

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

In the Matter of the Accusation Against

Bangaruswamy Vijaya Kumar, M.D.

Physician's and Surgeons

License No. A49154

Case No. 800-2018-047827

Respondent.

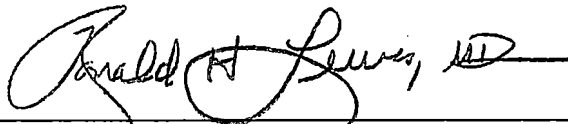
DECISION

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

This Decision shall become effective at 5:00 p.m. on July 9, 2020.

IT IS SO ORDERED: June 9, 2020.

MEDICAL BOARD OF CALIFORNIA



**Ronald H. Lewis, M.D., Chair
Panel A**

1 XAVIER BECERRA
Attorney General of California
2 ALEXANDRA M. ALVAREZ
Supervising Deputy Attorney General
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8 *Attorneys for Complainant*

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

13 In the Matter of the Accusation Against:

14 **BANGARUSWAMY VIJAYA KUMAR, M.D.**
15 **2206 Valley Blossum Ln.**
League City, TX 77573-3977

16 **Physician's and Surgeon's Certificate**
17 **No. A 49154**

18 Respondent.

Case No. 800-2018-047827

OAH No. 2019050469

19
20 **STIPULATED SETTLEMENT AND**
21 **DISCIPLINARY ORDER**

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

24 **PARTIES**

25 1. Christine J. Lally¹ (Complainant) is the Interim Executive Director of the Medical
26 Board of California (Board). She brought this action solely in her official capacity and is
27 represented in this matter by Xavier Becerra, Attorney General of the State of California, by
28 Veronica Vo, Deputy Attorney General.

¹ Kimberly Kirchmeyer became the Director of the Department of Consumer Affairs on October 28, 2019. On that date, Ms. Lally became the Interim Executive Director of the Medical Board.

1 2. Respondent Bangaruswamy Vijaya Kumar, M.D. (Respondent) is represented in this
2 proceeding by attorney Jacob G. Reinhardt, Esq., whose address is: 2550 Ninth Street, Suite 101,
3 Berkeley, CA 94710.

4 3. On or about March 4, 1991, the Board issued Physician's and Surgeon's Certificate
5 No. A 49154 to Bangaruswamy Vijaya Kumar, M.D. (Respondent). The Physician's and
6 Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in
7 Accusation No. 800-2018-047827, and will expire on February 28, 2021, unless renewed.

8 JURISDICTION

9 4. Accusation No. 800-2018-047827 was filed before the Board, and is currently
10 pending against Respondent. The Accusation and all other statutorily required documents were
11 properly served on Respondent on March 25, 2019. Respondent timely filed his Notice of
12 Defense contesting the Accusation.

13 5. A copy of Accusation No. 800-2018-047827 is attached as Exhibit A and
14 incorporated herein by reference.

15 ADVISEMENT AND WAIVERS

16 6. Respondent has carefully read, fully discussed with counsel, and understands the
17 charges and allegations in Accusation No. 800-2018-047827. Respondent has also carefully read,
18 fully discussed with counsel, and understands the effects of this Stipulated Settlement and
19 Disciplinary Order.

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

26 8. Having the benefit of counsel, Respondent voluntarily, knowingly, and intelligently
27 waives and gives up each and every right set forth above.

28 ///

1 CULPABILITY

2 9. Respondent admits that, at an administrative hearing, Complainant could establish a
3 *prima facie* case with respect to the charges and allegations contained in Accusation No. 800-
4 2018-047827 , and agrees that he has thereby subjected his Physician's and Surgeon's Certificate
5 No. A 49154 to disciplinary action.

6 10. Respondent further agrees that if he ever petitions for early termination or
7 modification of probation, or if an accusation and/or petition to revoke probation is filed against
8 him before the Medical Board of California, all of the charges and allegations contained in
9 Accusation No. 800-2018-047827 shall be deemed true, correct and fully admitted by Respondent
10 for the purposes of any such proceeding or any other licensing proceeding involving Respondent
11 in the State of California or elsewhere.

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

15 CONTINGENCY

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

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

1 within 30 days of such a request, the notification of cease practice shall be dissolved.

2 2. BIOLOGICAL FLUID TESTING. Respondent shall immediately submit to
3 biological fluid testing, at Respondent's expense, upon request of the Board or its designee.
4 "Biological fluid testing" may include, but is not limited to, urine, blood, breathalyzer, hair
5 follicle testing, or similar drug screening approved by the Board or its designee. Prior to
6 practicing medicine, Respondent shall contract with a laboratory or service approved in advance
7 by the Board or its designee that will conduct random, unannounced, observed, biological fluid
8 testing. The contract shall require results of the tests to be transmitted by the laboratory or
9 service directly to the Board or its designee within four hours of the results becoming available.
10 Respondent shall maintain this laboratory or service contract during the period of probation.

11 A certified copy of any laboratory test result may be received in evidence in any
12 proceedings between the Board and Respondent.

13 The Board may order Respondent to undergo biological fluid testing on any day, at any
14 time, including weekends and holidays. Respondent shall be subject to up to 24 random tests per
15 year. The tests shall be limited to the first year of probation only. However, nothing precludes the
16 Board from increasing the number of random tests or increasing the years required to test, if the
17 Board finds that Respondent has committed a violation of any of the biological fluid testing
18 requirements.

19 If Respondent fails to cooperate in a random biological fluid testing program within the
20 specified time frame, Respondent shall receive a notification from the Board or its designee to
21 immediately cease the practice of medicine. The Respondent shall not resume the practice of
22 medicine until the final decision on an accusation and/or a petition to revoke probation is
23 effective. An accusation and/or petition to revoke probation shall be filed by the Board within 30
24 days of the notification to cease practice. If the Respondent requests a hearing on the accusation
25 and/or petition to revoke probation, the Board shall provide the Respondent with a hearing within
26 30 days of the request, unless the Respondent stipulates to a later hearing. If the case is heard by
27 an Administrative Law Judge alone, he or she shall forward a Proposed Decision to the Board
28 within 15 days of submission of the matter. Within 15 days of receipt by the Board of the

1 Administrative Law Judge's proposed decision, the Board shall issue its Decision, unless good
2 cause can be shown for the delay. If the case is heard by the Board, the Board shall issue its
3 decision within 15 days of submission of the case, unless good cause can be shown for the delay.
4 Good cause includes, but is not limited to, non-adoption of the proposed decision, requests for
5 reconsideration, remands and other interlocutory orders issued by the Board. The cessation of
6 practice shall not apply to the reduction of the probationary time period.

7 If the Board does not file an accusation or petition to revoke probation within 15 days of the
8 issuance of the notification to cease practice or does not provide Respondent with a hearing
9 within 30 days of such a request, the notification of cease practice shall be dissolved.

10 3. EDUCATION COURSE. Within 60 calendar days of the effective date of this
11 Decision, and on an annual basis thereafter, Respondent shall submit to the Board or its designee
12 for its prior approval educational program(s) or course(s) which shall not be less than 40 hours
13 per year, for each year of probation. The educational program(s) or course(s) shall be aimed at
14 correcting any areas of deficient practice or knowledge and shall be Category I certified. The
15 educational program(s) or course(s) shall be at Respondent's expense and shall be in addition to
16 the Continuing Medical Education (CME) requirements for renewal of licensure. Following the
17 completion of each course, the Board or its designee may administer an examination to test
18 Respondent's knowledge of the course. Respondent shall provide proof of attendance for 65
19 hours of CME of which 40 hours were in satisfaction of this condition.

20 4. PROFESSIONALISM PROGRAM (ETHICS COURSE). Within 60 calendar days of
21 the effective date of this Decision, Respondent shall enroll in a professionalism program, that
22 meets the requirements of Title 16, California Code of Regulations (CCR) section 1358.1.
23 Respondent shall participate in and successfully complete that program. Respondent shall
24 provide any information and documents that the program may deem pertinent. Respondent shall
25 successfully complete the classroom component of the program not later than six (6) months after
26 Respondent's initial enrollment, and the longitudinal component of the program not later than the
27 time specified by the program, but no later than one (1) year after attending the classroom
28 component. The professionalism program shall be at Respondent's expense and shall be in

1 addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

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

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

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

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

19 6. SUPERVISION OF PHYSICIAN ASSISTANTS AND ADVANCED PRACTICE
20 NURSES. During probation, Respondent is prohibited from supervising physician assistants and
21 advanced practice nurses.

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

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

28 Respondent shall submit quarterly declarations not later than 10 calendar days after the end

1 of the preceding quarter.

2 9. GENERAL PROBATION REQUIREMENTS.

3 Compliance with Probation Unit

4 Respondent shall comply with the Board's probation unit.

5 Address Changes

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

11 Place of Practice

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

15 License Renewal

16 Respondent shall maintain a current and renewed California physician's and surgeon's
17 license.

18 Travel or Residence Outside California

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

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

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

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1 11. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board
2 or its designee in writing within 15 calendar days of any periods of non-practice lasting more than
3 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is
4 defined as any period of time Respondent is not practicing medicine as defined in Business and
5 Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct
6 patient care, clinical activity or teaching, or other activity as approved by the Board. If
7 Respondent resides in California and is considered to be in non-practice, Respondent shall
8 comply with all terms and conditions of probation. All time spent in an intensive training
9 program which has been approved by the Board or its designee shall not be considered non-
10 practice and does not relieve Respondent from complying with all the terms and conditions of
11 probation. Practicing medicine in another state of the United States or Federal jurisdiction while
12 on probation with the medical licensing authority of that state or jurisdiction shall not be
13 considered non-practice. A Board-ordered suspension of practice shall not be considered as a
14 period of non-practice.

15 In the event Respondent's period of non-practice while on probation exceeds 18 calendar
16 months, Respondent shall successfully complete the Federation of State Medical Boards's Special
17 Purpose Examination, or, at the Board's discretion, a clinical competence assessment program
18 that meets the criteria of Condition 18 of the current version of the Board's "Manual of Model
19 Disciplinary Orders and Disciplinary Guidelines" prior to resuming the practice of medicine.

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

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

22 Periods of non-practice for a Respondent residing outside of California will relieve
23 Respondent of the responsibility to comply with the probationary terms and conditions with the
24 exception of this condition and the following terms and conditions of probation: Obey All Laws;
25 General Probation Requirements; Quarterly Declarations; Abstain from the Use of Alcohol and/or
26 Controlled Substances; and Biological Fluid Testing..

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

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

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

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

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

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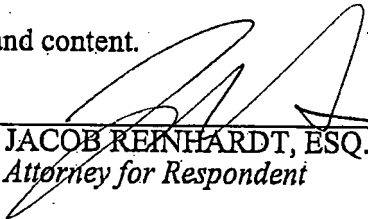
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1 ACCEPTANCE

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

7
8 DATED: 03/12/20 
9 BANGARUSWAMY VIJAYA KUMAR, M.D.
10 *Respondent*

11 I have read and fully discussed with Respondent Bangaruswamy Vijaya Kumar, M.D. the
12 terms and conditions and other matters contained in the above Stipulated Settlement and
13 Disciplinary Order. I approve its form and content.

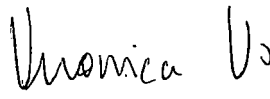
14 DATED: 3/13/20 
15 JACOB REINHARDT, ESQ.
16 *Attorney for Respondent*

17 ENDORSEMENT

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

20 DATED: 3/13/2020

21 Respectfully submitted,
22 XAVIER BECERRA
23 Attorney General of California
24 ALEXANDRA M. ALVAREZ
25 Supervising Deputy Attorney General

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27 VERONICA VO
28 Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 800-2018-047827

1 XAVIER BECERRA
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8 *Attorneys for Complainant*

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO MARCH 25, 2019
BY: [Signature] ANALYST

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

13
14 In the Matter of the Accusation Against:

Case No. 800-2018-047827

15 **Bangaruswamy Vijaya Kumar, M.D.**
2206 Valley Blossum Ln.
16 League City, TX 77573-3977

A C C U S A T I O N

17 **Physician's and Surgeon's Certificate**
18 **No. A 49154,**

19 Respondent.

20 Complainant alleges:

21 **PARTIES**

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

25 2. On or about March 4, 1991, the Medical Board issued Physician's and Surgeon's
26 Certificate Number A 49154 to Bangaruswamy Vijaya Kumar, M.D. (Respondent). The
27 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 February 28, 2021, unless renewed.

1 JURISDICTION

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

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

9 5. Section 2234 of the Code, states:

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

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

15 "..."

16 6. Section 2236 of the Code states:

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

21 "(b) The district attorney, city attorney, or other prosecuting agency shall notify the
22 Division of Medical Quality of the pendency of an action against a licensee charging a felony or
23 misdemeanor immediately upon obtaining information that the defendant is a licensee. The
24 notice shall identify the licensee and describe the crimes charged and the facts alleged. The

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26 ¹ Unprofessional conduct under California Business and Professions Code section 2234 is
27 conduct which breaches the rules or ethical code of the medical profession, or conduct which is
28 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 564,
575.)

1 prosecuting agency shall also notify the clerk of the court in which the action is pending that the
2 defendant is a licensee, and the clerk shall record prominently in the file that the defendant holds
3 a license as a physician and surgeon.

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

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

12 7. Section 2239 of the Code states:

13 "(a) The use or prescribing for or administering to himself or herself, of any controlled
14 substance; or the use of any of the dangerous drugs specified in Section 4022, or of alcoholic
15 beverages, to the extent, or in such a manner as to be dangerous or injurious to the licensee, or to
16 any other person or to the public, or to the extent that such use impairs the ability of the licensee
17 to practice medicine safely or more than one misdemeanor or any felony involving the use,
18 consumption, or self-administration of any of the substances referred to in this section, or any
19 combination thereof, constitutes unprofessional conduct. The record of the conviction is
20 conclusive evidence of such unprofessional conduct.

21 "(b) A plea or verdict of guilty or a conviction following a plea of nolo contendere is
22 deemed to be a conviction within the meaning of this section. The Division of Medical Quality
23 may order discipline of the licensee in accordance with Section 2227 or the Division of Licensing
24 may order the denial of the license when the time for appeal has elapsed or the judgment of
25 conviction has been affirmed on appeal or when an order granting probation is made suspending
26 imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4

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1 of the Penal Code allowing such person to withdraw his or her plea of guilty and to enter a plea of
2 not guilty, or setting aside the verdict of guilty, or dismissing the accusation, complaint,
3 information, or indictment.”²

4 8. California Code of Regulations, title 16, section 1360, states:

5 “For the purposes of denial, suspension or revocation of a license, certificate or permit
6 pursuant to Division 1.5 (commencing with Section 475) of the code, a crime or act shall be
7 considered to be substantially related to the qualifications, functions or duties of a person holding
8 a license, certificate or permit under the Medical Practice Act if to a substantial degree it
9 evidences present or potential unfitness of a person holding a license, certificate or permit to
10 perform the functions authorized by the license, certificate or permit in a manner consistent with
11 the public health, safety or welfare. Such crimes or acts shall include but not be limited to the
12 following: Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
13 violation of, or conspiring to violate any provision of the Medical Practice Act.”

14 **FIRST CAUSE FOR DISCIPLINE**

15 **(Use of Alcohol in a Dangerous or Injurious Manner)**

16 9. Respondent is subject to disciplinary action under sections 2227 and 2234, as defined
17 by section 2239, of the Code, and California Code of Regulations, title 16, section 1360, in that
18 he has used alcoholic beverages to the extent, or in such a manner, as to be dangerous or injurious
19 to himself, or to any other person or to the public, as more particularly alleged hereinafter:

20 **April 4, 2017, Arrest for Driving Under the Influence of Alcohol.**

21 10. On or about April 4, 2017, at approximately 8:00 A.M., a League City Police
22 Department officer (LCPD) responded to a call reporting a minor traffic collision on West Main
23 Street, in Galveston County, Texas. The LCPD officer observed that a Black Porsche sport utility

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26 ² There is a nexus between a physician’s use of alcoholic beverages and his or her fitness
27 to practice medicine, established by the Legislature in section 2239, “in all cases where a licensed
28 physician used alcoholic beverages to the extent or in such a manner as to pose a danger to
himself or others.” (Watson v. Superior Court (Medical Board) (2009) 176 Cal.App.4th 1407,
1411.)

1 vehicle (SUV) had sustained front damage. The officer additionally observed Respondent, who
2 was the vehicle's owner and driver of the vehicle, who appeared to be stumbling, and almost fell
3 to the ground twice as he was approaching the officer.

4 11. The LCPD officer made contact with two individuals (Witness 1 and Victim 1), who
5 proceeded to converse with him about the events leading up to the accident. When asked what
6 had happened, Witness 1 responded that Respondent had driven the Porsche SUV out of a nearby
7 shopping center. While exiting the shopping center, Respondent had nearly struck Witness 1's
8 vehicle. Respondent then proceeded to drive westbound for approximately two (2) miles, during
9 which time Respondent drove "all over the road," or words to that effect, and "into oncoming
10 traffic," or words to that effect. This caused Witness 1 to contact the LCPD to report Respondent.
11 Respondent then drove into a business parking lot, where he caused his vehicle to crash into the
12 left rear side of the vehicle belonging to Victim 1.

13 12. When asked by the LCPD officer about the accident, Victim 1 identified Respondent
14 as the driver of the Porsche SUV. He additionally stated that Respondent had appeared
15 intoxicated.

16 13. Upon personal contact with Respondent, the LCPD officer observed that Respondent
17 had displayed bloodshot eyes, slurred speech, loss of balance, unusual actions, and the smell of
18 alcoholic beverage emanating from his person.

19 14. During questioning, the LCPD officer observed that Respondent was slow to respond
20 to questions directed at him, causing the officer to repeat himself several times; Respondent was
21 unable to provide a clear timeline of the events leading up to the accident, and changed his story
22 several times; and seemed unaware that he had already given his insurance information to the
23 other parties at the scene of the accident. At one point during questioning, Respondent attempted
24 to retrieve his insurance information from Witness 1's vehicle, as he apparently mistook it for his
25 own vehicle. After being asked to provide his driver's license to the LCPD officer, Respondent
26 was unable to provide it. During a search of Respondent's vehicle, the LCPD officer discovered
27 a partially-consumed bottle of Johnnie Walker Blended Scotch Whiskey located under the
28 driver's seat.

1 15. The LCPD officer administered a series of Field Sobriety Tests (FSTs) which
2 Respondent was unable to complete as explained and demonstrated. Respondent was placed
3 under arrest. While in the back of the LCPD patrol car, Respondent consented to providing a
4 blood sample. Respondent was then transported to the University of Texas Medical Branch
5 (UTMB) at Victory Lakes, Texas, where his blood was drawn.

6 16. On or about April 27, 2017, the Texas Department of Public Safety, Crime
7 Laboratory, issued a forensic report with a complete analysis of the April 4, 2017, blood draw on
8 Respondent. The blood test results revealed that Respondent had tested positive for 0.179 grams
9 of alcohol per 100 milliliters of blood.

10 17. On or about April 27, 2017, a Criminal Complaint was filed against Respondent in
11 the matter of *The State of Texas vs. Bangaruswamy Kumar*, County Court of Law No. 2 of
12 Galveston County, State of Texas Case No. MD372592. Respondent was charged with a
13 violation of Texas Penal Code, section 49.04, driving while intoxicated, 2nd offense, a
14 misdemeanor.

15 18. On August 7, 2018, Respondent pled Nolo Contendere and was convicted of driving
16 while intoxicated, in violation of Texas Penal Code, section 49.04. Respondent's sentence was as
17 follows:

- 18 a. Serve three (3) consecutive days in the Galveston County Jail, followed by
- 19 community supervision for eighteen (18) months;
- 20 b. Pay fines, fees and assessments totaling \$2,433.00;
- 21 c. Enroll in and successfully complete the twelve (12) hour DWI class program that
- 22 had been approved by the Court;
- 23 d. Attend and successfully complete one (1) Victim Impact Panel;
- 24 e. Respondent shall install and maintain at his own expense, on his motor vehicle, a
- 25 device that uses a deep lung breath analysis to make impractical the operation of
- 26 a motor vehicle if ethyl alcohol is detected in his breath, with camera;

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- 1 f. Respondent will not operate any motor vehicle that does not have installed a
- 2 device that uses a deep lung breath analysis mechanism to make impractical the
- 3 operation of a motor vehicle if ethyl alcohol is detected in his breath, with
- 4 camera; and
- 5 g. Respondent may not refuse a blood, urine, or breathe test during the period of
- 6 probation.

7 19. On or about December 13, 2018, Respondent was interviewed by a Board
8 Investigator. During the interview, Respondent admitted that during the evening of April 3, 2017,
9 he had consumed approximately six (6) alcoholic beverages, throughout the evening, which
10 ended at approximately 3:00 A.M., on the morning of April 4, 2017.

11 **SECOND CAUSE FOR DISCIPLINE**

12 **(Conviction of a Crime Substantially Related to the Qualifications, Functions, or Duties of**
13 **Physician and Surgeon)**

14 20. Respondent is further subject to disciplinary action under sections 2227 and 2234, as
15 defined by section 2236, of the Code, and California Code of Regulations, title 16, section 1360,
16 in that he has been convicted of a crime, to wit: violation of Texas Penal Code, section 49.04,
17 driving while intoxicated, 2nd offense, a misdemeanor, which is substantially related to the
18 qualifications, functions or duties of a physician and surgeon, as more particularly alleged in
19 paragraphs 9 through 19, above, which are hereby realleged and incorporated by reference as if
20 fully set forth herein.

21 **THIRD CAUSE FOR DISCIPLINE**

22 **(Violation of the State Medical Practice Act)**

23 21. Respondent is further subject to disciplinary action under sections 2227 and 2234, as
24 defined by section 2234, subdivision (a), of the Code, and California Code of Regulations, title
25 16, section 1360, in that he has violated a provision or provisions of the Medical Practice Act, as
26 more particularly alleged in paragraphs 9 through 20, above, which are hereby realleged and
27 incorporated by reference as if fully set forth herein.

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1 **FOURTH CAUSE FOR DISCIPLINE**

2 **(General Unprofessional Conduct)**

3 22. Respondent is further subject to disciplinary action under sections 2227 and 2234, as
4 defined by section 2234, of the Code, in that he has engaged in conduct which breaches the rules
5 or ethical code of the medical profession, or conduct which is unbecoming a member in good
6 standing of the medical profession, and which demonstrates an unfitness to practice medicine, as
7 more particularly alleged in paragraphs 9 through 20, above, which are hereby realleged and
8 incorporated by reference as if fully set forth herein.

9
10 **DISCIPLINARY CONSIDERATIONS**

11 23. To determine the degree of discipline, if any, to be imposed on Respondent
12 Bangaruswamy Vijaya Kumar, M.D., Complainant alleges that on or about December 10, 2008,
13 in a prior criminal proceeding entitled *State of Texas vs. Bangaruswamy Kumar*, in Lavaca
14 County, Texas Superior Court, Case No. 21531, Respondent was convicted of violating Texas
15 Penal Code, section 49.04, Driving while Intoxicated, a misdemeanor and was ordered to:

- 16 1. Serve six (6) months of community supervision;
- 17 2. Pay a fine in the amount of \$1,378.00 to the Lavaca County Community Supervision
18 and Corrections Department;
- 19 3. Not operate a vehicle unless the motor vehicle is equipped with an Ignition Interlock
20 Device;
- 21 4. Install an Ignition Interlock Device on or before January 10, 2009, at the expense of
22 Respondent;
- 23 5. Arrange for the installer to properly maintain the installation of the Ignition Interlock
24 Device throughout of the period of the Defendant's Community Supervision; and
- 25 6. Periodically submit the motor vehicle with the Ignition Interlock Device to the
26 Lavaca County Community Supervision and Corrections Department for it's
27 verification that Respondent has properly maintained the Ignition Interlock Device in

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good working condition in accordance with a time schedule to be established by the Lavaca County Community Supervision and Corrections Department. The record of the criminal proceeding is incorporated 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 No. A 49154, issued to Bangaruswamy Vijaya Kumar, M.D.;
2. Revoking, suspending or denying approval of Bangaruswamy Vijaya Kumar, M.D.'s authority to supervise physician assistants and advanced practice nurses;
3. Ordering Bangaruswamy Vijaya Kumar, 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: March 25, 2019


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

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