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State Medical Board of Ohio

77 S. High St., 17th Floor • Columbus, OH 43215-6127 • (614) 466-3934 • Website: www.state.oh.us/med/

August 8, 2001

Christopher Chen, M.D.
P. O. Box 122
Pleasanton, CA 94566

Dear Doctor Chen:

Please find enclosed certified copies of the Entry of Order; the Report and Recommendation of Daniel Roberts, Attorney Hearing Examiner, State Medical Board of Ohio; and an excerpt of draft Minutes of the State Medical Board, meeting in regular session on August 8, 2001, including motions approving and confirming the Report and Recommendation as the Findings and Order of the State Medical Board of Ohio.

Section 119.12, Ohio Revised Code, may authorize an appeal from this Order. Such an appeal must be taken to the Franklin County Court of Common Pleas.

Such an appeal setting forth the Order appealed from and the grounds of the appeal must be commenced by the filing of a Notice of Appeal with the State Medical Board of Ohio and the Franklin County Court of Common Pleas. Any such appeal must be filed within fifteen (15) days after the mailing of this notice and in accordance with the requirements of Section 119.12, Ohio Revised Code.

THE STATE MEDICAL BOARD OF OHIO

Anand G. Garg, M.D. /TAD
Anand G. Garg, M.D.
Secretary

AGG: jam
Enclosures

CERTIFIED MAIL RECEIPT NO. 7099 3220 0009 3045 9479
RETURN RECEIPT REQUESTED

Cc: 1393 Santa Rite, Suite F
Pleasanton, CA 94566
CERTIFIED MAIL RECEIPT NO. 7099 3220 0009 3045 9486
RETURN RECEIPT REQUESTED

Mailed 8-23-01

CERTIFICATION

I hereby certify that the attached copy of the Entry of Order of the State Medical Board of Ohio; Report and Recommendation of Daniel Roberts, State Medical Board Attorney Hearing Examiner; and excerpt of draft Minutes of the State Medical Board, meeting in regular session on August 8, 2001, including motions approving and confirming the Findings of Fact, Conclusions and Proposed Order of the Hearing Examiner as the Findings and Order of the State Medical Board of Ohio; constitute a true and complete copy of the Findings and Order of the State Medical Board in the Matter of Christopher Chen, M.D., as it appears in the Journal of the State Medical Board of Ohio.

This certification is made by authority of the State Medical Board of Ohio and in its behalf.

Anand G. Garg, M.D.
Anand G. Garg, M.D.
Secretary

(SEAL)

AUGUST 8, 2001
Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF	*
	*
CHRISTOPHER CHEN, M.D.	*

ENTRY OF ORDER

This matter came on for consideration before the State Medical Board of Ohio on August 8, 2001.

Upon the Report and Recommendation of Daniel Roberts, State Medical Board Attorney Hearing Examiner, designated in this Matter pursuant to R.C. 4731.23, a true copy of which Report and Recommendation is attached hereto and incorporated herein, and upon the approval and confirmation by vote of the Board on the above date, the following Order is hereby entered on the Journal of the State Medical Board of Ohio for the above date.

It is hereby ORDERED that:

The certificate of Christopher Chen, M.D., to practice medicine and surgery in the State of Ohio shall be LIMITED and RESTRICTED as follows:

1. Dr. Chen shall not commence practice in Ohio without prior Board approval.

2. The Board shall not consider granting approval for Dr. Chen to commence practice in Ohio unless all of the following minimum requirements have been met:

    a. Dr. Chen shall hold a current certificate to practice medicine and surgery in the State of Ohio.

    b. Dr. Chen shall notify the Board in writing that he intends to commence practice in Ohio.

c. Dr. Chen shall provide documentation acceptable to the Board that he has fully complied with the California Decision and Order.

d. Dr. Chen shall enter into a written consent agreement with the Board. The consent agreement shall include probationary terms, conditions, and limitations, as determined by the Board.

This Order shall become effective immediately upon the mailing of notification of approval by the Board.

Anand G. Garg, M.D.

Anand G. Garg, M.D.
Secretary

(SEAL)

AUGUST 8, 2001
Date

STATE MEDICAL BOARD
OF OHIO
2001 JUL -6 P 12: 42

REPORT AND RECOMMENDATION
IN THE MATTER OF CHRISTOPHER CHEN, M.D.

The Matter of Christopher Chen, M.D., was heard by Daniel Roberts, Attorney Hearing Examiner for the State Medical Board of Ohio, on June 6, 2001.

INTRODUCTION

I. Basis for Hearing

A. By letter dated February 14, 2001, the State Medical Board of Ohio [Board] notified Christopher Chen, M.D., that it had proposed to take disciplinary action against his certificate to practice medicine and surgery in this state. The Board based its proposed action on the allegation that Dr. Chen had been disciplined by the Division of Medical Quality of the Medical Board of California [California Board]. . Specifically, the Board alleged that:

> On or about February 24, 2000, Dr. Chen entered into a Stipulation for Settlement with the California Board to resolve the allegations set forth in an Accusation that had been filed on May 3, 1999. Thereafter, on March 23, 2000, the California Board adopted the Stipulation for Settlement as its Decision and Order. The California Board revoked Dr. Chen's Physician and Surgeon Certificate, stayed the revocation, and placed him on probation for a period of three years, effective April 24, 2000.
>
> The acts underlying the Accusation concerned Dr. Chen's pain management treatment of Patient E.K., who had suffered a lumbar spine injury in a 1992 motor vehicle accident.
>
> On thirty seven occasions during the approximately four month treatment period, Dr. Chen administered excessive amounts of corticosteroid injections and prescribed excessive amounts of acetaminophen containing medications and/or failed to consider longer acting non-acetaminophen containing medications.

The Board alleged that the California Order constitutes "'[a]ny of the following actions taken by the state agency responsible for regulating the practice of medicine and surgery, osteopathic medicine and surgery, podiatry, or the limited branches of medicine in another state, for any reason other than the nonpayment of fees: the limitation, revocation, or suspension of an individual's license to practice;

acceptance of an individual's license surrender; denial of a license; refusal to renew or reinstate a license; imposition of probation; or issuance of an order of censure or other reprimand,' as that clause is used in Section 4731.22(B)(22), Ohio Revised Code."

Accordingly, the Board advised Dr. Chen of his right to request a hearing in this matter. (State's Exhibit 1A)

B. On April 12, 2001, Dr. Chen submitted a written hearing request. (State's Exhibit 1B)

II. Appearances

A. On behalf of the State of Ohio: Betty D. Montgomery, Attorney General, by Hanz R. Wasserburger, Assistant Attorney General.

B. On behalf of the Respondent: Having been advised of his right to appear in person and/or be represented by counsel, Christopher Chen, M.D., elected to represent himself at hearing.

EVIDENCE EXAMINED

I. Testimony Heard

Presented by the Respondent

Christopher Chen, M.D.

II. Exhibits Examined

A. Presented by the State:

1. State's Exhibits 1A-1J: Procedural exhibits.

2. State's Exhibit 2: Certified copy of March 23, 2000, Decision and Order of the California Board adopting a Stipulation for Settlement and Disciplinary Order in the Matter of the Accusation Against Chris Chen, M.D.

B. Presented by the Respondent

1. Respondent's Exhibit B: Curriculum Vitae of Christopher Chen, M.D.

* 2. Respondent's Exhibit E: Letters from Charles V. Barrett, D.O., and five patients addressed to the California Board or "To whom it may concern" in support of Dr. Chen.

C. Board Exhibit:

Board Exhibit 1: June 1, 2001, Entry reassigning this matter from Chief Attorney Hearing Examiner R. Gregory Porter to Attorney Hearing Examiner Daniel Roberts.

PROFFERED EXHIBITS

* A. Respondent's Exhibit A: Undated statement of Dr. Chen to the Board.

* B. Respondent's Exhibit D: Letters concerning Dr. Chen's treatment of Patient E.K.

Note: All exhibits marked with an asterisk [*] have been sealed to protect patient confidentiality.

PROCEDURAL MATTERS

At hearing, Christopher Chen, M.D., introduced Respondent's Exhibits A and D. The State objected based on hearsay and relevance. The Hearing Examiner also determined that the admissible portions duplicated Dr. Chen's testimony. Therefore, the State's objection was sustained. Nevertheless these exhibits were proffered on behalf of Dr. Chen. (Hearing Transcript at 48-52, 58-62)

Should the Board choose to do so, however, the Board may vote to overrule the decision of the Attorney Hearing Examiner, and admit Respondent's Exhibits A and/or D into evidence.

SUMMARY OF THE EVIDENCE

All exhibits and transcripts of testimony, even if not specifically mentioned, were thoroughly reviewed and considered by the Hearing Examiner prior to preparing this Report and Recommendation.

1. Christopher Chen, M.D., graduated from the University of California, Berkeley, in 1983 with a Bachelor's Degree in Science. He subsequently graduated from medical school at the University of California, San Diego, in 1987. Dr. Chen participated in a general surgery internship and residency at the Kaiser Permanente Medical Center, Oakland, California from 1987 until 1989. He subsequently completed an anesthesiology residency

at Meridia-Huron Road Hospital in Cleveland Ohio in 1993, serving as Chief Resident in 1993. Dr. Chen is a Diplomate of the American Board of Anesthesiology and is licensed to practice medicine in the states of California, Mississippi, and Ohio. (Hearing Transcript [Tr.] at 68-69; Respondent's Exhibit [Resp. Ex.] B)

Dr. Chen served as Assistant Director of Anesthesia and Director of Pain Management at San Joaquin General Hospital from 1994 until 1996. Dr. Chen testified that the copy of his resume in the record is out of date. He noted that he now holds a Board Certificate in Pain Management. In June of 2000, Dr. Chen merged his practice with Redwood Rehabilitation Medical Group, a large multi-specialty practice. Dr. Chen testified that his personal practice is almost entirely office based pain management. He stated that he also does some general anesthesia work. (Tr. 46-47, 68-69; Resp. Ex. B)

2. On May 3, 1999, the Executive Director of the California Medical Board filed an Accusation against Dr. Chen. The Accusation summarized Dr. Chen's treatment of Patient E.K. The California Board alleged that Patient E.K. was a thirty-three year old male who had suffered a lumbar spine injury in a 1992 motor vehicle accident. Patient E.K. first presented to Dr. Chen with a chief complaint of "chronic back pain, 3½ years of chronic pain the back, legs, right arm and head." Dr. Chen conducted a physical examination and formed an impression of right sciatic radiculopathy and right sacroiliatis. (State's Exhibit [St. Ex.] 2)

According to the California Accusation, Dr. Chen's treatment of Patient E.K. between March 5 and August 14, 1996, included the following:

Date	Administered	Prescribed
March 5	Depo-Medrol 40 mg right S1 block Marcaine 0.25% 5 cc	
March 8	Depo-Medrol 40 mg epidural	Baclofen 10 mg
March 11	Depo-Medrol 40 mg epidural	
March 13		30 Vicodin ES
March 18	Depo-Medrol 100 mg epidural	50 Baclofen 10 mg
March 20		30 Darvocet
March 25	Depo-Medrol 120 mg epidural	30 Darvocet 30 Valium
March 30		30 Vicodin ES
April 3	Depo-Medrol 120 mg epidural	
April 5	Depo-Medrol 120 mg epidural	30 Vicodin ES Buspar
April 7	Dura-Morph 0.5 mg intrathecal injection	
April 9	Depo-Medrol 40 mg piriformis block injected into the muscle	30 Vicodin 30 Valium

April 11	Depo-Medrol 120 mg epidural	
April 12	Depo-Medrol 40 mg bilateral S1 block	
April 14	Dura-Morph 0.5 mg intrathecal injection	50 Vicodin ES 30 Valium
April 24		30 Vicodin ES
April 29	Depo-Medrol 40 mg selective nerve root injection at L5-S1	50 Darvocet 30 Valium
May 3		50 Vicodin ES 50 Soma Discontinued Darvocet
May 4	Dura-Morph 0.5 mg injection into the spinal space at L5-S1	
May 6	Depo-Medrol 40 mg nerve root injection at L5-S1	50 Darvocet 50 Buspar 10 mg Discontinued Soma
May 9	Dura-Morph 0.5 mg injection at L5-S1	30 Vicodin ES
May 13	Dura-Morph 0.5 mg injection at L5-S1	50 Darvocet 30 Soma
May 17	Dura-Morph 0.5 mg injection at L5-S1	30 Vicodin ES
May 20		30 Vicodin ES
May 22	Depo-Medrol 100 mg right S1 block	30 Vicodin
May 24	Depo-Medrol 120 mg right S1 block	30 Soma
May 28	Depo-Medrol 100 mg right S1 block	30 Vicodin
May 30	Depo-Medrol 100 mg right S1 block	30 Vicodin 100 Buspar 10 mg 100 Clonidine 1 mg
June 5	Depo-Medrol 100 mg right S1 block	30 Vicodin
June 10	Dura-Morph 0.5 mg injection at L5-S1	30 Lortab
June 14	Dura-Morph 0.5 mg injection at L5-S1	
June 17	Depo-Medrol 120 mg injection at L4-L5 level	30 Lortab
June 24	Marcaine 0.25% 10 cc right S1 block	30 Lortab 30 Soma 100 Clonidine 0.2 mg
July 3		30 Lortab
July 10		50 Lorcet
July 14		30 Lortab 10 Buspar 10 mg Discontinued Lorcet
July 16	Draining of 10 cc of pus from a 10 cm by 2 cm abscess	Antibiotic

July 17	Draining of 10 cc of pus from an abscess	50 Lortab 30 Soma
July 23	Cleaning of abscess and installation of Penrose drain	30 Percocet Stadol 1 mg
July 26		30 Lortab 30 Soma Stadol 1 mg
August 5		Buspar Lortab
August 14		Buspar Lortab

(St. Ex. 2)

The California Board alleged that Patient E.K. had experienced marked weight gain and developed congestive heart failure, Cushing's Syndrome with secondary hypertension and adrenal insufficiency, steroid-induced avascular necrosis in both hips, and osteoporosis of the spine. The California Board further alleged that Dr. Chen had failed to conduct or document a complete examination and assessment of E.K. after the first visit. (St. Ex. 2)

The California Board also alleged that Dr. Chen had administered excessive amounts of corticosteroid injections, prescribed excessive amounts of acetaminophen containing medications, and/or failed to consider or prescribe long acting non-acetaminophen containing medications, and had failed to maintain complete and adequate medical records, and/or had failed to formulate and document a treatment plan for Patient E.K. (St. Ex. 2)

On March 23, 2000, The California Board entered a Decision and Order effective April 24, 2000, adopting a February 23, 2000, Stipulation for Settlement in the Matter of the Accusation Against: Chris Chen, M.D. [California Order]. (St. Ex. 2)

The California Order states that it is based on the May 3, 1999, Accusation. However, the California Board did not make a finding as to which specific elements of Dr. Chen's alleged conduct had actually occurred or which had formed the basis of the California Order. (St. Ex. 2)

The California Board ordered that Dr. Chen's California Physician and Surgeon Certificate be revoked. The revocation was stayed and Dr. Chen was placed on probation for a period of three years with a number of conditions; including requirements that Dr. Chen:

- Complete the "Prescribing Practices Course at the University of California, San Diego School of Medicine or similar California Board approved course.
- Submit, for California Board approval, a customized educational program focusing on pain management, prescribing practices and medical records documentation, which was to include at least twenty-five hours of course work

for each year of probation in addition to the continued education required for regular relicensure.

- Reimburse the California Board $1,800.00 for the costs of investigation and prosecution.
- Reimburse the California Board $2,400.00 per year for probation supervision.

The California Board found that Dr. Chen had been licensed to practice medicine in California since 1988 and had had no prior disciplinary history. The California Board further found that the case involving Patient E.K. "appears to represent an isolated incident" involving Dr. Chen's pain management practice. The California Board concluded that Dr. Chen had treated Patient E.K. in good faith and had attempted to act in Patient E.K.'s best interest. The California Board noted that Dr. Chen had accepted full responsibility for his actions. (St. Ex. 2)

3. Dr. Chen testified at hearing in Ohio that the California Board had imposed a stayed revocation of his California License and placed him on three years probation. Dr. Chen explained that he must file written quarterly reports stating that he is in compliance with the terms of his probation. Dr. Chen also explained that he has completed the clinical training in narcotic prescribing and record keeping required by the California Order and is current with the other course requirements of the California Order. (Tr. 69-72, 84-85)

4. Dr. Chen testified that he had first seen Patient E.K. on March 5, 1996, and had completed "the usual workup, the MRI's and that and examination." He noted that Patient E.K. had had progressive weakness of his right leg and that urgent action was needed to prevent Patient E.K. from losing his ability to walk. Dr. Chen stated that Patient E.K. had been seen by a number of physicians. He explained that Patient E.K. had been suffering from chronic back pain for four years and had "all treatments available" including chiropractic treatment, physical therapy, heavy doses of narcotics, and consultation with a neurosurgeon and neurologist. Dr. Chen stated that Patient E.K. also went to the emergency department two or three times a month. (Tr. 16-18)

   Dr. Chen testified that he had tried a variety of treatments to care for Patient E.K. The first invasive treatments were epidurals, which were initially very successful. Dr. Chen stated that he had considered the dangers of side effects such as Cushing's Syndrome in determining an acceptable frequency for epidural treatment. Dr. Chen explained that the epidurals became less effective over time and he increased the frequency of the treatments. However, he also counseled Patient E.K. about the increased risk of side effects, which Patient E.K. indicated he was willing to accept. Dr. Chen testified that Patient E.K. had threatened to kill himself if Dr. Chen did not continue to administer the epidurals. (Tr. 19-21, 24, 32)

Dr. Chen testified that, during the course of his treatment of Patient E.K., he had worked with other physicians who were concurrently treating Patient E.K. These included a neurologist and a workers compensation medical examiner. (Tr. 25)

Dr. Chen testified that he had not attempted to treat Patient E.K. with drugs such as Percocet and Vicodin because other physicians had tried these drugs unsuccessfully before Patient E.K. had been referred to Dr. Chen. He noted, however, that he had supplemented his primary treatment with these drugs. Dr. Chen explained that he had not used long-acting narcotics such as Oxycontin, MS Contin, and Kadian because they were not available. Dr. Chen noted that drugs such as Dilaudid and Percocet presented a high risk of abuse and had other problematic side effects. (Tr. 18-19)

Dr. Chen testified that Patient E.K. had developed Cushing's Syndrome and his care had been transferred to Stanford University Medical Center. Dr. Chen testified that Cushing's Syndrome occurs, with varying degrees of severity, quite frequently with steroid injections. Dr. Chen elaborated that Cushing's Syndrome can occur with only one injection and never occurs in some other patients who receive ten times as many injections as had Patient E.K. Dr. Chen asserted that it is difficult to say in advance which patients are most susceptible to Cushing's Syndrome. He also noted that concurrent medications could affect the patient's vulnerability to the syndrome. (Tr. 25-27, 32-33)

5. Dr. Chen testified that Patient E.K. had filed a lawsuit against Dr. Chen based on the occurrence of Cushing's Syndrome. Dr. Chen further testified that the lawsuit filed by Patient E.K. is the only one that has ever been filed against him. He stated that the lawsuit had been amended to add a claim involving aseptic necrosis of the hip. Dr. Chen explained that the aseptic necrosis involved diminished vascular blood supply to the hip. At hearing, Dr. Chen expressed concern that his malpractice insurance carrier had settled the case because it had feared of the costs involved in treating aseptic necrosis. (Tr. 33, 36-37, 46)

Dr. Chen testified that he had been actively researching Patient E.K.'s condition and gathering medical records and other evidence when his insurance carrier notified him that it had settled the lawsuit. Dr. Chen further testified that his malpractice insurance carrier had settled the lawsuit without his consent. Dr. Chen testified that his treatment of Patient E.K. came to the attention of the California Board due to the settlement of the lawsuit. (Tr. 15-16, 34-35)

Dr. Chen testified that his malpractice insurance carrier dropped his coverage and declined to assist in his defense before the California Board. He signed a settlement agreement with the California Board because he could no longer afford to contest the allegations. (Tr. 16)

6. At hearing, Dr. Chen expressed concern over a "pendulum" effect in prescribing standards. He explained that the California Board was encouraging less use of narcotics in 1996 and is now encouraging greater use of narcotics. (Tr. 19)

   Dr. Chen testified that, during his treatment of Patient E.K., he had been aware of discipline imposed by the California Board on another physician. Dr. Chen explained that that physician had been a family practitioner who had been disciplined for prescribing large quantities of narcotics. Dr. Chen stated that he had also been aware of another physician in Oregon being disciplined for failing to prescribe enough narcotics for his patients. Dr. Chen cited these examples to illustrate that he had been concerned about finding the right balance for narcotics administration but that it had been difficult to determine the appropriate level of narcotics in an evolving regulatory environment. (Tr. 27-29)

   Dr. Chen testified that there are no black and white prescribing standards because each patient is different and each case must be evaluated individually. In response to a question from the Assistant Attorney General, Dr. Chen stated that he couldn't call the California Board and ask them how much of a given drug he should prescribe to a specific patient. He explained that, in treating Patient E.K., he had consulted with other treating physicians as well as other colleagues. He had also reviewed medical literature and textbooks. Dr. Chen noted that he had recently completed training at the time he treated Patient E.K. and that training had been fresh in his mind. (Tr. 77-79, 81-82)

   Dr. Chen testified that pain management is a new and fast evolving field. He explained that 90% of the medications he prescribes today are not Federal Food and Drug Administration [FDA] approved for pain management. These include drugs that are FDA approved for hypertension and prevention of seizure. Dr. Chen explained that pain management involves a variety of acceptable modalities and is often shaped by the specific training and experience of the practitioner as well as the variable responses of patients to the treatments. (Tr. 29-32)

7. Dr. Chen strongly denies responsibility for Patient E.K.'s development of aseptic necrosis. He explained that Patient E.K. had difficulty walking and apparent problems with his hip, including an infection, before being treated by Dr. Chen. Dr. Chen testified that the injections he had given Patient E.K. were "midline" and thus unlikely to lead to a hip infection. Dr. Chen asserts that the aseptic necrosis arose from injections given by others (Tr. 36-37)

   Dr. Chen testified that, during his treatment of Patient E.K., he had suspected illicit drug use by Patient E.K. Dr. Chen explained that he responded to this concern by attempting to taper his prescribing of narcotics to Patient E.K. Dr. Chen described Patient E.K. as having been uncooperative with efforts to reduce the quantity of drugs used. He noted that Patient E.K. would take prescribed narcotics more quickly then instructed. Dr. Chen testified that he had begun the process of restricting the medications he would provide to

Patient E.K. However, he had not made a great deal of progress on this plan before Patient E.K.'s care had been transferred to Stanford. (Tr. 37-39)

Dr. Chen testified that the most common mechanism for aseptic necrosis is the clogging of micro vascular structures by micro particles in injections. He further testified that the second most common cause is a bacterial infection. (Tr. 41)

The California Order does not make reference to the defenses raised by Dr. Chen at hearing in Ohio. Dr. Chen explained that he had raised these defenses before the California Board through his counsel. However, these arguments had not been included in the settlement agreement. (Tr. 72-75, 80)

Dr. Chen testified that he accepts full responsibility for his actions. (Tr. 77; St. Ex. 2)

8. Charles V. Barrett, D.O., provided Dr. Chen with a letter of reference dated November 11, 1996. Dr. Barrett stated that he was the Medical Director of the Anesthesia and Pain Management Center at Richmond Heights General Hospital in Richmond Heights, Ohio. Dr. Barrett described Dr. Chen as proficient in academic and clinical areas of pain management and anesthesiology. (Resp. Ex. E)

   At hearing, Dr. Chen introduced a packet of letters of support, prepared at his request, from five of his patients. These letter writers describe Dr. Chen as professional, compassionate, ethical, respected, and caring. They note that Dr. Chen had demonstrated very effective communications skills with both patients and other health care professionals, which improved patient care. The State of Ohio did not have the opportunity to cross-examine any of the letter writers. (Resp. Ex. E)

9. Dr. Chen testified that he has no specific plans to return to Ohio. However, he does not wish to foreclose any future opportunities. In response to questions posed at hearing, Dr. Chen asked that the Board place themselves in his shoes in 1996, with the treatments and resources then available. He also asked that the Board consider the rapid evolution of pain management theory. Dr. Chen testified that, since treating Patient E.K., he has learned how to handle patients better and "how to say no." (Tr. 82-87)

FINDINGS OF FACT

1. On February 24, 2000, Christopher Chen, M.D., entered into a Stipulation for Settlement with the Division of Medical Quality of the Medical Board of California to resolve the allegations set forth in an Accusation that had been filed on May 3, 1999. Thereafter, on March 23, 2000, the California Board adopted the Stipulation for Settlement as its Decision and Order, and revoked Dr. Chen's Physician and Surgeon Certificate, stayed the revocation, and placed him on probation for a period of three years, effective April 24, 2000.

2. The alleged acts underlying the Accusation concerned Dr. Chen's pain management treatment of Patient E.K., who had suffered a lumbar spine injury in a 1992 motor vehicle accident.

3. The California Order states that it is based on the May 3, 1999, Accusation. However, the California Board did not make a formal finding as to which specific elements of Dr. Chen's alleged conduct had actually occurred or which had formed the basis of the California Order.

CONCLUSIONS OF LAW

The Decision and Order of the Division of Medical Quality of the Medical Board of California In the Matter of the Accusation Against: Chris Chen, M.D., constitutes "[a]ny of the following actions taken by the state agency responsible for regulating the practice of medicine and surgery, osteopathic medicine and surgery, podiatry, or the limited branches of medicine in another state, for any reason other than the nonpayment of fees: the limitation, revocation, or suspension of an individual's license to practice; acceptance of an individual's license surrender; denial of a license; refusal to renew or reinstate a license; imposition of probation; or issuance of an order of censure or other reprimand," as that clause is used in Section 4731.22(B)(22), Ohio Revised Code.

PROPOSED ORDER

It is hereby ORDERED that:

The certificate of Christopher Chen, M.D., to practice medicine and surgery in the State of Ohio shall be LIMITED and RESTRICTED as follows:

1. Dr. Chen shall not commence practice in Ohio without prior Board approval.

2. The Board shall not consider granting approval for Dr. Chen to commence practice in Ohio unless all of the following minimum requirements have been met:

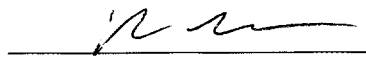
   a. Dr. Chen shall hold a current certificate to practice medicine and surgery in the State of Ohio.

   b. Dr. Chen shall notify the Board in writing that he intends to commence practice in Ohio.

   c. Dr. Chen shall provide documentation acceptable to the Board that he has fully complied with the California Decision and Order.

d. Dr. Chen shall enter into a written consent agreement with the Board. The consent agreement shall include probationary terms, conditions, and limitations, as determined by the Board.

This Order shall become effective immediately upon the mailing of notification of approval by the Board.



Daniel Roberts
Attorney Hearing Examiner

State Medical Board of Ohio

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EXCERPT FROM THE DRAFT MINUTES OF AUGUST 8, 2001

REPORTS AND RECOMMENDATIONS

Dr. Bhati announced that the Board would now consider the findings and orders appearing on the Board's agenda.

Dr. Bhati asked whether each member of the Board had received, read, and considered the hearing record, the proposed findings, conclusions, and orders, and any objections filed in the matter of Warrick Lee Barrett, M.D.; Christopher Chen, M.D.; Brian W. Davies, M.D.; Daniel X. Garcia, M.D.; Alan P. Skora, D.O.; Rezso Spruch, M.D.; Tom Reutti Starr, M.D.; Joseph A. Tore, M.D.; Quirino B. Valeros, M.D. and Dirk Gregory Wood, M.D. A roll call was taken:

ROLL CALL:	Mr. Albert	- aye
	Dr. Talmage	- aye
	Dr. Somani	- aye
	Dr. Buchan	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Agresta	- aye
	Dr. Steinbergh	- aye
	Dr. Bhati	- aye

Dr. Bhati asked whether each member of the Board understands that the disciplinary guidelines do not limit any sanction to be imposed, and that the range of sanctions available in each matter runs from dismissal to permanent revocation. A roll call was taken:

ROLL CALL:	Mr. Albert	- aye
	Dr. Talmage	- aye
	Dr. Somani	- aye
	Dr. Buchan	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Agresta	- aye
	Dr. Steinbergh	- aye
	Dr. Bhati	- aye

Dr. Bhati noted that, in accordance with the provision in Section 4731.22(F)(2), Revised Code, specifying that no member of the Board who supervises the investigation of a case shall participate in further

adjudication of the case, the Secretary and Supervising Member must abstain from further participation in the adjudication of these matters.

Dr. Bhati stated that if there were no objections, the Chair would dispense with the reading of the proposed findings of fact, conclusions and orders in the above matters. No objections were voiced by Board members present.

The original Reports and Recommendations shall be maintained in the exhibits section of this Journal.

.....

CHRISTOPHER CHEN, M.D.

Dr. Bhati directed the Board's attention to the matter of Christopher Chen, M.D. He advised that objections were filed to Hearing Examiner Roberts' Report and Recommendation and were previously distributed to Board members.

DR. SOMANI MOVED TO APPROVE AND CONFIRM MR. ROBERTS' PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER IN THE MATTER OF CHRISTOPHER CHEN, M.D. DR. STEINBERGH SECONDED THE MOTION.

Dr. Bhati stated that he would now entertain discussion in the above matter.

Dr. Steinbergh stated that, although she agrees with the Report and Recommendation, Dr. Chen had, in his objections, asked for clarification of the Board's Order. Dr. Chen felt that the term in the Proposed Order prohibiting him from commencing practice in Ohio without prior Board approval was too vague and he wanted to know how long that restriction applied. Dr. Steinbergh emphasized that the terms of the Board Order would not ever expire, but would last until Dr. Chen met the listed requirements. She continued that, regarding his request for detailed probationary terms, conditions and limitations, Dr. Chen needs to understand that, should he ever return to Ohio to practice, he would be required to enter into a consent agreement with the Board, and that Agreement will detail the probationary terms, conditions and limitations.

Dr. Bhati agreed, and thanked Dr. Steinbergh for clarification.

A vote was taken on Dr. Somani's motion to approve and confirm:

Vote:	Mr. Albert	- abstain
	Dr. Talmage	- aye
	Dr. Somani	- aye
	Dr. Buchan	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye

Dr. Agresta	- aye
Dr. Steinbergh	- aye
Dr. Bhati	- aye

The motion carried.

State Medical Board of Ohio

77 S. High Street, 17th Floor • Columbus, Ohio 43266-0315 • 614/ 466-3934 • Website: www.state.oh.us/med/

February 14, 2001

Christopher Chen, M.D.
P.O. Box 122
Pleasanton, California 94566

Dear Doctor Chen:

In accordance with Chapter 119., Ohio Revised Code, you are hereby notified that the State Medical Board of Ohio intends to determine whether or not to limit, revoke, permanently revoke, suspend, refuse to register or reinstate your certificate to practice medicine and surgery, or to reprimand or place you on probation for one or more of the following reasons:

(1) On or about February 24, 2000, you entered into a Stipulation for Settlement with the Medical Board of California (hereinafter the "California Board") to resolve the allegations set forth in the Accusation that was filed on May 3, 1999. Thereafter, on March 23, 2000, the California Board adopted the Stipulation for Settlement as their Decision and Order, and revoked your Physician and Surgeon Certificate, stayed the revocation, and placed you on probation for a period of three (3) years, effective April 24, 2000.

The act underlying the Accusation concerned your pain management treatment of patient E.K. who had suffered a lumbar spine injury in a 1992 motor accident.

On thirty seven (37) occasions during the approximately four (4) month treatment period, you administered excessive amounts of cortisteriod injections and prescribed excessive amounts of acetomenaphin containing medications/and or failed to consider longer acting non-acetaminophen containing medication.

A copy of the California Board Accusation, the Stipulation for Settlement, and the Decision and Order are attached hereto and incorporated herein.

Your acts, conduct, and/or omissions as alleged in paragraph (1) above, individually and/or collectively, constitute "[a]ny of the following actions taken by the state agency responsible for regulating the practice of medicine and surgery, osteopathic medicine and surgery, podiatry, or the limited branches of medicine in another state, for any reason other than the nonpayment of fees: the limitation, revocation, or suspension of an individual's license to practice; acceptance of an individual's license surrender; denial of a license; refusal to renew or reinstate a license; imposition of probation; or issuance of an order of censure or other reprimand," as that clause is used in Section 4731.22(B)(22), Ohio Revised Code.

Pursuant to Chapter 119., Ohio Revised Code, you are hereby advised that you are entitled to a hearing in this matter. If you wish to request such hearing, the request must be made in writing

Mailed 2-15-01

and must be received in the offices of the State Medical Board within thirty (30) days of the time of mailing of this notice.

You are further advised that, if you timely request a hearing, you are entitled to appear at such hearing in person, or by your attorney, or by such other representative as is permitted to practice before this agency, or you may present your position, arguments, or contentions in writing, and that at the hearing you may present evidence and examine witnesses appearing for or against you.

In the event that there is no request for such hearing received within thirty (30) days of the time of mailing of this notice, the State Medical Board may, in your absence and upon consideration of this matter, determine whether or not to limit, revoke, permanently revoke, suspend, refuse to register or reinstate your certificate to practice medicine and surgery or to reprimand or place you on probation.

Please note that, whether or not you request a hearing, Section 4731.22(L), Ohio Revised Code, effective March 9, 1999, provides that "[w]hen the board refuses to grant a certificate to an applicant, revokes an individual's certificate to practice, refuses to register an applicant, or refuses to reinstate an individual's certificate to practice, the board may specify that its action is permanent. An individual subject to a permanent action taken by the board is forever thereafter ineligible to hold a certificate to practice and the board shall not accept an application for reinstatement of the certificate or for issuance of a new certificate."

Copies of the applicable sections are enclosed for your information.

Very truly yours,

Anand G. Garg MD /TAD

Anand G. Garg, M.D.
Secretary

AGG/jag
Enclosures

CERTIFIED MAIL # 7000 0600 0024 5140 0876
RETURN RECEIPT REQUESTED

cc:
1393 Santa Rita Road, Suite #F
Pleasanton, California 95466

CERTIFIED MAIL # 7000 0600 0024 5140 0869
RETURN RECEIPT REQUESTED

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

In the Matter of the Petition to Revoked Probation Against: CHRIS CHEN, M.D. Physician's and Surgeon's Certificate #G-63956 Respondent.	)	File No: 12-1997-81158

DECISION AND ORDER

The attached Stipulation for Settlement is hereby adopted as the Decision and Order of the Division of Medical Quality of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on April 24, 2000 .

IT IS SO ORDERED March 23, 2000

MEDICAL BOARD OF CALIFORNIA
I do hereby certify that this document is true and correct copy of the original on file in this office.
Keith DeJorge 9/12/2000
SIGNED DATE
Asst. Custodian of Records
TITLE

MEDICAL BOARD OF CALIFORNIA

Anabel Anderson Imbert, M.D.
Chair, Panel A
Division of Medical Quality

BILL LOCKYER, Attorney General
of the State of California
JANE ZACK SIMON
Deputy Attorney General
State Bar No. 116564
455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102-3664
Telephone: (415) 703-5544
Facsimile: (415) 703-5480

Attorneys for Complainant

BEFORE THE
DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA
STATE OF CALIFORNIA

In the Matter of the Accusation Against: **CHRIS CHEN, M.D.** **1393 Santa Rita Road, Suite #F** **Pleasanton, CA 95466** Physician's and Surgeon's Certificate No. G-63956, Respondent.	**Case No. 012-97-81158** **STIPULATION FOR SETTLEMENT**

IT IS HEREBY STIPULATED by and between **Chris Chen, M.D.** (hereinafter "respondent") with the counsel and advice of his attorney, Louis J. Anapolsky, of the law firm Knox, Lemmon & Anapolsky, and complainant Ronald Joseph, in his official capacity as Executive Director of the Medical Board of California ("Board"), by and through its attorney, Bill Lockyer, Attorney General, by Jane Zack Simon, Deputy Attorney General, as follows:

1. Accusation No. 12-97-81158 is presently pending against Chris Chen, M.D., physician and surgeon's certificate number G-63956, before the Division of Medical Quality of the Medical Board of California (hereinafter referred to as the "Division").

2. The complainant in said Accusation, Ron Joseph is the Executive Director of the Board and brought said Accusation in his official capacity only.

3. Respondent has fully discussed with his attorney, Louis J. Anapolsky the

charges and allegations contained in the Accusation and therefore has been fully advised concerning his rights in this matter.

4. Respondent hereby freely and voluntarily waives his right to a hearing on the charges and allegations contained in the Accusation, and further, respondent agrees to waive his right to reconsideration, judicial review and any and all other rights which may be accorded him by the Administrative Procedure Act and other laws of the State of California, excepting his right to petition for reinstatement of his certificate pursuant to Business and Professions Code section 2307.

5. All admissions of fact and conclusions of law contained in this stipulation are made exclusively for this proceeding and any future proceedings between the Division and respondent and shall not be deemed to be admissions for any purpose in any other administrative, civil, or criminal action, forum or proceeding.

6. Respondent's license history and status as set forth in paragraph 2 of the Accusation is true and correct and respondent's address of record is as set forth in the caption of this Stipulation. (A copy of the Accusation is attached as Exhibit A and incorporated by reference in this stipulation.)

7. For purposes of settlement of the action pending against respondent in case No. 12-97-81158, and any other cases presently known to the Board, and to avoid a lengthy administrative hearing, respondent admits that the Board has jurisdiction under section 2234 of the Business and Professions Code to adopt this stipulation for settlement as its decision and final resolution of this matter. In mitigation, respondent has been licensed by the Board since 1988 and has no prior disciplinary history. The case that is the subject of the accusation appears to represent an isolated incident in respondent's medical career, and involved his pain management practice and not his anesthesia practice. Although respondent treated the patient in this case in good faith and attempted to act in the patient's best interests, respondent accepts full responsibility for his actions.

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8. BASED UPON THE FOREGOING RECITALS, IT IS FURTHER STIPULATED AND AGREED that the Medical Board of California, upon its adoption of the Stipulation herein set forth, may, without further notice, prepare a decision and enter the following order:

Physician and Surgeon Certificate No. G-63956 heretofore issued to Chris Chen, M.D., respondent, by the Medical Board of California, is hereby revoked; PROVIDED HOWEVER, that execution of this order of revocation is stayed, and respondent is placed on probation for a period of (3) three years, upon the following terms and conditions:

Within 15 days after the effective date of this decision the respondent shall provide the Division, or its designee, proof of service that respondent has served a true copy of this decision on the Chief of Staff or the Chief Executive Officer at every hospital where privileges or membership are extended or where respondent is employed to practice medicine and on the Chief Executive Officer at every insurance carrier where malpractice insurance coverage is extended.

SPECIAL CONDITIONS

(A) **CLINICAL TRAINING PROGRAM:** Within sixty (60) days of the effective date of this decision, respondent shall, at his own expense, enroll in and successfully complete the Prescribing Practices Course at the University of California, San Diego School of Medicine, or another prescribing practices course to be approved in advance by the Division or its designee. Upon completion of the course, respondent may, at the Division's discretion, and at his own expense, be required to pass an examination administered by the Division or its designee in the area of prescribing practices. Respondent shall bear the costs of the prescribing practices course and any required examination.

(B) **EDUCATIONAL PROGRAM**

In each year of probation, respondent shall submit to the Division or its designee for its prior approval an educational program or course focusing on the area of pain management, prescribing practices and medical records documentation. Respondent shall complete at least 25

hours of educational courses for each year of probation. This program shall be in addition to the Continuing Medical Education requirements for re-licensure. Respondent shall pay all costs of the educational program.

(C) **COST RECOVERY** The respondent is hereby ordered to reimburse the Division the amount of $1,800 (one thousand, eight hundred dollars) for a part of its investigative and prosecution costs. The cost recovery shall be paid within 90 days of the effective date of this Stipulation. Failure to reimburse the Division's cost of investigation and prosecution shall constitute a violation of the probation order, unless the Division agrees in writing to payment by an installment plan because of financial hardship. The filing of bankruptcy by the respondent shall not relieve the respondent of his responsibility to reimburse the Division for its investigative and prosecution costs.

(D) **PROBATION COSTS** Respondent shall pay the costs associated with probation monitoring each and every year of probation in the amount of $200.00 (two hundred dollars) per month for each year of probation. Such costs shall be payable to the Division of Medical Quality and delivered to the designated probation surveillance monitor at the beginning of each calendar year. Failure to pay costs within 30 days of the due date shall constitute a violation of probation.

(E) **SUPERVISION OF PHYSICIAN ASSISTANTS** Respondent shall not supervise any physician assistants.

STANDARD CONDITIONS

(F) **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.

(G) **QUARTERLY REPORTS** Respondent shall submit quarterly declarations under penalty of perjury on forms provided by the Division stating whether there has been compliance with all the conditions of probation.

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(H) **PROBATION SURVEILLANCE PROGRAM COMPLIANCE** Respondent shall comply with the Division's probation surveillance program. Respondent shall, at all times, keep the Division informed of his addresses of business and residence which shall both serve as addresses of record. Changes of such addresses shall be immediately communicated in writing to the Division. Under no circumstances shall a post office box serve as an address of record.

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

(I) **INTERVIEW WITH THE DIVISION, ITS DESIGNEE, OR ITS DESIGNATED PHYSICIAN** Respondent shall appear in person for interviews with the Division, its designee or its designated physician(s) upon request at various intervals and with reasonable notice.

(J) **TOLLING OF PROBATION** In the event respondent should leave California to reside or to practice outside the State or for any reason should respondent stop practicing medicine in California, respondent shall notify the Division or its designee in writing within ten days of the dates of departure and return or the dates of non-practice within California. Non-practice is defined as any period of time exceeding thirty days in which respondent is not engaging in any evidence defined in Sections 2051 and 2052 of the Business and Professions Code. All time spent in an intensive training program approved by the Division or its designee shall be considered as time spent in the practice of medicine. Periods of temporary or permanent residence or practice outside California or of non-practice within California, as defined in this condition, will not apply to the reduction of the probationary period.

(K) **COMPLETION OF PROBATION** Upon successful completion of probation, respondent's certificate shall be fully restored.

(L) **VIOLATION OF PROBATION** If respondent violates probation in any respect, the Division, 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 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.

(M) **LICENSE SURRENDER** Following the effective date of this probation, if respondent ceases practicing due to retirement, health reasons or is otherwise unable to satisfy the terms and conditions of probation, respondent may voluntarily tender his certificate to the Division. The Division reserves the right to evaluate the respondent's request and to exercise its discretion whether to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances. Upon formal acceptance of the tendered license, respondent will no longer be subject to the terms and conditions of probation.

9. **IT IS FURTHER STIPULATED AND AGREED** that the terms set forth herein shall be null and void, and in no way binding upon the parties hereto, unless and until accepted by the Medical Board of California. Respondent further agrees that in addition to submitting this stipulation to the Board for acceptance and adoption, counsel for complainant may also submit to the Board a memorandum recommending the stipulation's adoption. Respondent agrees that the memorandum recommending adoption shall not, under any circumstances, be discoverable or disclosed to respondent.

ACCEPTANCE

I HEREBY CERTIFY that I have read this Stipulation for settlement in its entirety, that I fully understand the terms of this Stipulation, and I voluntarily agree to them. I agree that a FAX copy of my signature shall be binding upon me.

IN WITNESS THEREOF, I affix my signature this 24 day of February 2000 at Pleasanton, California.

CHRIS CHEN, M.D.
Respondent

LOUIS J. ANAPOLSKY
Attorney for Respondent

ENDORSEMENT

The foregoing Stipulated Settlement and Decision is hereby respectfully submitted for consideration of the Division of Medical Quality, Medical Board of California, Department of Consumer Affairs.

DATED: _____

BILL LOCKYER, Attorney General
of the State of California

JANE ZACK SIMON
Deputy Attorney General

I have fully discussed with respondent Chris Chen, M.D. the terms and conditions and other matters contained in the above Stipulated Settlement and Decision and approve its form and content.

DATED: _____.

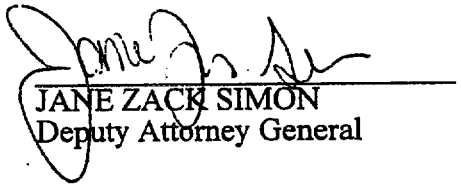
_____
LOUIS J. ANAPOLSKY
Attorney for Respondent

ENDORSEMENT

The foregoing Stipulated Settlement and Decision is hereby respectfully submitted for consideration of the Division of Medical Quality, Medical Board of California, Department of Consumer Affairs.

DATED: 3/2/00

BILL LOCKYER, Attorney General
of the State of California



JANE ZACK SIMON
Deputy Attorney General

BILL LOCKYER, Attorney General
of the State of California
JANE ZACK SIMON, State Bar No. 116564
Deputy Attorney General
California Department of Justice
50 Fremont Street, Suite 300
San Francisco, California 94105-2239
Telephone: (415) 356-6286
Facsimile: (415) 356-6257

Attorneys for Complainant

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO May 3 1999
BY Vicky Brooks ASSOCIATE

BEFORE THE
DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA
STATE OF CALIFORNIA

In the Matter of the Accusation Against: **CHRIS CHEN, M.D.** **1393 Santa Rita Road, Suite #F** **Pleasanton, CA 95466** Physician's and Surgeon's Certificate No. G-63956, Respondent.	Case No. 12-97-81158 ACCUSATION

The Complainant alleges:

PARTIES

1. Complainant, Ron Joseph, is the Executive Director of the Medical Board of California (hereinafter the "Board") and brings this accusation solely in his official capacity.

2. On or about September 1, 1998, Certificate No. G-63956, was issued by the Board to Christopher Chen, M.D. (hereinafter "respondent"), and at all times relevant to the charges brought herein, this license has been in full force and effect. Unless renewed, it will expire on August 31, 2000.

JURISDICTION

3. This accusation is brought before the Division of Medical Quality of the Medical Board of California, Department of Consumer Affairs (hereinafter the "Division"), under the authority of the following sections of the California Business and Professions Code

(hereinafter "Code"):

A. Section 2227 of the Code provides that the Board may revoke, suspend for a period not to exceed one year, or place on probation and require the payment of the costs of probation monitoring, the license of any licensee who has been found guilty of conduct in violation of the Medical Practice Act.

B. Section 2234 of the Code provides that unprofessional conduct includes, but is not limited to, the following:

> "(a) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provision of this chapter.
> (b) Gross Negligence.
> (c) Repeated negligent acts.
> (d) Incompetence.
> (e) The commission of any act involving dishonesty or corruption which is substantially related to the qualifications, functions, or duties of a physician and surgeon."

C. Section 2266 of the Code provides that the failure of a physician to maintain adequate and accurate records relating to the provision of services to their patients constitutes unprofessional conduct.

D. Section 725 of the Code provides that repeated acts of clearly excessive prescribing or administering of drugs or treatment, repeated acts of clearly excessive use of diagnostic procedures, or repeated acts of clearly excessive use of diagnostic or treatment facilities as determined by the standard of the community of licensees is unprofessional conduct.

E. Section 125.3 of the Code provides, in part, that the Board may request the administrative law judge to direct any licentiate found to have committed a violation or violations of the licensing act, to pay the Board a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

F. Welfare and Institutions Code section 14124.12 provides:

(a) Upon receipt of written notice from the Medical Board of California, the Osteopathic Medical Board of California, or the Board of Dental Examiners of California, that a licensee's license has been placed on probation as a result of a disciplinary action, the

department may not reimburse any Medi-Cal claim for the type of surgical service or invasive procedure that gave rise to the probation, including any dental surgery or invasive procedure, that was performed by the licensee on or after the effective date of probation and until the termination of all probationary terms and conditions or until the probationary period has ended, whichever occurs first. This section shall apply except in any case in which the relevant licensing board determines that compelling circumstances warrant the continued reimbursement during the probationary period of any Medi-Cal claim, including any claim for dental services, as so described. In such a case, the department shall continue to reimburse the licensee for all procedures, except for those invasive or surgical procedures for which the licensee was placed on probation.

(b) The Medical Board of California, the Osteopathic Medical Board of California, and the Board of Dental Examiners of California, shall work in conjunction with the State Department of Health Services to provide all information that is necessary to implement this section. These boards and the department shall annually report to the Legislature by no later than March 1 that number of licensees of these boards, placed on probation during the immediately preceding calendar year, who are:

(1) Not receiving Medi-Cal reimbursement for certain surgical services or invasive procedures, including dental surgeries or invasive procedures, as a result of subdivision (a).

(2) Continuing to receive Medi-Cal reimbursement for certain surgical or invasive procedures, including dental surgeries or invasive procedures, as a result of a determination of compelling circumstances made in accordance with subdivision (a).

(c) This section shall become inoperative on July 1, 2003, and, as of January 1, 2004, is repealed, unless a later enacted statute that is enacted before January 1, 2004, deletes or extends the dates on which it becomes inoperative and is repealed.

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DRUGS

4. The following controlled substances and/or dangerous drugs are involved in this proceeding:

A. **Depo-Medrol** is a trade name for methylprednisolone acetate, a derivative of prednisolone. Depo-Medrol is an anti-inflammatory glucocorticoid for intramuscular, intrasynovial, soft tissue or intralesional injection. It is a dangerous drug as defined in section 4022.

B. **Dura-Morph** is a brand name of morphine sulfate injection. It is for use in patients who require a potent opioid analgesic for relief of severe acute and severe chronic pain. Morphine is a dangerous drug as defined in section 4211, and is a schedule II controlled substance and narcotic as defined by section 11055(b)(1) of the Health and Safety Code. Morphine can produce drug dependence and has a potential for being abused.

C. **Baclofen** is a muscle relaxant and antisastic. It is a dangerous drug as defined in section 4022.

D. **Vicodin and Vicodin ES** are trade names for a combination of hydrocodone bitartrate and acetaminophen. Vicodin is a semisynthetic narcotic analgesic, a dangerous drug as defined in section 4211, a Schedule III controlled substance and narcotic as defined by section 11056, subdivision (e) of the Health and Safety Code, and a Schedule III controlled substance as defined by section 1308.13 (e) of Title 21 of the Code of Federal Regulations. Repeated administration of Vicodin or Vicodin ES over a course of several weeks may result in psychic and physical dependence. The usual adult dosage is one tablet every four to six hours as needed for pain. The total 24 hour dose should not exceed 5 tablets.

E. **Darvocet** is a trade name for an algesic combination of propoxyphene napsylate, a narcotic related to methadone, and acetaminophen, recommended for relief of mild to moderate pain. It is a dangerous drug as defined in section 4022, a Schedule IV controlled substance and narcotic as defined by section 11057 of the Health and Safety Code, and a Schedule IV controlled substance as defined by Section 1308.14 of Title 21 of the Code of Federal Regulations. Higher than recommended dosages can produce psychic and sometimes

physical dependence. It must be used with caution in conjunction with other central nervous system depressants, including alcohol.

F. Valium is a trade name for diazepam, a psychotropic drug for the management of anxiety disorders or for the short-term relief of the symptoms of anxiety. It is a dangerous drug as defined in section 4022, a schedule IV controlled substance as defined by section 11057 of the Health and Safety Code, and a Schedule IV controlled substance as defined by Section 1308.14 of Title 21 of the Code of Federal Regulations. Diazepam can produce psychological and physical dependence and it should be prescribed with caution particularly to addiction-prone individuals (such as drug addicts and alcoholics) because of the predisposition of such patients to habituation and dependence. Valium is available in 5 mg. and 10 mg. tablets. The recommended dosage is 2 to 10 mg. 2 to 4 times daily.

G. Soma is a trade name for carisoprodol tablets; carisoprodol is a muscle-relaxant and sedative. It is a dangerous drug as defined in section 4022. Since the effects of carisoprodol and alcohol or carisoprodol and other central nervous system depressants or psychotropic drugs may be additive, appropriate caution should be exercised with patients who take more than one of these agents simultaneously. Carisoprodol is metabolized in the liver and excreted by the kidneys; to avoid its excess accumulation, caution should be exercised in administration to patients with compromised liver or kidney functions.

H. Clonidine is a dangerous drug as defined in section 4022. Clonidine is an antihypertensive, indicted in the treatment of hypertension. Clonidine has a potential sedative effect. Tricyclic antidepressants may reduce the effects of clonidine. Clonidine may enhance the central nervous system depressive effects of alcohol, barbiturates, or other sedatives.

I. Lortab and Lorcet are trade names for medication containing hydrocodone bitartrate, a semisynthetic narcotic analgesic and acetaminophen. They are a dangerous drug as defined in section 4022, a Schedule III controlled substance and narcotic as defined by section 11056 of the Health and Safety Code, and a Schedule III controlled substance as defined by section 1308.13 of Title 21 of the Code of Federal Regulations. Repeated administration of Lorcet or Lortab over a course of several weeks may result in psychic and physical dependence.

J. Percocet, a trade name for a combination of oxycodone hydrochloride and acetaminophen, is a semisynthetic narcotic analgesic with multiple actions qualitatively similar to those of morphine, a dangerous drug as defined in section 4022, a schedule II controlled substance and narcotic as defined by section 11055, subdivision (b)(1)(N) of the Health and Safety Code, and a Schedule II controlled substance as defined by Section 1308.12 (b)(1) of Title 21 of the Code of Federal Regulations. Oxycodone can produce drug dependence of the morphine type and, therefore, has the potential for being abused. Repeated administration of Percocet may result in psychic and physical dependence. The usual adult dosage is one Percocet tablet every 6 hours as needed for pain.

K. Stadol, a trade name for butorphanol tartrate, is a synthetically derived opioid agonist-antagonist analgesic. It is a dangerous drug within the meaning of Business and Professions Code section 4022. One mg. of Stadol is equianalgesic to 5 mg. of morphine. Stadol's principal therapeutic use is relief of pain. Mixed agonist-antagonist opioid analgesics, as a class, have lower abuse potential than morphine but can be and have been reported to be abused.

L. Buspar, a trade name for busprone hydrochloride, is an antianxiety agent. It is a dangerous drug as defined by section 4022.

M. Marcaine is a trade name for bupivacaine hydrochloride. It is a dangerous drug as defined in section 4022, used as a local anesthetic. At a concentration of 0.5%, Marcaine is commonly used for epidermal anesthesia.

FIRST CAUSE FOR DISCIPLINE

(Patient E. K[1].)

5. Respondent is a board certified anesthesiologist who at the time of the acts alleged herein operated a pain management clinic in Pleasanton, California.

6. On or about March 5, 1996, respondent first saw Patient E.K., a 33 year old man who had suffered a lumbar spine injury in a 1992 motor vehicle accident. E.K. presented

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1. Patients are referred to by initial to protect privacy and confidentiality. Names will be disclosed pursuant to a request for discovery.

to respondent with the chief complaint of "chronic lower back pain, 3 ½ years of severe chronic pain the back, legs, right arm and head." E.K. also complained of headaches, which were being treated with medication by another physician. Respondent noted "right sacral iliac joint pains with palpation and motion." At the time respondent first saw E.K., he had an EMG demonstrating increased insertional activity in the right L5-S1 paraspinal muscle, and an MRI of the lumbar spine dated October 2, 1992 indicating a negative study. Respondent's physical examination on March 5, 1996 indicates a decreased sensation in the right leg and a decreased right ankle reflex. He also notes decreased strength in the right hip, quadriceps and hamstring which are pain related. Respondent's impression was (1) Right sciatic radiculopathy, and (2) Right sacroiliatis.

7. Commencing on or about March 5, 1996 and continuing until on or about July 14, 1996, respondent provided the following treatment to E.K.:

- March 5, 1996, respondent administered a right S1 block using 40 mg of Depo-Medrol and 5 cc .25% marcaine injection.
- March 8, respondent administered an epidural of 40 mg of Depo Medrol, and gave E.K. a prescription for Baclofen 10 mg for muscle spasms.
- March 11, 1996, respondent administered an epidural 40 mg of Depo-Medrol
- March 13, 1996,. respondent prescribed Vicodin ES, #30.
- March 18, 1996, respondent administered an epidural 100 mg of Depo-Medrol, and prescribed Baclofen 10 mg., #50.
- March 20, 1996, respondent prescribed Darvocet, #30.
- March 25, 1996, respondent administered an epidural of 120 mg Depo-Medrol, refilled the Darvocet prescription (#30) and prescribed Valium, #30.
- March 30, 1996, respondent prescribed Vicodin ES #30.
- April 3, 1996, respondent administered an epidural of 120 mg.

Depo-Medrol.

- April 5, 1996, respondent administered an epidural of 120 mg Depo-Medrol, and refilled Vicodin Es, #30, prescribed Buspar
- April 7, 1996, after E.K. failed to obtain relief from a Demerol shot given in an emergency room, respondent administered an intrathecal injection of .5 mg duramorph.
- April 9, 1996, respondent administered a piriformis block using 40 mg of Depo-Medrol injected into the muscle, prescribed Vicodin #30 and Valium #30.
- April 11, 1996, respondent administered an epidural of 120 mg. Depo-Medrol.
- April 12, 1997, E.K. complained of pain in the S1 joint, and respondent performed a bilateral S1 block using 40 mg Depo-Medrol.
- April 14, 1996, E.K. complained of pain in the lower back radiating down his right leg. Respondent administered an intrathecal injection using .5 mg duramorph. Respondent refilled Vicodin ES #50 and Valium #30.
- April 24, 1996, respondent refilled Vicodin ES #30.
- April 29, 1996, respondent administered a selective nerve root injection at L5-S1 using 40 mg Depo-Medrol. Respondent prescribed Darvocet 350 and Valium #30.
- May 3, 1996, respondent discontinued Darvocet and prescribed Vicodin ES #50 and Soma #50.
- May 4, 1996, respondent administered a .5 mg injection of duramorph into the spinal space at L5-S1.
- May 6, 1996, respondent administered a nerve root injection using 40 mg. Depo-Medrol into the L5-S1 level. Soma was

discontinued, and respondent prescribed Buspar 10 mg. #50, refilled Darvocet #50.

- May 9, 1996, respondent administered .5 mg. duramorph at the L5-S1 level, and prescribed Vicodin ES #30..
- May 13, 1996, respondent administered .5 mg. duramorph at the L5-S1 level. Respondent refilled Darvocet #50 and Soma #30.
- May 17, 1996, respondent administered .5 mg. duramorph at the L5-S1 level. Respondent prescribed Vicodin #30.
- May 20, 1996, respondent prescribed Vicodin ES #30
- May 22, 1996, respondent administered a right S1 block using 100 mg. Depo-Medrol. Respondent prescribed Vicodin ES #30.
- May 24, 1996, respondent administered a right S1 block using 120 mg. Depo-Medrol. Respondent prescribed Soma #30.
- May 28, 1996, respondent administered a right S1 block using 100 mg. Depo-Medrol. Respondent prescribed Vicodin ES #30.
- May 30, 1996, respondent administered a right S1 block using 100 mg. Depo-Medrol. Respondent refilled Vicodin ES #30, Buspar 10 mg #100, Clonidine .1 mg #100.
- June 5, 1995, respondent administered a right S1 block using 100 mg Depo-Medrol. He prescribed Vicodin ES #30.
- June 10, 1996, respondent administered .5 mg duramorph at the L5-S1 level. He prescribed Lortab #30.
- June 14, 1996, respondent administered .5 mg duramorph at the L5-S1 level.
- June 17, 1996, respondent administered 120 mg. Depo-Medrol at the L4-L5 level. Respondent prescribed Lortab #30.
- June 24, 1996, E.K. complained of hip pain. Respondent administered a right S1 block using 10 cc .25% marcaine.

Respondent prescribed Lortab #30, Soma #30, Clonidine .2 mg. #100.

- July 3, 1996, respondent prescribed Lortab #30.
- July 10, 1996, respondent prescribed Lorcet #50
- July 14, 1996, discontinued Lorcet, prescribed Lortab #30, Buspar 10 mg. #100.

8. On or about July 16, 1996, E.K. returned to respondent's office with an abscess at his right hip measuring 10 cm x 2 cm. Respondent obtained 10 cc of puss from the abscess, instructed E.K. on caring for the abscess and prescribed an antibiotic. On July 17, 1996, respondent drained an additional 10 cc of pus from the abscess, prescribed Lortab #50 and Soma #30. On July 23, 1996, respondent cleaned the abscess and put in a Penrose drain. Respondent prescribed Percocet #30 and Stadol 1 mg. for pain. On July 26, respondent again saw E.K. who had continued complaints of pain. Respondent prescribed Lortab #30, Soma #30, and continued Stadol. On August 5, 1996 and August 14, 1996 respondent authorized prescription refills for Buspar and Lortab.

9. Over the course of respondent's treatment, E.K. experienced marked weight gain and developed congestive heart failure. He subsequently developed Cushing's Syndrome, with secondary hypertension and adrenal insufficiency, as well as steroid-induced avasuclar necrosis in both hips and osteoporosis of his spine.

10. Respondent's medical records for E.K. reflect that it was only on E.K.'s first visit that respondent conducted a complete examination and assessment of E.K.'s condition. Over the remainder of E.K.'s treatment, respondent's records are devoid of any meaningful medical examination, assessment or treatment plan for E.K..

11. Respondent's conduct in administering excessive amounts of corticosteroid injections constitutes gross negligence, and/or negligence, and/or incompetence, and is grounds for discipline pursuant to sections 2234(b), and/or 2234(c), and/or 2234(d).

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12. Respondent's conduct in administering corticosteroids as set forth above constitutes clearly excessive prescribing or administering of drugs or treatment, and is grounds for discipline pursuant to section 725.

13. Respondent's conduct in prescribing excessive amounts of acetaminophen containing medications, and/or in failing to consider or prescribe long acting non-acetaminophen containing medication, constitutes gross negligence, and/or negligence, and/or incompetence, and is grounds for discipline pursuant to sections 2234(b), and/or 2234(c), and/or 2234(d).

14. Respondent's conduct in prescribing excessive amounts of acetaminophen containing medications constitutes clearly excessive prescribing or administering or drugs, and is grounds for discipline pursuant to section 725.

15. Respondent's conduct in failing to maintain complete and accurate medical records, and/or in failing to formulate and document a treatment plan for E.K. constitutes unprofessional conduct, and/or negligence, and/or incompetence, and is cause for discipline pursuant to sections 2266, and/or 2234(c), and/or 2234(d).

PRAYER

WHEREFORE, the complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Division issue a decision:

1. Revoking or suspending Certificate Number G-63956, heretofore issued to respondent Chris Chen, M.D.;

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

3. Ordering respondent to pay the Division the actual and reasonable costs of the investigation and enforcement of this case, and if placed on probation, the costs of probation monitoring;

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4. Taking such other and further action as the Division deems necessary and proper.

DATED: May 3, 1999.

RON JOSEPH, Executive Director
Medical Board of California
State of California

Attorneys for Complainant