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

In the Matter of the Accusation )
Against: )

FU NAN WANG, M.D. ) Case No. 11-2012-223188

Physician's and Surgeon's )
Certificate No. A93089 )

Respondent )

DECISION

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

This Decision shall become effective at 5:00 p.m. on March 2, 2016.

IT IS SO ORDERED: February 1, 2016.

MEDICAL BOARD OF CALIFORNIA

Howard Krauss, M.D.
Chair, Panel B
KAMALA D. HARRIS  
Attorney General of California  
ROBERT MCKIM BELL  
Supervising Deputy Attorney General  
COLLEEN M. MCGURRIN  
Deputy Attorney General  
State Bar Number 147250  
300 South Spring Street, Suite 1702  
Los Angeles, California 90013  
Telephone: (213) 620-2511  
Facsimile: (213) 897-9395  
Attorneys for Complainant

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

In the Matter of the Accusation Against:  
FU NAN WANG, M.D.  
2059 Atlantida Dr.  
Hacienda Heights, California 91745  
Physician's and Surgeon's Certificate Number A 93089

Case No. 11-2012-223188  
OAH No. 2015040723  
STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER

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

PARTIES

1. Kimberly Kirchmeyer ("Complainant") is the Executive Director of the Medical Board of California. She brought this action solely in her official capacity and is represented in this matter by Kamala D. Harris, Attorney General of the State of California, by Colleen M. McGurrrin, Deputy Attorney General.

2. Respondent FU NAN WANG, M.D. ("Respondent") is represented in this proceeding by attorneys Kirk G. Downing, Esq., whose address is 9454 Wilshire Blvd., Suite 600, Beverly Hills, California 90212, and Robert Gentino, Esq., whose address is 3330 Cahuenga Boulevard West, Suite 303, Los Angeles, California 90068.

3. On or about October 15, 2005, the Medical Board of California issued Physician's and Surgeon's Certificate Number A 93089 to FU NAN WANG, M.D. (Respondent). Said
Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. 11-2012-223188 and will expire on August 31, 2017, unless renewed.

**JURISDICTION**

4. Accusation No. 11-2012-223188 was filed before the Medical Board of California (Board), Department of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on December 24, 2014. Respondent timely filed his Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 11-2012-223188 is attached as Exhibit A and incorporated herein by reference.

**ADVISEMENT AND WAIVERS**

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 11-2012-223188. Respondent has also carefully read, fully discussed with counsel, and fully understands the effects of this Stipulated Settlement and Disciplinary Order.

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

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

**CULPABILITY**

9. Respondent understands and agrees that the charges and allegations in Accusation No. 11-2012-223188, if proven at a hearing, constitute cause for imposing discipline upon his Physician's and Surgeon's Certificate.
10. For the purpose of resolving the Accusation without the expense and uncertainty of further proceedings, Respondent agrees that, at a hearing, Complainant could establish a prima facie factual basis for the charges in the Accusation, and that Respondent hereby gives up his right to contest those charges.

11. Respondent agrees that if he ever petitions for early termination or modification of probation, or if the Board ever petitions for revocation of probation, all of the charges and allegations contained in Accusation No. 11-2012-223188 shall be deemed true, correct and fully admitted by respondent for purposes of that proceeding or any other licensing proceeding involving respondent in the State of California.

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

CONTINGENCY

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

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

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

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate Number A 93089
issued to Respondent FU NAN WANG, M.D. is revoked. However, the revocation is stayed and
Respondent is placed on probation for three (3) years on the following terms and conditions.

1. PHYSICIAN-PATIENT COMMUNICATION COURSE. Within 60 calendar days of
the effective date of this Decision, Respondent shall enroll in a patient communication course
equivalent to the Physician-Patient Communication course offered through the Physician
Assessment and Clinical Education Program (PACE) offered at the University of California - San
Diego School of Medicine (Program), or the Institute of Healthcare Communication, or an
equivalent program, approved in advance by the Board or its designee. Respondent shall provide
the program with any information and documents that the Program may deem pertinent.
Respondent shall participate in and successfully complete the classroom component of the course
not later than six (6) months after Respondent’s initial enrollment. Respondent shall successfully
complete any other component of the course within one (1) year of enrollment. The patient
communication course, shall be at Respondent’s expense and shall be in addition to the
Continuing Medical Education (CME) requirements for renewal of licensure.

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

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

2. MEDICAL RECORD KEEPING COURSE. Within 60 calendar days of the effective
date of this Decision, Respondent shall enroll in a course in medical record keeping equivalent to
the Medical Record Keeping Course offered by the Physician Assessment and Clinical Education
Program (PACE), University of California, San Diego School of Medicine, approved in advance by the Board or its designee. Respondent shall provide the program with any information and documents that the Program may deem pertinent. Respondent shall participate in and successfully complete the classroom component of the course not later than six (6) months after Respondent’s initial enrollment. Respondent shall successfully complete any other component of the course within one (1) year of enrollment. The medical record keeping course shall be at Respondent’s expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

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

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

3. **CLINICAL TRAINING PROGRAM.** Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a clinical training or educational program equivalent to the Physician Assessment and Clinical Education Program (PACE) offered at the University of California - San Diego School of Medicine (“Program”). Respondent shall successfully complete the Program not later than six (6) months after Respondent’s initial enrollment unless the Board or its designee agrees in writing to an extension of that time.

The Program shall consist of a Comprehensive Assessment program comprised of a two-day assessment of Respondent’s physical and mental health; basic clinical and communication skills common to all clinicians; and medical knowledge, skill and judgment pertaining to Respondent’s area of practice in which Respondent was alleged to be deficient, and at minimum, a 40 hour program of clinical education in the area of practice in which Respondent was alleged to be deficient and which takes into account data obtained from the assessment, Decision(s),
Accusation(s), and any other information that the Board or its designee deems relevant. Respondent shall pay all expenses associated with the clinical training program.

Based on Respondent’s performance and test results in the assessment and clinical education, the Program will advise the Board or its designee of its recommendation(s) for the scope and length of any additional educational or clinical training, treatment for any medical condition, treatment for any psychological condition, or anything else affecting Respondent’s practice of medicine. Respondent shall comply with Program recommendations.

At the completion of any additional educational or clinical training, Respondent shall submit to and pass an examination. Determination as to whether Respondent successfully completed the examination or successfully completed the program is solely within the program’s jurisdiction.

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

4. **NOTIFICATION.** Within seven (7) days of the effective date of this Decision, the Respondent shall provide a true copy of this Decision and Accusation to the Chief of Staff or the Chief Executive Officer at every hospital where privileges or membership are extended to Respondent, at any other facility where Respondent engages in the practice of medicine, including all physician and locum tenens registries or other similar agencies, and to the Chief Executive Officer at every insurance carrier which extends malpractice insurance coverage to Respondent. Respondent shall submit proof of compliance to the Board or its designee within 15 calendar days.
This condition shall apply to any change(s) in hospitals, other facilities or insurance carrier.

5. **SUPERVISION OF PHYSICIAN ASSISTANTS.** During probation, Respondent is prohibited from supervising physician assistants.

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

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

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

8. **GENERAL PROBATION REQUIREMENTS.**

   **Compliance with Probation Unit**

   Respondent shall comply with the Board’s probation unit and all terms and conditions of this Decision.

   **Address Changes**

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

   **Place of Practice**

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

   **License Renewal**

   Respondent shall maintain a current and renewed California physician’s and surgeon’s license.
Travel or Residence Outside California

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

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

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

10. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or its designee in writing within 15 calendar days of any periods of non-practice lasting more than 30 calendar days and within 15 calendar days of Respondent’s return to practice. Non-practice is defined as any period of time Respondent is not practicing medicine in California as defined in Business and Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct patient care, clinical activity or teaching, or other activity as approved by the Board. All time spent in an intensive training program which has been approved by the Board or its designee shall not be considered non-practice. Practicing medicine in another state of the United States or Federal jurisdiction while on probation with the medical licensing authority of that state or jurisdiction shall not be considered non-practice. A Board-ordered suspension of practice shall not be considered as a period of non-practice.

In the event Respondent’s period of non-practice while on probation exceeds 18 calendar months, Respondent shall successfully complete a clinical training program that meets the criteria of Condition 18 of the current version of the Board’s “Manual of Model Disciplinary Orders and Disciplinary Guidelines” prior to resuming the practice of medicine.

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

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

Periods of non-practice will relieve Respondent of the responsibility to comply with the
provisionary terms and conditions with the exception of this condition and the following terms
and conditions of probation: Obey All Laws; and General Probation Requirements.

11. COMPLETION OF PROBATION. Respondent shall comply with all financial
obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the
completion of probation. Upon successful completion of probation, Respondent’s certificate shall
be fully restored.

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

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

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

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

DATED: October 14, 2015

FU NAN WANG, M.D.
Respondent

I have read and fully discussed with Respondent FU NAN WANG, M.D. the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: OCT. 15, 2015

Robert Gentino, Esq.
Attorney for Respondent

ENDORSEMENT

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

Dated: 10/15/15

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
ROBERT MCKIM BELL
Supervising Deputy Attorney General

COLLEEN M. MCGURKIN
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 11-2012-223188
BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:
FU NAN WANG, M.D.
2059 Atlantida Dr.
Hacienda Heights, California 91745
Physician's and Surgeon's Certificate A93089,
Respondent.

Complainant alleges:

PARTIES
1. Kimberly Kirchmeyer (Complainant) brings this Accusation solely in her official
capacity as the Executive Director of the Medical Board of California, Department of Consumer
Affairs.
2. On or about October 15, 2005, the Medical Board of California issued Physician's and
Surgeon's Certificate number A93089 to Fu Nan Wang, M.D. (Respondent). Said Certificate was
in full force and effect at all times relevant to the charges brought herein and will expire on
August 31, 2015, unless renewed.

JURISDICTION
3. This Accusation is brought before the Medical Board of California (Board),
Department of Consumer Affairs, under the authority of the following laws. All section
references are to the Business and Professions Code unless otherwise indicated.

4. Section 2220 of the Code states, in pertinent part:

"Except as otherwise provided by law, the Division of Medical Quality\(^1\) may take action against all persons guilty of violating this chapter [Chapter 5, the Medical Practice Act]. The division shall enforce and administer this article as to physician and surgeon certificate holders, and the division shall have all the powers granted in this chapter for these purposes including, but not limited to:

"(a) Investigating complaints from the public, . . . that a physician and surgeon may be guilty of unprofessional conduct. . . . ."

5. Section 2004 of the Code states, in pertinent part:

"The board shall have the responsibility for the following:

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

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

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

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

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

"(f) . . . (g)."

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

"(i) . . . ."

6. Section 2227 of the Code states, in pertinent part:

\(^1\) California Business and Professions Code section 2002, as amended and effective January 1, 2008, provides that, unless otherwise expressly provided, the term "board" as used in the State Medical Practices Act (Bus. & Prof. Code § 2000, et seq.) means the "Medical Board of California," and references to the "Division of Medical Quality" and "Division of Licensing" in the Act or any other provision of law shall be deemed to refer to the Board.
"(a) A licensee whose matter has been heard by an administrative law judge of the Medical
Quality Hearing Panel as designated in Section 11371 of the Government Code, or whose default
has been entered, and who is found guilty, or who has entered into a stipulation for disciplinary
action with the board, may, in accordance with the provisions of this chapter:

"(1) Have his or her license revoked upon order of the board.

"(2) Have his or her right to practice suspended for a period not to exceed one year upon
order of the board.

"(3) Be placed on probation and be required to pay the costs of probation monitoring upon
order of the board.

"(4) Be publicly reprimanded by the board. The public reprimand may include a
requirement that the licensee complete relevant educational courses approved by the board.

"(5) Have any other action taken in relation to discipline as part of an order of probation, as
the board or an administrative law judge may deem proper.

"(b) Any matter heard pursuant to subdivision (a), . . . is deemed public, and shall be made
available to the public by the board pursuant to Section 803.1."

7. Section 2234 of the Code, states, in pertinent part:

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

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

"(b) Gross negligence.

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

"(1) An initial negligent diagnosis followed by an act or omission medically appropriate
for that negligent diagnosis of the patient shall constitute a single negligent act.
(2) When the standard of care requires a change in the diagnosis, act, or omission that constitutes the negligent act described in paragraph (1), including, but not limited to, a reevaluation of the diagnosis or a change in treatment, and the licensee's conduct departs from the applicable standard of care, each departure constitutes a separate and distinct breach of the standard of care.

"(d) Incompetence.

"(e) . . . (h)"

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

FIRST CAUSE FOR DISCIPLINE

(Gross Negligence – Patient J.L.)

9. Respondent is subject to disciplinary action under section Business and Professions Code section 2234, subdivision (b) in that he committed acts of gross negligence in his care and treatment of patient J.L.\(^2\) The circumstances are as follows:

10. On or about April 3, 2012, patient J.L., a then 30-year old woman, presented to Respondent as a voluntary surrogate for another couple. She denied any medical, gynecologic, psychological or genetic disorders. She, however, had a history of a previous cone biopsy of her cervix in December 2011.

11. On or about April 5, 2012, J.L. saw Respondent again who checked her endometrial lining to see "If she is suitable for embryo transfer at this cycle." Respondent performed a pelvic examination, which was reported to be normal and an ultrasound showed an endometrial lining of 6 mm. Respondent, however, failed to perform a sonohysterogram\(^3\) or hysterosalpingogram\(^4\) to

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\(^2\) For privacy, the patients in the Accusation will be identified by their first and last initials. Their full names will be disclosed to Respondent upon timely request for discovery pursuant to Government Code section 11507.6.

\(^3\) A sonohysterogram, which involves instillation of saline into the uterine cavity during a transabdominal or transvaginal ultrasound, may be necessary to better delineate the position and size of intrauterine pathology.

\(^4\) A hysterosalpingogram is an X ray of the uterus and Fallopian tubes; usually done in diagnosing infertility (to see if there any blockages).
evaluate if the uterine cavity had any fibroids, polyps, or uterine anomalies that could interfere with embryo plantation. Respondent started the patient on a regimen of baby aspirin, prenatal vitamins and estrogen 2 mg, 1 intra-vaginally daily. Respondent, however, failed to perform routine testing which could potentially eliminate the patient as a surrogate, such as: a thyroid panel that would show thyroid dysfunction which could interfere with fetal neural development; a CBC\(^5\) which would identify anemia and could compromise fetal growth; a chemistry panel which would identify kidney or liver function disorders that could compromise fetal growth; a blood typing to check for atypical antibodies which could compromise fetal growth causing fetal hemolytic anemia,\(^6\) a urine toxicology which would show illegal drug use which would disqualify the patient as a surrogate; a cervical culture for sexually transmitted diseases; and an infectious disease panel, that includes testing for HIV and hepatitis which would automatically disqualify the patient as a surrogate. Additionally, the records do not document if the sperm sources were tested for HIV and hepatitis.

12. On or about April 8, 2012, J.L. again presented to Respondent for measurement of endometrial lining and follicular size/maturation. At this visit, the ultrasound showed the endometrial lining to be 8 mm and a left-sided ovarian follicle of 10 mm by 8-9 mm. Her Estradiol level was 2142 pg/mL and she was informed to return to the clinic for embryo transfer on April 15, 2012.

13. On or about April 11, 2012, J.L. began taking progesterone 50 mg intramuscularly daily, endometrium suppositories 100 mg intra-vaginally twice a day, Medrol 60 mg daily and continued taking baby aspirin.

\(^5\) CBC is the abbreviation for a complete blood count which is a routine analysis performed on a sample of blood taken from the patient's vein with a needle and vacuum tube. The measurements taken in a CBC include a white blood cell count, a red blood cell count, the red cell distribution width, the hematocrit (ratio of the volume of the red blood cells to the blood volume), and the amount of hemoglobin (the blood protein that carries oxygen). CBCs are a routine blood test used for many medical reasons, not only for AIDS patients. They can help the doctor determine if a patient is in advanced stages of the disease.

\(^6\) Hemolytic anemia is anemia resulting from the lysis (the dissolution or destruction of cells, such as blood cells or bacteria, as by the action of a specific lyacin that disrupts the cell membrane) of red blood cells, as in response to certain toxic or infectious agents and in certain inherited blood disorders.
14. On or about April 15, 2012, J.L. presented for embryo transfer. At that time, two embryos were transferred into her uterine cavity. Additionally, her blood was collected to test for HIV and hepatitis B and C virus; however, the results were not reported until the day after the embryos were transferred. J.L. was advised to rest, eat a balanced diet, not to engage in any strenuous exercising and to watch for vaginal spotting/bleeding, discomfort, or low abdominal pain. She was instructed to call or return to the clinic if any abnormal conditions occurred.

15. On or about April 16, 2012, the blood test taken the previous day was reported to be nonreactive for HIV or hepatitis.

16. On or about April 27, 2012, J.L. returned to the clinic for a pregnancy test. A urine test showed that she was human chorionic gonadotropin (hCG)\textsuperscript{7} positive.

17. On or about May 11, 2012, Respondent next saw J.L. who reported a history of slight nausea in the morning and had spotting two days prior to visiting the clinic. An ultrasound showed a fetal heart beat with approximately a 6-week pregnancy. She was assessed as being dehydrated; however, there was no documentation of vomiting or other history that would preclude fluid intake. The patient was given an IV of 1,000 mL of lactated Ringers with 2.5 mL of vitamin B complex and 2 mL of vitamin C intravenously. However, Respondent failed to order a CBC or urinalysis to properly evaluate if she really was dehydrated. Respondent also failed to document the patient’s vital signs in the chart.

18. On or about May 16, 2012, J.L. returned to the clinic to check her progesterone and hCG levels. At that time, an ultrasound was performed, which showed two fetal heartbeats and two fetuses. She was advised to rest at home, no strenuous exercises and no heavy work, and to continue using progesterone and Endometrin suppositories.

19. On or about May 19, 2012, J.L. returned to the clinic again to check her progesterone and hCG levels. At that time, she had no complaints and her condition was documented as stable. This was the last time J.L. was seen by Respondent. Thereafter, she transferred her care to another doctor.

\textsuperscript{7} Human chorionic gonadotropin, abbreviated hCG, is a hormone excreted during the development of an embryo or fetus.
20. Respondent committed gross negligence in his care and treatment of patient J.L. when
he:
   A. Failed to order and complete a complete blood count, urinalysis and toxicology panel,
      chemistry panel, blood type with antibody analysis, endocrine evaluation with thyroid function,
      cervical culture for sexually transmitted diseases, and performing a pelvic examination and
      transvaginal ultrasound to properly evaluate if she was eligible surrogate;
   B. Failed to perform an infectious disease panel for HIV and hepatitis prior to
      transferring the embryos; and
   C. Failed to perform a sonohysterogram or hysterosalpingogram to determine if the
      surrogate had uterine fibroids, polyps or uterine anomalies.

SECOND CAUSE FOR DISCIPLINE

(Gross Negligence – Patient P.F.)

21. Respondent is subject to disciplinary action under section Business and Professions
    Code section 2234, subdivision (b) in that he committed acts of gross negligence in his care and
    treatment of patient P.F. The circumstances are as follows:

22. On or about October 28, 2011, patient P.F., a then 38-year old female, presented to
    Respondent for a potential voluntary surrogate assessment for another couple. P.F. had a prior
    history of a successful surrogacy, when she was 34-years old and delivered twins via C-section,
    and another surrogacy which failed. Respondent noted that the patient was advanced in age to be
    a surrogate, but the intended mother insisted that P.F. be her surrogate. Respondent advised P.F.
    to take prenatal vitamins, eat a balanced diet, and engage in regular moderate exercise.

23. On or about November 1, 2011, Respondent saw P.F. again and performed an
    ultrasound. Respondent also performed a pap smear and ordered a sexually transmitted disease
    screening, which were reported as normal. However, Respondent failed to perform additional
    routine testing which could potentially eliminate P.F. as a surrogate such as a CBC, a chemistry
    panel, a blood typing to check for atypical antibodies, and a uterine toxicology or thyroid function
    test. Respondent also failed to perform a sonohysterogram or a hysterosalpingogram to evaluate if
the uterine cavity had any fibroids, polyps, or uterine anomalies that could interfere with embryo plantation.

24. On or about November 11, 2011, P.F. was next seen by Respondent, who performed another ultrasound which showed a thin lining of the uterus. The patient was instructed to start a regimen of baby aspirin, continue taking the prenatal vitamins, and to follow up on the 10th day of her cycle.

25. On or about November 19, 2011, Respondent saw P.F. who complained of some vaginal spotting. Respondent performed another ultrasound which revealed many follicles, that the patient had a poor endometrial lining, and was not suitable for embryo transplant this cycle. Respondent assessed the patient with polycystic ovaries and dysfunctional uterine bleeding. P.F. was advised to start birth control pills to suppress her polycystic ovaries.

26. On or about December 10, 2011, P.F. was seen by Respondent who noted she was at day 6 of her cycle. Respondent performed an ultrasound which showed the polycystic ovary had been well treated. Respondent’s plan was to induce ovulation after suppressing the polycystic ovaries and to regulate ovarian function with birth control pills. Respondent, however, failed to add subcutaneous Lupron to assist in the suppression and failed to establish a programmed cycle in order to prepare for scheduling embryo transfer.

27. P.F. was seen by Respondent on or about December 11 and 16, 2011, and January 17, 2012, however, she was not yet suitable for embryo transfer.

28. On or about January 23, 2012, Respondent saw P.F. and another ultrasound was performed which showed an endometrial lining of 10 mm in thickness. She was noted to be on day 10 of her cycle.

29. On or about January 25, 2012, P.F. was seen for a follow up of her endometrial lining, which was now noted to be 8 to 12 mm thickness and suitable for embryo transfer. She was prescribed Estrace, given 5,000 units of hCG, and embryo transfer was scheduled for

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8 Estrace is a trade name for estradiol is a powerful female hormone that causes proliferation and thickening of the tissues and blood vessels of the endometrium, used medically in the treatment of estrogen deficiency and certain menopausal conditions.
January 29.

30. On or about January 29, 2012, P.F. was seen for embryo transfer. At that time, her endometrial lining was noted to be 10 mm and there were multiple follicles on both ovaries. Respondent performed four embryo transfers.

31. Thereafter, P.F. was seen on February 10, 2012, and had no complaints. She was advised to maintain a balanced diet, rest, and no strenuous exercise.

32. On or about February 12, 2012, Respondent saw P.F. for a follow up visit and her hCG level had risen to 48. She did not have any complaints and was prescribed progesterone. She was advised to continue eating a balanced diet, to rest, and not to engage in strenuous exercise.

33. On or about February 15, 2012, P.F. was seen for a follow up visit. At this time her hCG had fallen to 10 mIU/ml. On February 16, 2012, she was informed that she was not pregnant and could stop the medications.

34. Respondent committed gross negligence in his care and treatment of P.F. when he failed perform adequate medical testing, such as a thyroid function test, a CBC, a chemistry panel, a urine toxicology screening, a sonohysterogram or hysterosalpingogram, to determine if the patient was an eligible surrogate.

THIRD CAUSE FOR DISCIPLINE

(Gross Negligence – Patient H.J.)

35. Respondent is subject to disciplinary action under section Business and Professions Code section 2234, subdivision (b) in that he committed acts of gross negligence in his care and treatment of patient H.J. The circumstances are as follows:

36. On or about December 27, 2001, patient H.J., a then 47-year old female, presented to Respondent for infertility problems. She had a history of fibroid tumors, which had been removed by another physician, and was hypothyroid. She had been attempting to get pregnant for many years, but was not successful. She also had previous tried fertility therapy at two separate facilities, but failed to get pregnant.
37. On or about January 2, 2012, H.J. was seen by Respondent who noted it was her second or third day of her cycle. Respondent scheduled the patient for a Rubin test, and was to start administration of Clomid and gonadotropin,11 and Estrace to begin on day 4 of her cycle. Respondent failed to inform the patient and document that the chances of pregnancy with the administration of Clomid and gonadotropin at her age would be less than 2%.

38. On or about January 5, 2012, Respondent saw H.J. and performed a Rubin’s/Dynamic CO2-Tuben-Insufflation test12 as a diagnostic study. Respondent’s impression of the test showed that both fallopian tubes were stenosed.13 Respondent recommended that the patient undergo an in vitro fertilization program, however, the patient could not afford it. Thereafter, Respondent recommended a repeat Rubin’s insufflation test as treatment for her infertility.

39. On or about January 12, 2012, H.J. again presented to Respondent who treated the patient by performing another Rubin’s insufflation test. He also performed an ultrasound. The patient was advised to return in 8 days for another ultrasound and a urine LH.14 Respondent did not, however, perform a hysterosalpingogram or a laparoscopy to evaluate if a tubal factor was responsible for the patient’s infertility.

40. On or about February 9, 2012, Respondent again treated H.J.’s condition with another Rubin’s insufflation test. Respondent’s impression was that both fallopian tubes were stenosed, but narrow at high intrauterine pressure (200 mgHg). Respondent again discussed an IVF program verses the insufflation test as treatment, but documented that the patient requested a repeat insufflation test. Respondent failed to perform a hysterosalpingogram or a laparoscopy to

9 The Rubin test is a diagnostic test to determine the patency or occlusion of the fallopian tubes.

10 Clomid is the trade name for clomiphene a fertility drug that is used to stimulate ovulation and that has been associated with multiple births.

11 Gonadotropin is a hormone that stimulates the growth and activity of the gonads, especially any of several pituitary hormones that stimulate the function of the ovaries and testes.

12 Insufflation refers to blowing air or medicated powder into the lungs or some other body cavity.

13 Stenosed refers to being marked by or showing stenosis; narrowed; strictured.

14 LH is the abbreviation for Luteinizing hormone, a female hormone that regulates ovulation and menstruation.
properly evaluate if a tubal factor was responsible for the patient’s infertility, but instead
continued to perform the Rubin’s insufflation test as treatment for the patient’s infertility.

41. On or about February 15, 2012, Respondent performed another ultrasound on H.J.
which revealed a 14 mm follicle. Respondent prescribed hMG\textsuperscript{15} and Clomid, but failed to inform
the patient that there was a very low chance of pregnancy utilizing such treatment at her age.

42. On or about March 5, March 7, April 3 and 30, 2012, Respondent performed repeat
Rubin’s insufflation test on each of these visits. On the April 3\textsuperscript{rd} visit, his impression was that
there was a tubal obstruction. He documented that the patient requested repeat insufflation tests
as treatment to improve tubal narrowing, despite there being no change in the patient’s condition
after multiple procedures. The patient also received Clomid and Estrace, along with the antibiotic
Cipro, on each of these cycles. However, Respondent failed to perform a hysterosalpingogram or
a laparoscopy to properly evaluate if a tubal factor was responsible for the patient’s infertility, but
instead continued to perform the Rubin’s insufflation test as treatment for the patient’s infertility.

43. Respondent committed gross negligence in his care and treatment of patient H.J.
when he repeatedly utilized and performed tubal insufflation tests as a diagnostic tool and
treatment for H.J.’s infertility and failed to perform a hysterosalpingogram or a laparoscopy to
properly evaluate if a tubal factor was responsible for her infertility.

FOURTH CAUSE FOR DISCIPLINE
(Repeated Negligent Acts – Patient J.L.)

44. Respondent is subject to disciplinary action under section Business and Professions
Code section 2234, subdivision (c) in that he committed repeated negligent acts in his care and
treatment of patient J.L. The circumstances are as follows:

45. Paragraphs 9 through 19, inclusive, above are incorporated herein by reference as if
fully set forth.

46. Respondent committed repeated negligent acts when he:

A. Failed to order and complete a complete blood count, urinalysis and toxicology panel,

\textsuperscript{15} hMG is the abbreviation for human menopausal gonadotropin.
chemistry panel, blood type with antibody analysis, endocrine evaluation with thyroid function, 
cervical culture for sexually transmitted diseases, and performing a pelvic examination and 
transvaginal ultrasound to properly evaluate if she was eligible surrogate;
B. Failed to perform an infectious disease panel for HIV, hepatitis, and chlamydia prior 
to transferring the embryos;
C. Failed to perform a sonohysterogram or hysterosalpingogram to determine if the 
surrogate had uterine fibroids, polyps or anomalies; and
D. Failing to properly evaluate the patient for dehydration by ordering a CBC, urinalysis 
or documenting some history of vomiting or nausea that would preclude fluid intake.

FIFTH CAUSE FOR DISCIPLINE
(Repeated Negligent Acts – Patient P.F.)

47. Respondent is subject to disciplinary action under section Business and Professions 
Code section 2234, subdivision (c) in that he committed repeated negligent acts in his care and 
treatment of patient P.F. The circumstances are as follows:

48. Paragraphs 22 through 33, inclusive, above are incorporated herein by reference as if 
fully set forth.

49. Respondent committed repeated negligence acts when he:
A. Failed perform adequate medical testing, such as a thyroid function test, a CBC, a 
chemistry panel, a urine toxicology screening, a sonohysterogram or hysterosalpingogram, to 
determine if the patient was an eligible surrogate; and
B. Failed to add subcutaneous Lupron to assist in the suppression of polycystic ovaries 
and failed to establish a programmed cycle in order to prepare for scheduling embryo transfer.

SIXTH CAUSE FOR DISCIPLINE
(Repeated Negligent Acts – Patient H.J.)

50. Respondent is subject to disciplinary action under section Business and Professions 
Code section 2234, subdivision (c) in that he committed repeated negligent acts in his care and 
treatment of patient H.J. The circumstances are as follows:
51. Paragraphs 36 through 42, inclusive, above are incorporated herein by reference as if fully set forth.

52. Respondent committed repeated negligent acts when he:

A. Repeatedly utilized and performed tubal insufflation tests as a diagnostic tool and treatment for H.J.'s infertility and failed to perform a hysterosalpingogram or a laparoscopy to properly evaluate if a tubal factor was responsible for her infertility; and

B. Failed to fully inform the patient and document that there was a very low success of gonadotropin and Clomid administration at her age.

SEVENTH CAUSE FOR DISCIPLINE

(Failure to Maintain Adequate and Accurate Records)

53. Respondent is subject to disciplinary action under section Business and Professions Code section 2266 in that he failed to maintain adequate and accurate records in his care and treatment of patients J.L., P.F. and H.J. The circumstances are as follows:

54. Paragraphs 9 through 19, 22 through 33, and 36 through 42, inclusive, above are incorporated herein by reference as if fully set forth.

PRAYER

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

1. Revoking or suspending Physician's and Surgeon's Certificate Number A93089, issued to Fu Nan Wang, M.D.

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

3. Ordering Fu Nan Wang, M.D. to pay the Medical Board of California the costs of probation monitoring, if placed on probation; and

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

DATED: December 24, 2014

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

Complainant