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

In the Matter of the Accusation Against:	)	
Richard Seongjun Kim, M.D.	)	Case No. 800-2015-012297
Physician's and Surgeon's Certificate No. A69774	)	
Respondent	)	

DECISION

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

This Decision shall become effective at 5:00 p.m. on March 8, 2018.

IT IS SO ORDERED March 1, 2018.

MEDICAL BOARD OF CALIFORNIA

By: Kimberly Kirchmeyer
Kimberly Kirchmeyer
Executive Director

XAVIER BECERRA
Attorney General of California
MATTHEW M. DAVIS
Supervising Deputy Attorney General
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Attorneys for Complainant

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

In the Matter of the Accusation Against: **Richard Seongjun Kim, M.D.** **24325 Crenshaw Boulevard, #307** **Torrance, CA 90505** **Physician's and Surgeon's Certificate** **No. A69774,** Respondent.	Case No. 800-2015-012297 **STIPULATED SURRENDER OF LICENSE AND DISCIPLINARY ORDER**

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

PARTIES

1. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical Board of California (Board). She brought this action solely in her official capacity and is represented in this matter by Xavier Becerra, Attorney General of the State of California, by Martin W. Hagan, Deputy Attorney General.

2. Richard Seongjun Kim, M.D. (respondent) is represented in this proceeding by Raymond J. McMahon, Esq., of Doyle Schafer McMahon LLP, 5440 Trabuco Road, Irvine, CA 92620.

3. On or about September 10, 1999, the Board issued Physician's and Surgeon's Certificate No. A69774 to respondent. The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2015-012297 and will expire on August 31, 2017, unless renewed.

JURISDICTION

4. On June 8, 2017, Accusation No. 800-2015-012297 was filed before the Board and is currently pending against respondent. A true and correct copy of Accusation No. 800-2015-012297 and all other statutorily required documents were properly served on Respondent on June 8, 2017. Respondent timely filed his Notice of Defense contesting the Accusation. A true and correct copy of Accusation No. 800-2015-012297 is attached as Exhibit A and incorporated by reference as if fully set forth herein.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and fully understands the charges and allegations in Accusation No. 800-2015-012297. Respondent also has carefully read, fully discussed with counsel, and fully understands the effects of this Stipulated Surrender of License and Disciplinary Order.

6. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation No. 800-2015-012297; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Having the benefit of counsel, respondent hereby voluntarily, knowingly and intelligently waives and gives up each and every right set forth above.

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CULPABILITY

8. Respondent admits the truth of each and every charge and allegation in Accusation No. 800-2015-012297. Respondent further admits that he has thereby subjected his Physician's and Surgeon's Certificate No. A69774 to disciplinary action and hereby surrenders his Physician's and Surgeon's Certificate No. A69774 for the Board's formal acceptance.

9. Respondent agrees that his Physician's and Surgeon's Certificate No. A69774 is subject to discipline and he agrees to be bound by the Board's imposition of discipline as set forth in the Disciplinary Order below.

10. Respondent further agrees that if he ever petitions for reinstatement of his Physician's and Surgeon's Certificate No. A69774, or petitions to revoke probation or if an accusation is ever filed against him before the Medical Board of California, all of the charges and allegations contained in Accusation No. 800-2015-012297 shall be deemed true, correct, and fully admitted by respondent for purposes of any such proceeding or any other licensing proceeding involving respondent in the State of California or elsewhere.

11. Respondent understands that by signing this stipulation he enables the Executive Director of the Board to issue an order, on behalf of the Board, accepting the surrender of his Physician's and Surgeon's Certificate No. A69774 without further notice to, or opportunity to be heard by, respondent.

CONTINGENCY

12. Business and Professions Code section 2224, subdivision (b), provides, in pertinent part, that the Medical Board "shall delegate to its executive director the authority to adopt a . . . stipulation for surrender of a license."

13. This Stipulated Surrender of License and Disciplinary Order shall be subject to approval of the Executive Director on behalf of the Medical Board. The parties agree that this Stipulated Surrender of License and Disciplinary Order shall be submitted to the Executive Director for her consideration in the above-entitled matter and, further, that the Executive Director shall have a reasonable period of time in which to consider and act on this Stipulated Surrender of License and Disciplinary Order after receiving it. By signing this stipulation,

respondent fully understands and agrees that he may not withdraw his agreement or seek to rescind this stipulation prior to the time the Executive Director, on behalf of the Medical Board, considers and acts upon it.

14. The parties agree that this Stipulated Surrender of License and Disciplinary Order shall be null and void and not binding upon the parties unless approved and adopted by the Executive Director on behalf of the Board, except for this paragraph, which shall remain in full force and effect. Respondent fully understands and agrees that in deciding whether or not to approve and adopt this Stipulated Surrender of License and Disciplinary Order, the Executive Director and/or the Board may receive oral and written communications from its staff and/or the Attorney General's Office. Communications pursuant to this paragraph shall not disqualify the Executive Director, the Board, any member thereof, and/or any other person from future participation in this or any other matter affecting or involving respondent. In the event that the Executive Director on behalf of the Board does not, in her discretion, approve and adopt this Stipulated Surrender of License and Disciplinary Order, with the exception of this paragraph, it shall not become effective, shall be of no evidentiary value whatsoever, and shall not be relied upon or introduced in any disciplinary action by either party hereto. Respondent further agrees that should this Stipulated Surrender of License and Disciplinary Order be rejected for any reason by the Executive Director on behalf of the Board, respondent will assert no claim that the Executive Director, the Board, or any member thereof, was prejudiced by its/his/her review, discussion and/or consideration of this Stipulated Surrender of License and Disciplinary Order or of any matter or matters related hereto.

ADDITIONAL PROVISIONS

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

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

17. In consideration of the foregoing admissions and stipulations, the parties agree the Executive Director of the Medical Board may, without further notice to or opportunity to be heard by respondent, issue and enter the following Disciplinary Order on behalf of the Board:

ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A69774, issued to respondent Richard Seongjun Kim, M.D., is surrendered and accepted by the Medical Board of California.

1. The surrender of respondent's Physician's and Surgeon's Certificate No. A69774 and the acceptance of the surrendered license by the Board shall constitute the imposition of discipline against respondent. This stipulation constitutes a record of the discipline and shall become a part of respondent's license history with the Medical Board of California.

2. Respondent shall lose all rights and privileges as a Physician and Surgeon in California as of the effective date of the Board's Decision and Order.

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

4. If respondent ever files an application for licensure or a petition for reinstatement in the State of California, the Board shall treat it as a petition for reinstatement. Respondent must comply with all the laws, regulations and procedures for reinstatement of a revoked license in effect at the time the petition is filed, and all of the charges and allegations contained in Accusation No. 800-2015-012297 shall be deemed to be true, correct and admitted by respondent when the Board determines whether to grant or deny the petition.

5. If respondent should ever apply or reapply for a new license or certification, or petition for reinstatement of a license, by any other health care licensing agency in the State of California, all of the charges and allegations contained in Accusation No. 800-2015-012297 shall be deemed to be true, correct, and admitted by respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or restrict licensure.

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5. Pursuant to the provisions of Business and Professions Code section 2307, subdivision (b)(1), respondent shall be permitted to file a petition for reinstatement of his Physician's and Surgeon's Certificate No. A69774 after a period of two (2) years has elapsed from the effective date of this Decision and Order.

ACCEPTANCE

I have carefully read the above Stipulated Surrender of License and Disciplinary Order and have fully discussed it with my attorney Raymond J. McMahon, Esq. I understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate No. A69774. I enter into this Stipulated Surrender of License and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Disciplinary Order of the Medical Board of California.

DATED: 2/8/2018

RICHARD SEONGJUN KIM, M.D.
Respondent

I have read and fully discussed with respondent Richard Seongjun Kim, M.D., the terms and conditions and other matters contained in this Stipulated Surrender of License and Order. I approve its form and content.

DATED: February 9, 2018

RAYMOND J. McMAHON
Attorney for Respondent

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ENDORSEMENT

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

Dated: 2/9/2018

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
MATTHEW M. DAVIS
Supervising Deputy Attorney General

MARTIN W. HAGAN
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 800-2015-012297

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Attorneys for Complainant

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO June 8 20 17
BY Sara Pasion ANALYST

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

In the Matter of the Accusation Against: **Richard Seongjun Kim, M.D.** **24325 Crenshaw Boulevard, #307** **Torrance, CA 90505** **Physician's and Surgeon's Certificate No. A69774,** Respondent.	Case No. 800-2015-012297 **ACCUSATION**

Complainant alleges:

PARTIES

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

2. On or about September 10, 1999, the Medical Board issued Physician's and Surgeon's Certificate Number A69774 to Richard Seongjun Kim, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought herein and will expire on August 31, 2017, unless renewed.

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JURISDICTION

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

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

5. Section 2234 of the Code, states:

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

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

"(b) Gross negligence.

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

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

"(2) When the standard of care requires a change in the diagnosis, act, or omission that constitutes the negligent act described in paragraph (1), including, but not limited to, a reevaluation of the diagnosis or a change in treatment, and the

[1] Unprofessional conduct has been defined as conduct which breaches the rules or ethical code of the medical profession, or conduct which is unbecoming a member in good standing of the medical profession, and which demonstrates an unfitness to practice medicine. (*Shea v. Board of Medical Examiners* (1978) 81 Cal.App.3d 654.)

licensee's conduct departs from the applicable standard of care, each departure constitutes a separate and distinct breach of the standard of care.

"...

"(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.

"...."

6. Section 2236 of the Code states:

"(a) The conviction of any offense substantially related to the qualifications, functions, or duties of a physician and surgeon constitutes unprofessional conduct within the meaning of this chapter [Chapter 5, the Medical Practice Act]. The record of conviction shall be conclusive evidence only of the fact that the conviction occurred.

"(b) The district attorney, city attorney, or other prosecuting agency shall notify the Medical Board of the pendency of an action against a licensee charging a felony or misdemeanor immediately upon obtaining information that the defendant is a licensee. The notice shall identify the licensee and describe the crimes charged and the facts alleged. The prosecuting agency shall also notify the clerk of the court in which the action is pending that the defendant is a licensee, and the clerk shall record prominently in the file that the defendant holds a license as a physician and surgeon.

"(c) The clerk of the court in which a licensee is convicted of a crime shall, within 48 hours after the conviction, transmit a certified copy of the record of conviction to the board. The division may inquire into the circumstances surrounding the commission of a crime in order to fix the degree of discipline or to determine if the conviction is of an offense substantially related to the qualifications, functions, or duties of a physician and surgeon.

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"(d) A plea or verdict of guilty or a conviction after a plea of nolo contendere is deemed to be a conviction within the meaning of this section and Section 2236.1. The record of conviction shall be conclusive evidence of the fact that the conviction occurred."

7. Section 2238 of the Code states:

"A violation of any federal statute or federal regulation or any of the statutes or regulations of this state regulating dangerous drugs or controlled substances constitutes unprofessional conduct."

8. Section 2242 of the Code states:

"(a) Prescribing, dispensing, or furnishing dangerous drugs as defined in Section 4022 without an appropriate prior examination and a medical indication, constitutes unprofessional conduct.

". . . ."

9. Section 2261 of the Code states:

"Knowingly making or signing any certificate or other document directly or indirectly related to the practice of medicine or podiatry which falsely represents the existence or nonexistence of a state of facts, constitutes unprofessional conduct."

10. Section 2266 of the Code states:

"The failure of a physician and surgeon to maintain adequate and accurate records relating to the provision of services to their patients constitutes unprofessional conduct."

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FIRST CAUSE FOR DISCIPLINE

(Conviction of an Offense Substantially related to the Qualifications, Functions, or Duties or a Physician and Surgeon)

11. Respondent is further subject to disciplinary action under sections 2227 and 2234, as defined by section 2236, of the Code, in that he has been convicted of an offense substantially related to the qualifications, functions, or duties of a physician and surgeon, as more particularly alleged herein.

12. During the period of on or about October 2, 2014, through on or about December 12, 2014, the Drug Enforcement Administration (DEA) made five undercover buys of controlled substances from respondent using DEA confidential sources and a DEA undercover operative who posed as patients. At the conclusion of each undercover operation, respondent, without adequate examination and/or medical indication, issued prescriptions for controlled substances which included, but were not limited to, Norco (hydrocodone/acetaminophen), Xanax (alprazolam), Soma (carisoprodol), Adderall (dextroamphetamine sulfate) and tramadol (Ultram). The confidential sources and undercover operative were charged $200 for each visit (with the exception of the first visit of October 2, 2014, which was $300) associated with the issuance on the unlawful prescriptions.

13. On or about January 1, 2015, the DEA received an expert report from Dr. T.M., who was retained to offer his expert opinions regarding respondent's prescribing of controlled substances for the DEA undercover buys that took place during the period of on or about October 2, 2014, through on or about December 12, 2014. After his expert review, Dr. T.M. found multiple violations of the standard of care pertaining to the proper prescribing on controlled substances. Specifically, Dr. T.M. opined that the prescriptions issued by respondent during the course of the undercover buys did not comply with the applicable guidelines for the appropriate prescribing of controlled substances and, instead, were "extreme departures from the standard of care and without a legitimate medical purpose." Among other things, Dr. T.M. opined that proper histories were not taken for each undercover patient, proper physical examinations were not performed, there were no treatment plans with stated objectives, no informed consent, no proper

medical documentation, no alternative therapies were considered, there was risk screening in regard to the possible abuse or diversion of the controlled substances being prescribed and, in sum and substance, there was a complete disregard of the laws and regulations pertaining to the proper prescribing of controlled substances. In conclusion, Dr. T.M. opined that "the care provided by Dr. Kim [was] dangerous and reckless" and "that the controlled substance prescriptions prescribed were outside the usual course of professional practice."

14. On or about June 25, 2015, a twenty-one count Felony Complaint was filed against respondent in the Los Angeles Superior Court, in the action entitled *The People of the State of California v. Richard Seongjun Kim*, Case No. BA 437315. The Felony Complaint charged respondent with twenty-one counts of issuing an Unlawful Controlled Substance Prescription in violation of Health and Safety Code section 11153, subdivision (a), a felony. The Felony Complaint generally alleged that respondent unlawfully issued prescriptions for various controlled substances, i.e., hydrocodone, tramadol, carisoprodol, alprazolam and/or amphetamine salts, during the DEA undercover buys of October 2, October 16, October 31, November 18, and December 12, 2014.

15. On or about September 20, 2016, respondent was found guilty by a jury on seventeen felony counts[2] of issuing an Unlawful Controlled Substance Prescription in violation of Health and Safety Code section 11153, subdivision (a), based on the unlawful prescriptions for controlled substances that were issued during the DEA undercover buys of October 2, October 16, October 31, November 18, and December 12, 2014.

16. On or about September 30, 2016, respondent was sentenced to imprisonment in the County Jail for 60 months with respondent to serve 36 months in the County Jail, less credit for time already served, with the remaining 24 months suspended with respondent to be placed on mandatory supervision under various terms and conditions.

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[2] On August 30, 2016, felony counts 2, 3, 8 and 13 were dismissed in the furtherance of justice pursuant to Penal Code section 1385.

SECOND CAUSE FOR DISCIPLINE

(Furnishing Dangerous Drugs Without Conducting an Appropriate Prior Examination and a Medical Indication)

17. Respondent is subject to disciplinary action under sections 2227 and 2234, as defined by section 2242, of the Code, in that respondent prescribed controlled substances and dangerous drugs to the DEA confidential sources and undercover operative, who were posing as patients, without an appropriate prior examination and a medical indication, as more particularly alleged in paragraphs 11 through 16, above, which are hereby incorporated by reference and realleged as if fully set forth herein.

THIRD CAUSE FOR DISCIPLINE

(Gross Negligence)

18. Respondent is subject to disciplinary action under sections 2227 and 2234, as defined by section 2234, subdivision (b) of the Code, in that he committed gross negligence in his care and treatment of the DEA confidential sources and undercover operative, who were posing as patients, as more particularly alleged in paragraphs 11 through 16, above, which are hereby incorporated by reference and realleged as if fully set forth herein.

FOURTH CAUSE FOR DISCIPLINE

(Repeated Negligent Acts)

19. Respondent is further subject to disciplinary action under sections 2227 and 2234, as defined by section 2234, subdivision (c), of the Code, in that respondent committed repeated negligent acts in his care and treatment of the DEA confidential sources and undercover operative, who were posing as patients, as more particularly alleged in paragraphs 11 through 16, above, which are hereby incorporated by reference and realleged as if fully set forth herein.

FIFTH CAUSE FOR DISCIPLINE

(Violation of Statutes Regulating Dangerous Drugs and Controlled Substances)

20. Respondent is also subject to disciplinary action under sections 2227 and 2234, as defined by section 2238, of the Code, in that respondent violated various statutes regulating dangerous drugs and controlled substances, including, but not limited to, sections 725 and 2241 of

the Code; and Health and Safety Code sections 11153, subdivision (a) [unlawful controlled substance prescriptions], as more particularly alleged in paragraphs 11 through 16, above, which are hereby incorporated by reference and realleged as if fully set forth herein.

SIXTH CAUSE FOR DISCIPLINE

(Failure to Maintain Adequate and Accurate Medical Record)

21. Respondent is further subject to disciplinary action under sections 2227 and 2234, as defined by section 2266, of the Code, in that respondent failed to maintain adequate and accurate records in his care and treatment of the DEA confidential sources and undercover operative, who were posing as patients, as more particularly alleged in paragraphs 11 through 16, above, which are hereby incorporated by reference and realleged as if fully set forth herein.

SEVENTH CAUSE FOR DISCIPLINE

(Signing a Document that Falsely Represents the Existence or Non-Existence of a State of Facts)

22. Respondent is further subject to disciplinary action under sections 2227 and 2234, as defined by sections 2261 of the Code, in that respondent signed documents for the DEA confidential sources and undercover operative, who were posing as patients, that falsely represented the existence or non-existence of a state of facts, as more particularly alleged in paragraphs 11 through 16, above, which are hereby incorporated by reference and realleged as if fully set forth herein.

EIGHTH CAUSE FOR DISCIPLINE

(Dishonesty or Corruption)

23. Respondent is further subjected to disciplinary action under sections 2227 and 2234, as defined by section 2234, subdivision (e), of the Code, in that respondent engaged in an act or acts of dishonesty or corruption substantially related to the qualifications, functions, or duties of a physician, as more particularly alleged in paragraphs 11 through 16, above, which are hereby incorporated by reference and realleged as if fully set forth herein.

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NINTH CAUSE FOR DISCIPLINE

(General Unprofessional Conduct)

24. Respondent is further subject to disciplinary action under sections 2227 and 2234, as defined by section 2234, of the Code, in that Respondent engaged in conduct which breaches the rules or ethical code of the medical profession, or conduct which is unbecoming to a member in good standing of the medical profession, and which demonstrates an unfitness to practice medicine, as more particularly alleged in paragraphs 11 through 23, above, which are hereby incorporated by reference and realleged as if fully set forth herein.

PRAYER

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

1. Revoking or suspending Physician's and Surgeon's Certificate Number A69774, issued to respondent Richard Seongjun Kim, M.D.;

2. Revoking, suspending or denying approval of respondent Richard Seongjun Kim, M.D.'s authority to supervise physician assistants and advanced practice nurses;

3. Ordering respondent Richard Seongjun Kim, M.D., if placed on probation, to pay the Board the costs of probation monitoring; and

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

DATED: June 8, 2017

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

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