tract infections. Respondent did not collaborate
7 with her other medical providers, nor did he alter his prescribing or even document consideration
8 of the possibility that his pattern of prescribing might be exacerbating the patient's medical
9 problems. At his interview, he dismissed concerns about his prescribing: "None of these
10 medications will kill the patient -- that is the good thing." Overall, respondent gave little
11 consideration to the patient's medical problems, which he stated were the concern of her primary
12 care physician, rather than his: "How she buys her shoes is not my main concern because I know
13 that is taken care of."

14 F. Respondent's medical record keeping was uniformly poor and patient
15 consent forms omitted several medications that were consistently prescribed. Respondent's
16 records also do not contain any evidence of laboratory studies. Albeit he advised the Board's
17 investigator that he had taken courses (as required by his Board probation) and improved his
18 record keeping, he demonstrated little understanding of the reasons for keeping adequate and
19 appropriate records. In discussing how he remedied his prior habit of simply repeating the same
20 content from chart note to chart note, he stated: "I always change something, so they know
21 something has changed . . . So I ask the patient if they like the weather that day." Similarly, he
22 stated that an anomolous reference to paranoia "has nothing to do with what is going on. It has to
23 do with me trying to get authorization."

24 16. Respondent's license is subject to discipline and respondent is guilty of
25 unprofessional conduct in violation of Business and Professions Code §§ 725 and/or 2234(b)
26 and/or (c) and/or (d) in that respondent was grossly negligent and/or repeatedly negligent and/or
27 incompetent in his care and treatment of A.R., and, further, that respondent excessively and
28 inappropriately prescribed medications, including but not limited to the following:

- 1 A. Respondent failed to perform an adequate and appropriate psychiatric
2 evaluation of A.R.;
- 3 B. Respondent failed to apply standard criteria and failed to appropriately
4 arrive at a diagnosis;
- 5 C. Respondent excessively and/or inappropriately prescribed multiple
6 medications for A.R. without taking into account Patient A.R.'s major medical issues or potential
7 exacerbation of those issues by those medications;
- 8 D. Respondent failed to appropriately follow a patient suffering from a serious
9 psychiatric illness;
- 10 E. Respondent failed to consult A.R.'s prior medical records or other
11 healthcare providers, despite her major medical issues;
- 12 F. Respondent failed to maintain adequate and appropriate medical records
13 for A.R.;
- 14 G. Respondent, despite remedial clinical education, failed to demonstrate
15 adequate medical knowledge or to understand the deficiencies of his medical practice.

THIRD CAUSE FOR DISCIPLINE

(Patient S.A.)

(Gross Negligence/Repeated Negligent Acts/Incompetence/Excessive Prescribing)

17
18 17. Respondent is subject to disciplinary action under section 2234, including
19 subsections (b) and/or (c) and/or (d), and section 725 in that respondent was grossly negligent,
20 repeatedly negligent and/or incompetent and, further, that he excessively and inappropriately
21 prescribed, in his care and treatment of Patient S.A. The circumstances are as follows:

22 A. Beginning on or about January 16, 2007, Patient S.A., a 52 year old male
23 living in a Board and Care facility, came under respondent's care and treatment through Alameda
24 County Behavioral Health Care Services (ACBHCS).

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1 B. Respondent gave S.A. a diagnosis of "Schizoaffective Disorder" on the
2 first visit, albeit -- as discussed with regard to Patients R.B. and A.R. above -- his records contain
3 no documentation of the DSM-IV criteria for that diagnosis. Albeit he billed for his service as an
4 "initial evaluation" respondent's evaluation of the patient is remarkable for the absence of any
5 documented physical or mental status examination, and appears to be limited to a brief psychiatric
6 history. Respondent noted that the patient was taking Lorazepam (2 mg. BID), Risperdal (4 mg.
7 HS), Zyprexa (10 mg. HS) and Depakote (1.25 g HS). Again, respondent charted a cursory
8 "plan" to continue the patient on his prescribed medications without any documentation of
9 reassessment of that treatment plan. Respondent's chart reflects no rationale for ordering two
10 antipsychotic medications at low to mid-range dosage, as opposed to treating the patient with a
11 higher dosage of one medication.

12 C. Respondent continued to provide care and treatment for Patient S.A.
13 through September 2, 2008, without varying his treatment. Despite Patient S.A.'s 40 lb. weight
14 gain, which very likely was medication-related, respondent failed to document any consideration
15 of possible alcohol-related liver disorder, antipsychotic-related metabolic syndrome or whether
16 the patient's medication regimen should be changed. At his interview with the Board's
17 investigator, respondent claimed that the medications changed at some point "and in this case it is
18 not documented." His records for S.A. contain neither laboratory tests, such as liver function
19 tests, nor are there references to results of such tests. At his interview with the Board, respondent
20 insisted that it was not practicable to order such tests in a Board and Care setting.

21 D. As in the cases described above, and as admitted by respondent himself, his
22 records are uniformly poor, devoid of relevant data and inaccurate. He repeatedly used a billing
23 code for an hour-long psychiatric visit albeit S.A. was noted "not [to] socialize or to talk to staff."

24 E. At his interview with the Board's investigator, respondent demonstrated
25 little insight into the deficiencies of his practice, but focused instead on what he perceived to be
26 unrealistic record keeping requirements imposed by ACBHCS and the fact that his practice was
27 losing money as a consequence of the required paper work.

28

1 18. Respondent's license is subject to discipline and respondent is guilty of
2 unprofessional conduct in violation of Business and Professions Code §§ 725 and/or 2234(b)
3 and/or (c) and/or (d) in that respondent was grossly negligent and/or repeatedly negligent and/or
4 incompetent in his care and treatment of S.A., and, further, that respondent inappropriately
5 prescribed medications, including but not limited to the following:

6 A. Respondent failed to perform an adequate and appropriate psychiatric
7 evaluation of S.A.;

8 B. Respondent failed to apply standard criteria and failed to appropriately
9 arrive at a diagnosis;

10 C. Respondent inappropriately prescribed multiple sedating, anti-psychotic
11 medications for S.A. and did so in excessive amounts;

12 D. Respondent failed to appropriately follow a patient suffering from a serious
13 psychiatric illness;

14 E. Respondent failed to consult S.A.'s prior medical records, or other
15 healthcare providers, or to obtain appropriate laboratory tests or consultations;

16 F. Respondent failed to maintain appropriate medical records for S.A.;

17 G. Respondent, despite remedial clinical education, failed to demonstrate
18 adequate medical knowledge or to understand the deficiencies of his medical practice.

19 **FOURTH CAUSE FOR DISCIPLINE**

20 **(Patient C.W.)**

21 **(Gross Negligence/Repeated Negligent Acts/Incompetence/Excessive Prescribing)**

22 19. Respondent is subject to disciplinary action under section 2234, including
23 subsections (b) and/or (c) and/or (d), and section 725 in that respondent was grossly negligent,
24 repeatedly negligent and/or incompetent and, further, that he excessively and inappropriately
25 prescribed, in his care and treatment of Patient C.W. The circumstances are as follows:

26 A. Beginning on or before September 5, 2002, Patient C.W., a 48 year old
27 female living in a Board and Care facility, came under respondent's care and treatment through
28 Alameda County Behavioral Health Care Services (ACBHCS).

1 B. Respondent provided only 26 pages of records for Patient C.W. to the
2 Board. The records are incomplete and inconsistent with one another, such that it is impossible to
3 determine when respondent actually started to provide psychiatric care to this patient.

4 C. Respondent gave C.W. a diagnosis of "Schizoaffective Disorder" on the
5 first visit, albeit his records contain no documentation of the DSM-IV criteria for that diagnosis.

6 D. A partial medication consent form, dated September 5, 2002, indicates that
7 the patient consented to prescriptions for Depakote (1000 mg HS) and Zyprexa (10 mg. HS);
8 however, respondent's cursory summary of the patient's history indicates that, between 2002 and
9 2007, he prescribed other psychotropic and antipsychotic medications to C.W., including
10 Seroquel and Paxil. Moreover, respondent's records for the period from September through
11 November 2007 indicate that he increased the dosage of Depakote and Zyprexa well beyond that
12 which had been consented to by the patient. Respondent's records do not contain any evidence of
13 laboratory studies (including liver function tests, fasting glucose, fasting lipid profile and
14 Depakote level), nor is there any documentation that respondent communicated with this diabetic
15 patient's other medical providers.

16 E. Although respondent's records for C.W. indicate that he billed his services
17 as medical psychotherapy, respondent admitted that his care consisted of limited interactions with
18 the patient in which he would advise her not to steal food or dial 911.

19 20. Respondent's license is subject to discipline and respondent is guilty of
20 unprofessional conduct in violation of Business and Professions Code §§ 725 and/or 2234(b)
21 and/or (c) and/or (d) in that respondent was grossly negligent and/or repeatedly negligent and/or
22 incompetent in his care and treatment of C.W., and, further, that respondent excessively and/or
23 inappropriately prescribed medications, including but not limited to the following:

24 A. Respondent failed to perform an adequate and appropriate psychiatric
25 evaluation of C.W.;

26 B. Respondent failed to apply standard criteria and failed to appropriately
27 arrive at a diagnosis;

28

1 C. Respondent inappropriately prescribed multiple sedating, anti-psychotic
2 medications for C.W. and did so in excessive amounts;

3 D. Respondent failed to appropriately follow a patient suffering from a serious
4 psychiatric illness;

5 E. Respondent failed to consult C.W.'s prior medical records, or other
6 healthcare providers, or to obtain appropriate laboratory tests or consultations;

7 F. Respondent failed to maintain appropriate medical records for C.W.;

8 G. Respondent, despite remedial clinical education, failed to demonstrate
9 adequate medical knowledge or to understand the deficiencies of his medical practice.

10 **FIFTH CAUSE FOR DISCIPLINE**

11 (Patient M.L.)

12 (Gross Negligence/Repeated Negligent Acts/Incompetence/Excessive Prescribing)

13 21. Respondent is subject to disciplinary action under section 2234, including
14 subsections (b) and/or (c) and/or (d), and section 725 in that respondent was grossly negligent,
15 repeatedly negligent and/or incompetent and, further, that he excessively and inappropriately
16 prescribed, in his care and treatment of Patient M.L. The circumstances are as follows:

17 A. Based on respondent's account (which is inconsistent with his own records
18 for the patient), on or about on or before January 2003, and continuing through August, 2008,
19 Patient M.L., a 47 year old Korean-speaking male, was under respondent's care and treatment at a
20 board and care facility.

21 B. At the outset, respondent undertook to perform a psychiatric evaluation of
22 Patient M.L., however, respondent's evaluation was deficient in multiple aspects. Respondent
23 failed to perform and/or failed to document a physical examination, mental status examination or
24 to gather other data that would enable him to reassess the patient's treatment or to revise that
25 treatment based on available data.

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1 C. Respondent diagnosed the patient as “schizophrenia paranoid type”,
2 however, by reason of his failure to gather the necessary data and, further, by his failure to refer
3 to DSM-IV criteria for that diagnosis, respondent’s diagnosis for Patient M.L. is unsupported and
4 a departure from the standard of care.

5 D. Over the course of his treatment of Patient M.L., respondent submitted
6 numerous claims for “medical psychotherapy” despite the fact that his own records document that
7 the patient “avoids this physician.”

8 E. Without sufficient data, respondent made the determination that Patient
9 M.L. suffered from a type of schizophrenia without an affective component. Based on this
10 unsupported diagnosis, respondent prescribed an anti-psychotic medication, Risperdal (2 mg.
11 BID) but he prescribed no drug directed to the patient’s mood. Despite the fact that the patient
12 experienced no improvement in functioning during his course of treatment, respondent failed to
13 consider and/or failed to document consideration of alternative medications that might improve
14 the patient’s functioning. Rather than clinical data, respondent’s documented treatment plan
15 appeared to be the result of reluctance by the Board and Care staff to accept any change in
16 medication.

17 F. Respondent’s records, which are incomplete and do not document the full
18 period of care and treatment, are uniformly inadequate in content, being virtually identical from
19 visit to visit. Although the records do contain a written consent to medication, respondent
20 conceded that M.L., who spoke only Korean, would not have understood the content of the
21 consent: “It doesn’t matter, he doesn’t understand anyway, I feel lucky when he signs the
22 agreement.”

23 22. Respondent’s license is subject to discipline and respondent is guilty of
24 unprofessional conduct in violation of Business and Professions Code §§ 725 and/or 2234(b)
25 and/or (c) and/or (d) in that respondent was grossly negligent and/or repeatedly negligent and/or
26 incompetent in his care and treatment of M.L., and, further, that respondent excessively and/or
27 inappropriately prescribed medications, including but not limited to the following:
28

1 "continue medications; continue support" and this plan is repeated from month to month for
2 nearly three years. Albeit respondent's records state that informed consent was obtained, no
3 medication or treatment consent forms are to be found in his records, which cover nearly four
4 years of treatment.

5 C. According to respondent's records, he prescribed Benztropine (.5 mg. bid),
6 Haldol (2 mg. 1 qam and 2 hs), BuSpar (5 mg. bid) and Effexor XR (75 mg. 1 bid) for D.F. This
7 medication list is repeated from month to month through June 2010, albeit the patient was under
8 the care of another psychiatrist and was actually receiving his medications from that physician
9 (after respondent's employment was terminated by ACBHCS in or about 2009). In addition,
10 respondent's records are grossly inaccurate in that the patient was neither receiving BuSpar, nor
11 was respondent providing "Medication Management" to him.

12 D. Respondent continued to treat D.F. on a monthly basis; however, his
13 records do not contain an adequate description or assessment of how the patient was doing from a
14 psychiatric standpoint. Indeed, from 2006-2009 the records are repetitive and uninformative and
15 merely carry forward the previous content from visit to visit. As an example, the notes for
16 February 1 and March 7, 2008, both state that the patient had a stroke that morning, which is
17 clearly erroneous; moreover, there is neither a documented medical response to this significant
18 event, nor is there documentation of communications with D.F.'s primary care physician
19 regarding this or D.F.'s other medical problems.

20 E. Albeit respondent was placed on probation in 2009 and required to take
21 courses of remedial medical education, his records for Patient D.F. reflect little if any
22 improvement in respondent's medical care. Respondent's records for D.F. for 2009-2010
23 routinely omit mental status examinations, physical examinations, reassessment of the patient's
24 condition or meaningful discussion of the patient's psychiatric status. In a category titled
25 "Session Notes" the sparse content typically consists of a single sentence relating to the weather
26 and, consequently, would be of little use to any other medical professional in assessing the
27 patient's condition.

28 //

1 SEVENTH CAUSE FOR DISCIPLINE

2 (All Patients)

3 (Failure to Keep Adequate and Accurate Records/False Documents)

4 24. Respondent is subject to disciplinary action under sections 2261, 2266 and/or
5 Section 810 of the Code in that respondent failed to keep adequate and accurate records for his
6 patients and, further, that he created and submitted, or caused to be created and submitted, false
7 documents relating to claims for payment. The circumstances are as follows:

8 A. Complainant incorporates the allegations above and makes them a part of
9 this the Sixth Cause for Discipline, as though fully set forth.

10 B. As hereinbefore alleged, respondent's psychiatric records routinely lack
11 essential examinations and patient data. Chart entries are routinely copied verbatim from visit to
12 visit, such that a reviewer is unable to determine what the patient's condition is at the time of each
13 visit, the justification for clinical decision making or the effectiveness of the treatment plan.

14 C. Respondent routinely prepared medical records and bills for services which
15 were inaccurate as to the services actually provided and with the intent to receive compensation
16 for services not rendered. As an illustrative example, respondent's records for Patient D.F. state
17 that he provided "Medical Management" for the patient between November 2009 and June 2010--
18 a period when D.F. was receiving all of his psychotropic prescriptions from another psychiatrist.

19 D. An auditor for ACBHCS advised the Board's investigator that respondent
20 admitted to excessive billing, which he justified on the basis that he was not paid enough for his
21 services, and that respondent admitted to her that he altered a patient's chart during the audit.

22 E. At his interview with the Board's investigator, and despite remedial
23 education, respondent demonstrated little understanding of the purpose of medical records or the
24 importance of maintaining adequate and accurate records; rather, respondent stated that he made
25 trivial changes in his records from visit to visit for the sole purpose of deflecting criticism.

26 CAUSE FOR REVOCATION OF PROBATION

27 25. Respondent's probationary terms, which took effect on January 12, 2009, and
28 which continue to be in effect, include the following terms and conditions:

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

4 As hereinbefore alleged, respondent committed and continues to commit numerous violations of
5 the Medical Practice Act, including the following:

6 A. At his interview with the Board's investigator, respondent admitted that he
7 routinely performs little by way of physical examination of his patients. Albeit respondent
8 claimed to have always performed mental status evaluations, his claim is not credible based upon
9 the absence of such an examination in the records discussed above. Even after being placed on
10 probation in January 2009, respondent failed to institute a practice of performing physical or
11 mental examinations, as shown by his records for Patient D.F.

12 B. At his interview, respondent demonstrated inadequate knowledge of the
13 content and purpose of a psychiatric evaluation.

14 C. At his interview, respondent demonstrated inadequate knowledge of the
15 criteria and process for a psychiatric diagnosis.

16 D. At his interview, respondent demonstrated inadequate knowledge of the
17 medical importance of appropriate consultations with primary care physicians and other
18 healthcare providers.

19 E. At his interview, respondent indicated that he continues to prescribe
20 without a clear rationale, that he inappropriately prescribes combinations of multiple, atypical
21 anti-psychotic drugs to his patients. He stated that essential laboratory tests were not practicable
22 in the Board and Care setting and could not be ordered.

23 F. At his interview, respondent demonstrated that he lacks adequate
24 knowledge of the importance of informed consent, not only to individual medications, but also to
25 the combinations of medications, as mentioned above.

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1 G. At his interview with the Board's investigator, and despite remedial
2 education, respondent demonstrated little understanding of the purpose of medical records or the
3 importance of maintaining adequate and accurate records; rather, respondent stated that he made
4 trivial changes in his records from visit to visit for the sole purpose of deflecting criticism.

5 H. At his interview, respondent continued to express the belief that billing for
6 services not actually rendered was appropriate medical practice when it was deemed necessary to
7 obtain approval and payment of his claims.

8 26. Respondent's probation is subject to revocation for violating term 7 of his terms of
9 probation, as set forth herein above.

10 PRAYER

11 WHEREFORE, complainant prays that a hearing be held and that the Board issue an
12 order:

13 1. Revoking or suspending Physician's and Surgeon's Certificate Number A50691,
14 issued to Joseph Ling-Hang Chan, M.D.;

15 2. Revoking Respondent Joseph Ling-Hang Chan, M.D.'s current probation and
16 carrying out the disciplinary order that was stayed, a revocation of respondent's license;

17 3. Revoking, suspending or denying approval of Joseph Ling-Hang Chan, M.D.'s
18 authority to supervise physician assistants, pursuant to section 3527 of the Code;

19 4. Ordering Joseph Ling-Hang Chan, M.D., if placed on probation, to pay the
20 Medical Board the costs of probation monitoring;

21 5. Taking such other and further action as deemed necessary and proper.

22 DATED: May 18, 2011

Linda K. Whitney

23 LINDA K. WHITNEY
24 Executive Director
25 Medical Board of California
26 Department of Consumer Affairs
27 State of California
28 *Complainant*

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EXHIBIT B

**Stipulated Surrender of License and Order
Medical Board of California Case No. 800-2015-013235**

1 KAMALA D. HARRIS
Attorney General of California
2 JANE ZACK SIMON
Supervising Deputy Attorney General
3 GREG W. CHAMBERS
Deputy Attorney General
4 State Bar No. 237509
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 703-5723
6 Facsimile: (415) 703-5480
Attorneys for Complainant

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

10 In the Matter of the Interim Suspension Order
11 Against:

Case No. 800-2015-013235

12 **JOSEPH CHAN, M.D.**
13 **P.O. Box 24381**
14 **Oakland, CA 94623**

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

15 **Physician's and Surgeon's Certificate No.**
16 **G50691**

Respondent.

17
18 In the interest of a prompt and speedy settlement of this matter, consistent with the public
19 interest and the responsibility of the Medical Board of California of the Department of Consumer
20 Affairs, the parties hereby agree to the following Stipulated Surrender and Disciplinary Order
21 which will be submitted to the Board for approval and adoption as the final disposition of the
22 Interim Suspension Order.

23
24 PARTIES

25 1. Kimberly Kirchmeyer ("Complainant") is the Executive Director of the Medical
26 Board of California. She brought this action solely in her official capacity and is represented in
27 this matter by Kamala D. Harris, Attorney General of the State of California, by Greg W.
28 Chambers, Deputy Attorney General.

1 CULPABILITY

2 8. Respondent understands that by signing this stipulation he enables the Board to issue
3 an order accepting the surrender of his Physician's and Surgeon's Certificate No. G50691 without
4 further process.

5 CONTINGENCY

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

16 10. The parties understand and agree that Portable Document Format ("PDF") and
17 facsimile copies of this Stipulated Surrender of License and Order, PDF and facsimile signatures
18 thereto, shall have the same force and effect as the originals.

19 11. In consideration of the foregoing admissions and stipulations, the parties agree that
20 the Board may, without further notice or formal proceeding, issue and enter the following Order:

21 ORDER

22 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. G50691, issued
23 to Respondent, is surrendered and accepted by the Medical Board of California.

24 1. Respondent shall lose all rights and privileges as a physician in California as of the
25 effective date of the Board's Decision and Order.

26 2. Respondent shall cause to be delivered to the Board his pocket license and, if one was
27 issued, his wall certificate on or before the effective date of the Decision and Order.

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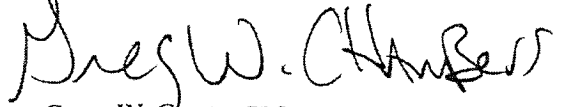
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ENDORSEMENT

The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted for consideration by the Medical Board of California of the Department of Consumer Affairs.

Dated: 6/24/2015

Respectfully submitted,
KAMALA D. HARRIS
Attorney General of California
JANE ZACK SIMON
Supervising Deputy Attorney General


GREG W. CHAMBERS
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

**Stipulation and Order Re Interim Order of Suspension Pursuant to Government Code
section 11529, Case No. 800-2015-013235**

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Supervising Deputy Attorney General
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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 Interim Suspension Order
Against:
JOSEPH CHAN, M.D.
P.O. Box 24381
Oakland, CA 94623

Physician's and Surgeon's Certificate No.
G50691

Respondent.

Case No. 800-2015-013235
OAH No. 2015050231

**STIPULATION AND ORDER RE
INTERIM ORDER OF SUSPENSION
PURSUANT TO GOVERNMENT CODE
SECTION 11529**

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

1. Petitioner Kimberley Kirchmeyer ("Petitioner") is the Executive Director of the Medical Board, Department of Consumer Affairs, State of California. She brought this action solely in her official capacity and is represented in this matter by her attorney, Kamala D. Harris, Attorney General of the State of California, by Greg W. Chambers, Deputy Attorney General.

2. Joseph Chan, M.D. ("Respondent") was issued Physician and Surgeon's Certificate No. G50691 by the Medical Board on July 18, 1983. Respondent is represented by Constance A. Endelicato, 10960 Wilshire Boulevard, 18th Floor, Los Angeles, CA 90024-3804.

///

1 3. The parties to the above-entitled matter have reached an agreement as to the
2 interim status of Respondent's medical license. Respondent willingly enters into this Stipulation
3 with full understanding of its terms and restrictions.

4 4. Respondent is aware of his rights under California Government Code section
5 11529 to a noticed hearing on a petition for an interim order of suspension, which include the
6 right to be represented by counsel at his own expense; to have a record made of the proceedings;
7 to present affidavits and other documentary evidence; and to present oral argument. Respondent
8 hereby knowingly and voluntarily waives each of the rights set forth above.

9 5. Respondent Joseph Chan, M.D. hereby stipulates and agrees that his license is
10 suspended. The suspension shall remain in force and effect until such time as the Board shall
11 have issued and adopted a final decision in the administrative proceeding to be filed against
12 Respondent's medical license.

13 6. Respondent further knowingly and voluntarily waives his right under Government
14 Code section 11529 to have an Accusation filed within 15 days of the issuance of an interim order
15 of suspension and to have a formal hearing, as described in Government Code 11500 *et seq.*, on
16 the allegations of the Accusation within 30 days of the filing of the Accusation.

17 7. Respondent stipulates and agrees that at a hearing on the Petition, if contested,
18 complainant could establish a factual basis for the issuance of an Interim Order of Suspension.
19 Respondent therefore stipulates and agrees that the Medical Quality Hearing Panel of the Office
20 of Administrative Hearings has jurisdiction and without further proceedings may issue an interim
21 order prohibiting Joseph Chan, M.D., Physician and Surgeon's Certificate No. G50691, from
22 practicing medicine.

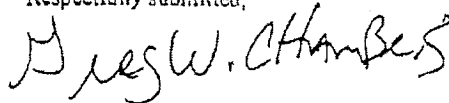
23 8. During the period of suspension, Respondent is prohibited from practicing or
24 attempting to practice as a physician and surgeon in California; possessing, prescribing,
25 dispensing, furnishing, administering or otherwise distributing any controlled substance or any
26 dangerous drug in California; possessing or holding his California physician's and surgeon's wall
27 and wallet certificates, any and all prescription blanks, and is further required to surrender any of
28 said documents which are in his possession or under his control to the Board pending further

1 order in this matter.

2 9. It is agreed that a facsimile or electronic copies of signatures to this Stipulation
3 shall be binding as originals, and that this Stipulation may be signed in counterpart.

4
5
6 Dated: May 20, 2015

Respectfully submitted,



KAMALA D. HARRIS
Attorney General of California
JOSE R. GUERRERO
Supervising Deputy Attorney General

10
11 GREG W. CHAMBERS
12 Deputy Attorney General
Attorneys for Petitioner

13
14 I have carefully read the above Stipulation Re Interim Order of Suspension and have fully
15 discussed the terms and implications of this Stipulation with my attorney, Constance A.
16 Endelicato. Pursuant to the terms of the Stipulation, I agree to the entry of an Interim Order of
17 Suspension under Government Code section 11529. I understand the effect this Stipulation will
18 have on my Physician and Surgeon's Certificate.

19 Dated: May 20, 2015



20
21 JOSEPH CHAN, M.D.



22
23 I have read and fully discussed the terms of this Stipulation with my client, Joseph Chan,
24 M.D. I approve the form and content of this Stipulation.

25 Dated: May 20, 2015



26
27 CONSTANCE A. ENDELICATO, Esq.

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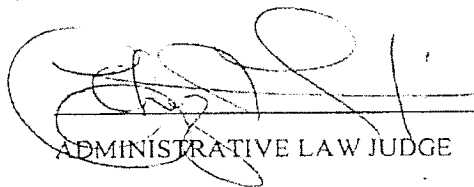
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ORDER

Pursuant to the foregoing Stipulation, and good cause appearing, it is hereby ordered that Physician & Surgeon's Certificate G50691 issued to Joseph Chan, M.D. is immediately SUSPENDED. Respondent Joseph Chan, M.D. shall be and hereby is immediately restrained and prohibited from practicing or attempting to practice as a physician and surgeon in California pending a final decision and order by the Medical Board of California. Respondent shall be and hereby is immediately restrained and prohibited from: practicing or attempting to practice as a physician and surgeon in California; possessing, prescribing, dispensing, furnishing, administering or otherwise distributing any controlled substance or any dangerous drug in California; possessing or holding his California physician's and surgeon's wall and wallet certificates, possessing any and all prescription blanks. IT IS FURTHER ORDERED that Respondent shall, upon demand, turn over to the Medical Board all prescription pads and prescription blanks in his possession or under his custody or control.

This Order shall be deemed served upon Respondent upon service by FAX or via overnight delivery to his attorney, Constance A. Endelicato. The Order shall also be served by regular mail upon respondent at his address of record with the Medical Board.

IT IS SO ORDERED this 22nd day of May 2015.


ADMINISTRATIVE LAW JUDGE

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