

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

In the Matter of the Accusation Against:)

THERESE HUNLEY YANG, M.D.)

Case No. 10-2012-225599

Physician's and Surgeon's)

Certificate No. G 64469)

Respondent)

DECISION AND ORDER

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 April 16, 2015.

IT IS SO ORDERED: March 17, 2015.

MEDICAL BOARD OF CALIFORNIA

By: Dev Gnanadev M.D.
Dev Gnanadev, M.D., Chair
Panel B

1 KAMALA D. HARRIS
Attorney General of California
2 THOMAS S. LAZAR
Supervising Deputy Attorney General
3 JOSEPH F. MCKENNA III
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8 *Attorneys for Complainant*

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

13 In the Matter of the Accusation Against:

14 **THERESE HUNLEY YANG, M.D.**
15 **10291 Mission Gorge Road, Suite H**
Santee, CA 92071

16 **Physician's and Surgeon's Certificate No.**
17 **G 64469,**

18 Respondent.

Case No. 10-2012-225599
OAH No. 2014010880

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

19
20 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
21 entitled proceedings that the following matters are true:

22 **PARTIES**

23 1. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical Board
24 of California. She brought this action solely in her then official capacity as the Interim Executive
25 Director of the Medical Board of California, and is represented in this matter by Kamala D.
26 Harris, Attorney General of the State of California, by Joseph F. McKenna III, Deputy Attorney
27 General.

28 2. Respondent Therese Hunley Yang, M.D. (respondent), is represented in this

1 proceeding by Dennis K. Ames, Esq., whose address is: 2677 N. Main Street, Ste. 901, Santa
2 Ana, California, 92705.

3 3. On or about October 24, 1988, the Medical Board of California issued Physician's
4 and Surgeon's Certificate No. G 64469 to Therese Hunley Yang, M.D. (respondent). The
5 Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the
6 charges and allegations brought in Accusation No. 10-2012-225599 and will expire on September
7 30, 2016, unless renewed.

8 **JURISDICTION**

9 4. On November 5, 2013, Accusation No. 10-2012-225599 was filed before the Medical
10 Board of California (Board), Department of Consumer Affairs, and is currently pending against
11 respondent. A true and correct copy of the Accusation and all other statutorily required
12 documents were properly served on respondent on November 5, 2013. Respondent timely filed
13 her Notice of Defense contesting the Accusation. A true and correct copy of Accusation No. 10-
14 2012-225599 is attached hereto as Exhibit A and incorporated herein by reference as if fully set
15 forth herein.

16 **ADVISEMENT AND WAIVERS**

17 5. Respondent has carefully read, fully discussed with counsel, and fully understands the
18 charges and allegations in Accusation No. 10-2012-225599. Respondent has also carefully read,
19 fully discussed with counsel, and fully understands the effects of this Stipulated Settlement and
20 Disciplinary Order.

21 6. Respondent is fully aware of her legal rights in this matter, including the right to a
22 hearing on the charges and allegations in Accusation No. 10-2012-225599; the right to confront
23 and cross-examine the witnesses against her; the right to present evidence and to testify on her
24 own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the
25 production of documents; the right to reconsideration and court review of an adverse decision;
26 and all other rights accorded by the California Administrative Procedure Act and other applicable
27 laws.

28 7. Having the benefit of counsel, respondent hereby voluntarily, knowingly, and

1 intelligently waives and gives up each and every right set forth above.

2 **CULPABILITY**

3 8. Respondent does not contest that, at an administrative hearing, complainant could
4 establish a *prima facie* case with respect to the charges and allegations contained in Accusation
5 No. 10-2012-225599 and that she has thereby subjected her Physician's and Surgeon's Certificate
6 No. G 64469 to disciplinary action

7 9. Respondent agrees that if she ever petitions for early termination or modification of
8 probation, or if an accusation and/or petition to revoke probation is filed against her before the
9 Medical Board of California, all of the charges and allegations contained in Accusation No. 10-
10 2012-225599 shall be deemed true, correct and fully admitted by respondent for purposes of any
11 such proceeding, or any other licensing proceeding involving respondent in the State of
12 California, or elsewhere.

13 **RESERVATION**

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

18 **CONTINGENCY**

19 11. This Stipulated Settlement and Disciplinary Order shall be subject to approval of the
20 Board. The parties agree that this Stipulated Settlement and Disciplinary Order shall be
21 submitted to the Board for its consideration in the above-entitled matter and, further, that the
22 Board shall have a reasonable period of time in which to consider and act on this Stipulated
23 Settlement and Disciplinary Order after receiving it. By signing this stipulation, respondent fully
24 understands and agrees that she may not withdraw her agreement or seek to rescind this
25 stipulation prior to the time the Board considers and acts upon it.

26 12. The parties agree that this Stipulated Settlement and Disciplinary Order shall be null
27 and void and not binding upon the parties unless approved and adopted by the Board, except for
28 this paragraph, which shall remain in full force and effect. Respondent fully understands and

1 agrees that in deciding whether or not to approve and adopt this Stipulated Settlement and
2 Disciplinary Order, the Board may receive oral and written communications from its staff and/or
3 the Attorney General's Office. Communications pursuant to this paragraph shall not disqualify
4 the Board, any member thereof, and/or any other person from future participation in this or any
5 other matter affecting or involving respondent. In the event that the Board does not, in its
6 discretion, approve and adopt this Stipulated Settlement and Disciplinary Order, with the
7 exception of this paragraph, it shall not become effective, shall be of no evidentiary value
8 whatsoever, and shall not be relied upon or introduced in any disciplinary action by either party
9 hereto. Respondent further agrees that should this Stipulated Settlement and Disciplinary Order
10 be rejected for any reason by the Board, respondent will assert no claim that the Board, or any
11 member thereof, was prejudiced by its/his/her review, discussion and/or consideration of this
12 Stipulated Settlement and Disciplinary Order or of any matter or matters related hereto.

13 **ADDITIONAL PROVISIONS**

14 13. This Stipulated Settlement and Disciplinary Order is intended by the parties herein to
15 be an integrated writing representing the complete, final and exclusive embodiment of the
16 agreements of the parties in the above-entitled matter.

17 14. The parties agree that copies of this Stipulated Settlement and Disciplinary Order,
18 including copies of the signatures of the parties, may be used in lieu of original documents and
19 signatures and, further, that such copies shall have the same force and effect as originals.

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

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DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. G 64469 issued to respondent Therese Hunley Yang, M.D. (respondent) is revoked. However, the revocation is stayed and respondent is placed on probation for five (5) years from the effective date of this Decision on the following terms and conditions.

1. CHRONIC DISEASE TRAINING PROGRAM. Within 60 calendar days of the effective date of this Decision, respondent shall enroll in a chronic disease training program equivalent to the customized program in chronic disease offered at the Physician Assessment and Clinical Education Program, University of California, San Diego School of Medicine (Program), approved in advance by the Board or its designee. The chronic disease training program shall specifically focus its education and training on Lyme disease and babesiosis, with an emphasis on the diagnosis, management, treatment and care of patients diagnosed with Lyme disease and/or babesiosis. 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 chronic disease training program shall be at respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

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

Respondent shall refer any patient suspected of having Lyme disease or babesiosis to another physician for diagnosis and/or treatment and, further, is prohibited from treating, managing the care of, or consulting on, any patient diagnosed with, or suspected of having, Lyme disease or babesiosis, until respondent has successfully completed the chronic disease training program and been so notified by the Board or its designee in writing.

1 2. PREScribing PRACTICES COURSE. Within 60 calendar days of the effective
2 date of this Decision, respondent shall enroll in a course in prescribing practices equivalent to the
3 Prescribing Practices Course at the Physician Assessment and Clinical Education Program,
4 University of California, San Diego School of Medicine (Program), approved in advance by the
5 Board or its designee. Respondent shall provide the program with any information and
6 documents that the Program may deem pertinent. Respondent shall participate in and
7 successfully complete the classroom component of the course not later than six (6) months after
8 respondent's initial enrollment. Respondent shall successfully complete any other component of
9 the course within one (1) year of enrollment. The prescribing practices course shall be at
10 respondent's expense and shall be in addition to the Continuing Medical Education (CME)
11 requirements for renewal of licensure.

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

17 Respondent shall submit a certification of successful completion to the Board or its
18 designee not later than 15 calendar days after successfully completing the course, or not later than
19 15 calendar days after the effective date of the Decision, whichever is later.

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

26 The Program shall consist of a Comprehensive Assessment program comprised of a two-
27 day assessment of respondent's physical and mental health; basic clinical and communication
28 skills common to all clinicians; and medical knowledge, skill and judgment pertaining to

1 respondent's area of practice in which respondent was alleged to be deficient, and at minimum, a
2 40 hour program of clinical education in the area of practice in which respondent was alleged to
3 be deficient and which takes into account data obtained from the assessment, Decision(s),
4 Accusation(s), and any other information that the Board or its designee deems relevant.
5 Respondent shall pay all expenses associated with the clinical training program.

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

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

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

23 4. MONITORING – PRACTICE. Within 30 calendar days of the effective date of this
24 Decision, respondent shall submit to the Board or its designee for prior approval as a practice
25 monitor(s), the name and qualifications of one or more licensed physicians and surgeons whose
26 licenses are valid and in good standing, and who are preferably American Board of Medical
27 Specialties (ABMS) certified. A monitor shall have no prior or current business or personal
28 relationship with respondent, or other relationship that could reasonably be expected to

1 compromise the ability of the monitor to render fair and unbiased reports to the Board, including
2 but not limited to any form of bartering, shall be in respondent's field of practice, and must agree
3 to serve as respondent's monitor. Respondent shall pay all monitoring costs.

4 The Board or its designee shall provide the approved monitor with copies of the Decision(s)
5 and Accusation(s), and a proposed monitoring plan. Within 15 calendar days of receipt of the
6 Decision(s), Accusation(s), and proposed monitoring plan, the monitor shall submit a signed
7 statement that the monitor has read the Decision(s) and Accusation(s), fully understands the role
8 of a monitor, and agrees or disagrees with the proposed monitoring plan. If the monitor disagrees
9 with the proposed monitoring plan, the monitor shall submit a revised monitoring plan with the
10 signed statement for approval by the Board or its designee.

11 Within 60 calendar days of the effective date of this Decision, and continuing throughout
12 probation, respondent's practice shall be monitored by the approved monitor. Respondent shall
13 make all records available for immediate inspection and copying on the premises by the monitor
14 at all times during business hours and shall retain the records for the entire term of probation.

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

20 The monitor(s) shall submit a quarterly written report to the Board or its designee which
21 includes an evaluation of respondent's performance, indicating whether respondent's practices are
22 within the standards of practice of medicine, and whether respondent is practicing medicine
23 safely, billing appropriately or both. It shall be the sole responsibility of respondent to ensure that
24 the monitor submits the quarterly written reports to the Board or its designee within 10 calendar
25 days after the end of the preceding quarter.

26 If the monitor resigns or is no longer available, respondent shall, within 5 calendar days of
27 such resignation or unavailability, submit to the Board or its designee, for prior approval, the
28 name and qualifications of a replacement monitor who will be assuming that responsibility within

1 15 calendar days. If respondent fails to obtain approval of a replacement monitor within 60
2 calendar days of the resignation or unavailability of the monitor, respondent shall receive a
3 notification from the Board or its designee to cease the practice of medicine within three (3)
4 calendar days after being so notified respondent shall cease the practice of medicine until a
5 replacement monitor is approved and assumes monitoring responsibility.

6 In lieu of a monitor, respondent may participate in a professional enhancement program
7 equivalent to the one offered by the Physician Assessment and Clinical Education Program at the
8 University of California, San Diego School of Medicine, that includes, at minimum, quarterly
9 chart review, semi-annual practice assessment, and semi-annual review of professional growth
10 and education. Respondent shall participate in the professional enhancement program at
11 respondent's expense during the term of probation.

12 5. SOLO PRACTICE PROHIBITION. Respondent is prohibited from engaging in the
13 solo practice of medicine. Prohibited solo practice includes, but is not limited to, a practice
14 where: 1) Respondent merely shares office space with another physician but is not affiliated for
15 purposes of providing patient care, or 2) Respondent is the sole physician practitioner at that
16 location.

17 If respondent fails to establish a practice with another physician or secure employment in an
18 appropriate practice setting within 60 calendar days of the effective date of this Decision,
19 respondent shall receive a notification from the Board or its designee to cease the practice of
20 medicine within three (3) calendar days after being so notified. The respondent shall not resume
21 practice until an appropriate practice setting is established.

22 If, during the course of the probation, the respondent's practice setting changes and the
23 respondent is no longer practicing in a setting in compliance with this Decision, the respondent
24 shall notify the Board or its designee within 5 calendar days of the practice setting change. If
25 respondent fails to establish a practice with another physician or secure employment in an
26 appropriate practice setting within 60 calendar days of the practice setting change, respondent
27 shall receive a notification from the Board or its designee to cease the practice of medicine within
28 three (3) calendar days after being so notified. The respondent shall not resume practice until an

1 appropriate practice setting is established.

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

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

11 7. SUPERVISION OF PHYSICIAN ASSISTANTS. During probation, respondent is
12 prohibited from supervising physician assistants and/or any other licensed medical staff,
13 including, but not limited to, nurse practitioners, registered nurses, and licensed vocational nurses.

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

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

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

22 10. GENERAL PROBATION REQUIREMENTS.

23 Compliance with Probation Unit

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

26 Address Changes

27 Respondent shall, at all times, keep the Board informed of respondent's business and
28 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.

11. 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.

12. 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

1 Federal jurisdiction while on probation with the medical licensing authority of that state or
2 jurisdiction shall not be considered non-practice. A Board-ordered suspension of practice shall
3 not be considered as a period of non-practice.

4 In the event respondent's period of non-practice while on probation exceeds 18 calendar
5 months, respondent shall successfully complete a clinical training program that meets the criteria
6 of Condition 18 of the current version of the Board's "Manual of Model Disciplinary Orders and
7 Disciplinary Guidelines" prior to resuming the practice of medicine.

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

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

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

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

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

24 15. LICENSE SURRENDER. Following the effective date of this Decision, if
25 respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy
26 the terms and conditions of probation, respondent may request to surrender his or her license.
27 The Board reserves the right to evaluate respondent's request and to exercise its discretion in
28 determining whether or not to grant the request, or to take any other action deemed appropriate

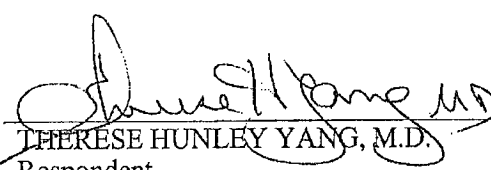
1 and reasonable under the circumstances. Upon formal acceptance of the surrender, respondent
2 shall within 15 calendar days deliver respondent's wallet and wall certificate to the Board or its
3 designee and respondent shall no longer practice medicine. Respondent will no longer be subject
4 to the terms and conditions of probation. If respondent re-applies for a medical license, the
5 application shall be treated as a petition for reinstatement of a revoked certificate.

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

11 ACCEPTANCE

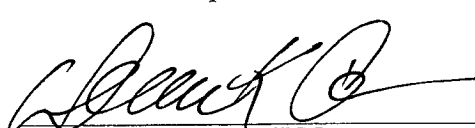
12 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
13 discussed it with my attorney, Dennis K. Ames, Esq. I understand the stipulation and the effect it
14 will have on my Physician's and Surgeon's Certificate No. G 64469. I enter into this Stipulated
15 Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be
16 bound by the Decision and Order of the Medical Board of California.

17
18 DATED: 11-24-14


19 THERESE HUNLEY YANG, M.D.
Respondent

20 I have read and fully discussed with respondent Therese Hunley Yang, M.D., the terms and
21 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
22 I approve its form and content.

23 DATED: 11/25/2014


24 DENNIS K. AMES, ESQ.
Attorney for Respondent

25 ///

26 ///

27 ///

28 ///

1 ENDORSEMENT

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

4 Dated: *February 25, 2015*

Respectfully submitted,

5 KAMALA D. HARRIS
6 Attorney General of California
7 THOMAS S. LAZAR
8 Supervising Deputy Attorney General

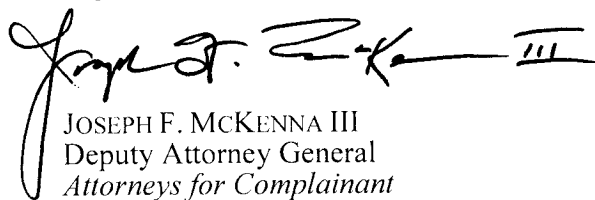
9 
10 JOSEPH F. MCKENNA III
11 Deputy Attorney General
12 *Attorneys for Complainant*

Exhibit A

Accusation No. 10-2012-225599

1 Kamala D. Harris
Attorney General of California
2 THOMAS S. LAZAR
Supervising Deputy Attorney General
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8 *Attorneys for Complainant*

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO November 5 20 13
BY R. FIRDIAUS **ANALYST**

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

13 In the Matter of the Accusation Against:

Case No. 10-2012-225599

14 **THERESE HUNLEY YANG, M.D.**
15 **10201 Mission Gorge Road, Suite H**
Santee, CA 92071

ACCUSATION

16 **Physician's and Surgeon's Certificate**
17 **No. G 64469**

Respondent.

20 Complainant alleges:

21 **PARTIES**

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

25 2. On or about October 24, 1988, the Medical Board of California issued Physician's and
26 Surgeon's Certificate Number G 64469 to THERESE HUNLEY YANG, M.D. (Respondent).
27 The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the
28 charges brought herein and will expire on September 30, 2014, unless renewed.

1 PRIOR DISCIPLINARY ACTION

2 3. On September 2, 2005, in a case entitled "In the Matter of the Accusation Against:
3 Therese H. Yang, M.D.," Case No. 10-2003-142063, the Board ordered respondent's Physician's
4 and Surgeon's Certificate No. G 64469 revoked, stayed the revocation and placed respondent on
5 probation for five (5) years on terms and probation that included the requirements that respondent
6 complete the PACE Clinical Training Program, complete a Medical Record Keeping Course,
7 complete a Prescribing Practices Course, have her medical practice monitored by a Practice
8 Monitor during the period of probation, and comply with other standard terms and conditions of
9 probation.

10 JURISDICTION

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

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

18 6. Section 2234 of the Code states:

19 "The board shall take action against any licensee who is charged with unprofessional
20 conduct.¹ In addition to other provisions of this article, unprofessional conduct includes, but is
21 not limited to, the following:

22 "(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting
23 the violation of, or conspiring to violate any provision of this chapter [Chapter 5, the
24 Medical Practice Act].

25 _____
26 ¹ Unprofessional conduct has been defined as conduct which breaches the rules or ethical
27 code of the medical profession, or conduct which is unbecoming a member in good standing of
28 the medical profession, and which demonstrates an unfitness to practice medicine. (*Shea v.*
Board of Medical Examiners (1978) 81 Cal.App.3d 564, 575.)

1 "(b) Gross negligence.

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

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

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

12 "(d) Incompetence.

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

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

16 "...."

17 7. Section 2266 of the Code states:

18 AThe failure of a physician and surgeon to maintain adequate and accurate records
19 relating to the provision of services to their patients constitutes unprofessional conduct.®

20 **FIRST CAUSE FOR DISCIPLINE**

21 **(Gross Negligence)**

22 8. Respondent is subject to disciplinary action under sections 2227 and 2234, as defined
23 by section 2234, subdivision (b), of the Code, in that respondent committed gross negligence in
24 her care and treatment of patient J.G., as more particularly alleged hereinafter:

25 A. On or about February 28, 2011, J.G., a male patient then 58 years old, made a visit to
26 respondent's offices located at 10201 Mission Gorge Road, Santee, California. The patient had
27 travelled from his home in Northern California to consult with respondent in order to "confirm a

28 ///

1 diagnosis of Lyme disease.”² The patient completed a Questionnaire and a Symptoms Checklist
2 during the visit. On the Questionnaire, the patient checked the “Yes” boxes for the following
3 questions regarding his psychological status: “sudden, abrupt mood swings” (daily), “unusual
4 depression” (weekly), “feeling as if you are loosing your mind” (daily), “paranoia” and
5 “obsessive/compulsive” (weekly), “decreased frustration tolerance” (constant) and “generalized
6 anxiety” (weekly). Patient J.G. also checked the “Yes” boxes for “sleeping too much,” “difficulty
7 falling or staying asleep,” “decreased social functioning” and decreased job performance. For the
8 visit, patient J.G. took with him the results of a blood test performed by the Valley Clinical
9 Laboratory and reported on or about January 27, 2011. The blood test included testing for Lyme
10 disease antibodies. The result of the Lyme disease test showed IgG/IgM³ values at <0.91⁴
11 (Reference Range: Negative <0.91; Equivocal 0.91 – 1.09; Positive >1.90.) Patient J.G. was
12 attended to by respondent’s nurse practitioner Trang Lam-Quan (Trang).⁵

13 B. Trang obtained a medical history and performed a physical examination of patient
14 J.G. She noted patient J.G. had a history of “tick exposure” and a rash which she noted to be
15 erythema migrans (EM). However, Trang failed to note where (geographical location) the tick
16 exposure occurred, and she failed to note character of the rash and whether the rash was related to
17 the tick bite. Despite the mental health symptoms the patient noted in the Questionnaire, Trang
18

19 ² At the physician’s interview on April 16, 2013, respondent stated that 85% to 90% of
20 his patients were either Lyme disease or Lyme disease related patients.

21 ³ IgG is an abbreviation for immunoglobulin G. IgM is an abbreviation for
22 Immunoglobulin M. Immunoglobulins are proteins found in blood serum and in tissue fluids and
23 also known as antibodies. Immunoglobulins are produced by cells in the immune system called
24 B-lymphocytes. Their function is to bind to substances in the body that are recognized as foreign
25 antigens.

26 ⁴ The laboratory report contains the following: “Note: The CDC currently advises that
27 Western Blot testing be performed following all equivocal or positive EIA results. Final
28 diagnosis should include appropriate clinical findings and positive EIA which is positive by
Western Blot.”

⁵ Patient J.G. made approximately five (5) office visits between February and September
2011. NP Trang attended to the patient on all visits. During the physician interview on April 16,
2013, respondent stated she reviewed and approved all care and treatment Trang provided either
while patient J.G. was in the office or soon after the visit.

1 failed to perform and/or note she performed a psychological assessment of the patient on this
2 visit.⁶ Trang ordered laboratory tests (lab tests) to be performed by IgeneX Inc. (IgeneX). Her
3 assessment included Lyme disease and "GI yeast." There is no medical justification for the Lyme
4 disease assessment. Trang prescribed Amoxicillin and Flagyl for the Lyme disease and Nystatin
5 for the "GI yeast."

6 C. Patient J.G. made a follow up visit on or about April 13, 2011. He was again seen by
7 Trang who noted that the IgeneX lab tests results reported on March 24, 2011, were "positive" for
8 Lyme disease. This notation is incorrect because the IgeneX results were actually negative for
9 Lyme disease according to CDC⁷ criteria. Moreover, Trang failed to note that the lab results the
10 patient brought with him to the January 21, 2011 visit, were also "negative" for Lyme disease.
11 Trang's plan included ordering lab tests for Babesia and Bartonella. Trang added Rifampin and
12 Artemisinin⁸ to the Amoxicillin and Flagyl medications. Trang failed to note the medical
13 justification and/or rationale for the addition of the Rifampin⁹ and Artemisinin medications.

14 D. On or about May 27, 2011, patient J.G. had a telephone consultation with Trang.
15 Trang noted the patient reported he felt better, however, Trang failed to inquire and/or note she
16 inquired about the patient's psychological issues or whether he was in the care of a psychiatrist.
17 On this date, Trang noted a diagnosis that included Babesia.¹⁰ There is no medical justification
18 for this diagnosis. Indeed, the Babesia serology results from IgeneX

19
20 ⁶ NP Trang wrote "needs psychiatrist referral" and "refer ortho" on the Symptoms
21 Checklist the patient completed. At her interview on April 16, 2013, NA Trang stated she told
the patient to make his own arrangement to visit with a psychiatrist near his home.

22 ⁷ CDC refers to the Centers for Disease Control and Prevention.

23 ⁸ Artemisinin, also known as Qinghaosu, is used for treatment of malaria.

24 ⁹ Rifampin is an antibiotic medication used to treat tuberculosis and other infections. The
25 medication's side effects include nausea.

26 ¹⁰ Babesia or Babesiosis is an infectious disease caused by parasitic protozoan. The
27 disease is transmitted to humans by bites of ticks that have picked up the protozoa from infected
28 animals such as rodents and horses. Human infection is rare but cases have been reported in
Europe and in the offshore islands in New England during the summer months, and in California
and the State of Washington.

1 reported on May 10, 2011, were "negative" for Babesia.¹¹ Moreover, Trang arrived at the
2 diagnosis without performing any standard testing (such as obtaining and examining blood
3 smears) for Babesia. Trang's plan included prescribing Malarone¹² to treat Babesia.

4 E. Patient J.G. made a visit to respondent's offices on or about June 14, 2011. He was
5 again attended to by Trang who noted the patient reported he felt better, however, Trang failed to
6 inquire into and/or note she inquired into the patient's psychological issues or whether the patient
7 was in the care of a psychiatrist. Trang's assessment included Babesia and Candida. She
8 prescribed Malarone for the Babesia and added Mycelex for the yeast infection. There is no
9 medical justification for the Babesia assessment and no medical justification for the Malarone
10 prescription. On or about June 20, 2011, Trang issued a telephone prescription for Fluconazole,
11 another antifungal agent, for patient J.G. There is no notation of the medical justification for
12 prescribing a third antifungal agent for this patient. Moreover, Trang failed to discontinue the
13 Nystatin and Mycelex medications before prescribing the Fluconazole.

14 F. On or about June 27, 2011, patient J.G. telephoned respondent's clinic to inquire
15 whether he should be taking Rifampin and Malarone medications simultaneously. The patient
16 indicated that the label on the Malarone medication container indicated the two medications
17 should not be taken together. On or about June 29, 2011, Trang informed the patient it was "ok"
18 to take Rifampin and Malarone simultaneously so long as they are taken two hours apart.

19 G. On or about September 7, 2011, patient J.G. made a follow up visit and was attended
20 to by Trang. Among other things, Trang noted that the patient reported he was having "waves of
21 nausea daily." Trang again failed to inquire into and/or note she inquired into the patient's
22 psychological symptoms or whether the patient was in the care of a psychiatrist. Trang
23 performed a physical examination of the patient, however, she failed to perform a psychological

24 ¹¹ According to the IgeneX lab results reported on May 10, 2011, both the IgM and IgG for
25 Babesia microti were negative. The IgG for Babesia ducani was negative and IgM for Babesia
26 ducani was indeterminate at 40 (Reference Range: "Negative <40; Indeterminate 40-160; Positive
>160.).

27 ¹² Malarone is an antiprotozoal and antimalarial drug. It works by interfering with the
28 development of malaria parasites.

1 evaluation of the patient during this examination. Trang's plan included increasing the Rifampin
2 and Malarone medications to treat the Lyme disease, and adding Doxycycline and Lariam¹³
3 medications to treat the Babesia.

4 H. On or about October 27, 2011, the Butte County Sheriff's Office received a report
5 stating patient J.G. had become mentally ill, had been referring to himself as the "Angel of
6 Death" and had threatened to assault his girlfriend. The girlfriend reported that patient J.G.'s
7 behavior "changed" after use of the Lariam medication. Patient J.G. was arrested and
8 hospitalized under the provisions of section 5150 of the Welfare and Institutions Code.

9 9. Respondent committed gross negligence in her care and treatment of patient J.G.
10 which included, but was not limited to, the following:

11 A. During the period of treatment, respondent failed to obtain appropriate history of
12 patient J.G.'s psychological issues, failed to arrive at an appropriate diagnosis for the
13 psychological issues, failed to adequately follow up on the patient's psychological issues and
14 failed to properly refer patient J.G. to a psychiatrist for evaluation of his psychological issues.

15 B. Respondent prescribed Lariam medication to patient J.G. despite respondent's
16 awareness of the patient's psychological issues.

17 C. Respondent diagnosed and treated patient J.G. for Babesia infection without any
18 objective findings of an infection and failed to obtain blood smears or to undertake other
19 appropriate diagnostic efforts to determine whether the patient, in fact, suffered from a Babesia
20 infection.

21 D. On or about May 27, 2011, respondent misdiagnosed patient J.G. with Babesia by
22 misinterpreting the Babesia duncani and Babesia microti antibody tests reported on or about May
23 10, 2011, as positive for Babesia, when, in truth and fact, the IgM and IgG results for the Babesia
24 microti were negative, and the IgG and IgM results for the Babesia ducani were negative and
25 indeterminate, respectively.

26
27 ¹³ Lariam, mefloquin hydrochloride, is an antimalarial agent. Its side effects include
28 hallucination, depression, anxiety, extreme fear and confusion.

1 E. Respondent inappropriately treated patient J.G. for Lyme disease and Babesia with
2 Artemisinin, Malarone and Lariam.

3 F. On or about February 28, 2011, respondent diagnosed patient J.G. with Lyme disease
4 without obtaining an appropriate history. Specifically, respondent failed to obtain any history of
5 a tick bite, or where the patient may have acquired the tick bite, or how long the tick was attached
6 to the patient's body, or whether the patient had travelled to an area of high Lyme disease.

7 G. On or about April 13, 2011, respondent inappropriately diagnosed patient J.G. with
8 Lyme disease despite the fact that IgeneX lab results were "negative" for Lyme disease
9 according to CDC criteria.

10 H. In her care and treatment of patient J.G., respondent inappropriately prescribed
11 Rifampin and Flagyl over a long period of time for the treatment of Lyme disease.

12 I. Respondent failed to consider, and/or document she considered the effect of the "drug
13 interaction" from the multiple drugs she prescribed to patient J.G. for treatment of Lyme disease,
14 Babesia and yeast infections, and also, failed to inform and/or note she informed the patient of the
15 effect of drug interaction.

16 J. Respondent inappropriately prescribed Nystatin, Mycelex and Fluconazole
17 simultaneously for treatment of patient J.G.'s yeast infection.

18 SECOND CAUSE FOR DISCIPLINE

19 (Repeated Negligent Acts)

20 10. Respondent is further subject to disciplinary action under sections 2227 and 2234, as
21 defined by section 2234, subdivision (c), of the Code, in that she committed repeated negligent
22 acts in her care and treatment of patient J.G., as more particularly alleged in paragraphs 8 and 9,
23 above, which are hereby incorporated by reference and re-alleged as if fully set forth herein.

24 THIRD CAUSE FOR DISCIPLINE

25 (Incompetence)

26 11. Respondent is further subject to disciplinary action under sections 2227 and 2234, as
27 defined by section 2234, subdivision (d), of the Code, in that she demonstrated incompetence in
28 her care and treatment of patient J.G., as more particularly alleged in paragraph 8 and 9, above,

1 which is hereby incorporated by reference and re-alleged as if fully set forth herein.

2 **PRAYER**

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


5 1. Revoking or suspending Physician's and Surgeon's Certificate Number G 64469,
6 issued to respondent THERESE HUNLEY YANG, M.D.;

7 2. Revoking, suspending or denying approval of respondent THERESE HUNLEY
8 YANG, M.D.'s authority to supervise physician's assistants, pursuant to section 3527 of the Code;

9 3. Ordering respondent THERESE HUNLEY YANG, M.D. to pay the Medical Board of
10 California the costs of probation if placed on probation; and

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

12 DATED: November 5, 2013


13 KIMBERLY KIRCHMEYER
14 Interim Executive Director
15 Medical Board of California
16 Department of Consumer Affairs
17 State of California
18 Complainant

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