

1 ROB BONTA
Attorney General of California
2 JUDITH T. ALVARADO
Supervising Deputy Attorney General
3 LATRICE R. HEMPHILL
Deputy Attorney General
4 State Bar No. 285973
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 269-6198
6 Facsimile: (916) 731-2117
Attorneys for Complainant
7

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

12 In the Matter of the Petition to Revoke
Probation Against,

13 **RICHARD BYOUNG SOO KIM, M.D.**
14 **3395 Michelson Drive, #5330**
Irvine, CA 92612

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16 **Physician's and Surgeon's Certificate No. A**
107769,

17 Respondent.
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Case No. 800-2022-085825

DEFAULT DECISION
AND ORDER

[Gov. Code, §11520]

19 **FINDINGS OF FACT**

20 1. On or about June 14, 2022, Complainant William Prasifka, in his official capacity as
21 the Executive Director of the Medical Board of California, Department of Consumer Affairs, filed
22 Petition to Revoke Probation No. 800-2022-085825 against RICHARD BYOUNG SOO KIM,
23 M.D. (Respondent) before the Medical Board of California.

24 2. On or about May 15, 2009, the Medical Board of California (Board) issued
25 Physician's and Surgeon's Certificate No. A 107769 to Respondent. The Physician's and
26 Surgeon's Certificate was in full force and effect at all times relevant to the charges brought
27 herein and expired on April 30, 2021. A copy of the Certificate of Licensure is attached as
28 **Exhibit A.**

1 3. On or about June 14, 2022, Merlene Francis, an employee of the Board, served by
2 Certified Mail copies of the Petition to Revoke Probation No. 800-2022-085825, Statement to
3 Respondent, Notice of Defense, Request for Discovery, and Government Code sections 11507.5,
4 11507.6, and 11507.7 to Respondent's address of record with the Board, which was and is 3395
5 Michelson Drive, #5330, Irvine, CA 92612, and to an address associated with Respondent, which
6 is 3395 Michelson Drive, #2307, Irvine, CA 92612. A copy of the Petition to Revoke Probation,
7 the related documents, and Declaration of Service are attached as **Exhibit B**, and are incorporated
8 herein by reference.

9 4. On or about June 18, 2022, the U.S. Postal Service successfully delivered the
10 aforementioned documents. A copy of the U.S. Postal Service Tracking History is attached as
11 **Exhibit C**.

12 5. Service of the Petition to Revoke Probation was effective as a matter of law under the
13 provisions of Government Code section 11505, subdivision (c).

14 6. Government Code section 11506 states, in pertinent part:

15 (c) The respondent shall be entitled to a hearing on the merits if the respondent
16 files a notice of defense, and the notice shall be deemed a specific denial of all parts
17 of the accusation not expressly admitted. Failure to file a notice of defense shall
 constitute a waiver of respondent's right to a hearing, but the agency in its discretion
 may nevertheless grant a hearing.

18 7. Respondent failed to file a Notice of Defense within 15 days after service upon him
19 of the Petition to Revoke Probation, and therefore waived his right to a hearing on the merits of
20 Petition to Revoke Probation No. 800-2022-085825. Additionally, on or around July 1, 2022,
21 Respondent was sent a Courtesy Notice of Default, which included a copy of the Petition to
22 Revoke Probation and Notice of Defense previously served on Respondent, advising him that if
23 he failed to take action to file a Notice of Defense by July 18, 2022, the Board would enter a
24 Default Decision against his license, which may be revoked without hearing. (See **Exhibit D**.)
25 The Courtesy Notice of Default was delivered at both Respondent's address of record and
26 Respondent's associated address, on or about July 7, 2022. (See **Exhibit D**.)

27 8. Despite being served with the Petition to Revoke Probation, and related documents, to
28 his address of record, and an associated address, on or about June 18, 2022, and being served with

1 a Courtesy Notice of Default, with the Petition and Notice of Defense form, on or about July 7,
2 2022, Respondent has failed to file a Notice of Defense or give any notice to Complainant of his
3 intent to contest the Petition to Revoke Probation. **Exhibit E** is a declaration stating that no
4 Notice of Defense has been received or filed since Respondent was served with the Petition to
5 Revoke Probation.

6 9. California Government Code section 11520 states, in pertinent part:

7 (a) If the respondent either fails to file a notice of defense or to appear at the
8 hearing, the agency may take action based upon the respondent's express admissions
9 or upon other evidence and affidavits may be used as evidence without any notice to
10 respondent.

11 10. Section 125.3 of the Code states, in pertinent part:

12 (a) Except as otherwise provided by law, in any order issued in resolution of a
13 disciplinary proceeding before any board within the department or before the
14 Osteopathic Medical Board, upon request of the entity bringing the proceeding, the
15 administrative law judge may direct a licensee found to have committed a violation or
16 violations of the licensing act to pay a sum not to exceed the reasonable costs of the
17 investigation and enforcement of the case.

18 11. **Exhibit F** contains a Certification of Costs in the amount of \$7,076.25 for the
19 investigation and enforcement of the case. Based on the Certification, the Board finds that the
20 cost amount is reasonable.

21 12. Pursuant to its authority under Government Code section 11520, the Board finds
22 Respondent is in default. The Board will take action without further hearing and, based on
23 Respondent's express admissions by way of default and the evidence before it, contained in
24 exhibits A through F, finds that the allegations in Petition to Revoke Probation No. 800-2022-
25 085825 are true.

26 **DETERMINATION OF ISSUES**

27 1. Based on the foregoing findings of fact, Respondent Richard Byoung Soo Kim, M.D.
28 has subjected his Physician's and Surgeon's Certificate No. A 107769 to discipline.

2. A copy of the Petition to Revoke Probation and the related documents and
Declaration of Service are attached.

3. The agency has jurisdiction to adjudicate this case by default.

1 4. The Medical Board of California is authorized to revoke Respondent's Physician's and
2 Surgeon's Certificate based upon the following violations alleged in the Petition to Revoke
3 Probation:

4 a. Failure to comply with Probation Condition 4, Professionalism Program (Ethics
5 Course);

6 b. Failure to comply with Probation Condition 5, Psychiatric Evaluation;

7 c. Failure to comply with Probation Condition 6, Psychotherapy;

8 d. Failure to comply with Probation Condition 10, Quarterly Declarations;

9 e. Failure to comply with Probation Condition 11, General Probation

10 Requirements;

11 f. Failure to comply with Probation Condition 12, Interview with the Board or its

12 Designees;

13 g. Failure to comply with Probation Condition 13, Non-Practice While on

14 Probation;

15 h. Failure to comply with Probation Condition 17, Probation Monitoring Costs;

16 and

17 i. Failure to comply with Probation Condition 15, Violation of Probation.

18 5. Likewise, the Board is authorized to order Respondent to pay the Board the
19 reasonable costs of the investigation and enforcement of this case in the amount of \$7,076.25,
20 pursuant to Code section 125.3.

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1 **ORDER**

2 IT IS SO ORDERED that Physician's and Surgeon's Certificate No. A 107769, heretofore
3 issued to Respondent Richard Byoung Soo Kim, M.D., is revoked.

4 **Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a**
5 **written motion requesting that the Decision be vacated and stating the grounds relied on**
6 **within seven (7) days after service of the Decision on Respondent.** The agency in its
7 discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in
8 the statute.

9 This Decision shall become effective on OCT 14 2022.

10 It is so ORDERED SEP 14 2022
11 _____

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13 _____
14 WILLIAM PRASIFKA
15 FOR THE MEDICAL BOARD OF
16 CALIFORNIA
17 DEPARTMENT OF CONSUMER AFFAIRS

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1 ROB BONTA
Attorney General of California
2 JUDITH T. ALVARADO
Supervising Deputy Attorney General
3 LATRICE R. HEMPHILL
Deputy Attorney General
4 State Bar No. 285973
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 269-6198
6 Facsimile: (916) 731-2117
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8 **BEFORE THE**
9 **MEDICAL BOARD OF CALIFORNIA**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Petition to Revoke
Probation Against:

Case No. 800-2022-085825

13 **RICHARD BYOUNG SOO KIM, M.D.**
14 **3395 Michelson Drive, #5330**
15 **Irvine, California 92612**

PETITION TO REVOKE PROBATION

16 **Physician's and Surgeon's Certificate**
17 **No. A 107769,**

Respondent.

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21 **PARTIES**

22 1. William Prasifka (Complainant) brings this Petition to Revoke Probation solely in his
23 official capacity as the Executive Director of the Medical Board of California, Department of
24 Consumer Affairs (Board).

25 2. On or about May 15, 2009, the Board issued Physician's and Surgeon's Certificate
26 Number A 107769 to Richard Byoung Soo Kim, M.D. (Respondent). The Physician's and
27 Surgeon's Certificate was in effect at all times relevant to the charges brought herein and expired
28 on April 30, 2021.

3. In a disciplinary action titled "*In the Matter of Accusation Against Richard Byoung Soo Kim, M.D.*," Case Number 800-2014-009258, the Board issued a decision, effective December 18, 2019, in which Respondent's Physician's and Surgeon's Certificate was revoked. However, the revocation was stayed and Respondent's Physician's and Surgeon's Certificate was placed on probation for a period of seven (7) years with certain terms and conditions. A copy of that decision is attached as Exhibit A and is incorporated by reference.

JURISDICTION

4. This Petition to Revoke Probation 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.

5. Section 2227 of the Code states:

(a) A licensee whose matter has been heard by an administrative law judge of the Medical Quality Hearing Panel as designated in Section 11371 of the Government Code, or whose default has been entered, and who is found guilty, or who has entered into a stipulation for disciplinary action with the board, may, in accordance with the provisions of this chapter:

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

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

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

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

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

(b) Any matter heard pursuant to subdivision (a), except for warning letters, medical review or advisory conferences, professional competency examinations, continuing education activities, and cost reimbursement associated therewith that are agreed to with the board and successfully completed by the licensee, or other matters made confidential or privileged by existing law, is deemed public, and shall be made available to the public by the board pursuant to Section 803.1.

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1 (f) In any action for recovery of costs, proof of the board's decision shall be
conclusive proof of the validity of the order of payment and the terms for payment.

2 (g)(1) Except as provided in paragraph (2), the board shall not renew or
3 reinstate the license of any licensee who has failed to pay all of the costs ordered
under this section.

4 (2) Notwithstanding paragraph (1), the board may, in its discretion,
5 conditionally renew or reinstate for a maximum of one year the license of any
6 licensee who demonstrates financial hardship and who enters into a formal agreement
with the board to reimburse the board within that one-year period for the unpaid
costs.

7 (h) All costs recovered under this section shall be considered a reimbursement
8 for costs incurred and shall be deposited in the fund of the board recovering the costs
to be available upon appropriation by the Legislature.

9 (i) Nothing in this section shall preclude a board from including the recovery of
10 the costs of investigation and enforcement of a case in any stipulated settlement.

11 (j) This section does not apply to any board if a specific statutory provision in
12 that board's licensing act provides for recovery of costs in an administrative
disciplinary proceeding.

13 **FIRST CAUSE TO REVOKE PROBATION**

14 (Professionalism Program)

15 8. At all times after the effective date of Respondent's probation, Condition 4,
16 Professionalism Program (Ethics Course), states in pertinent part:

17 Within 60 calendar days of the effective date of this Decision, Respondent shall
18 enroll in a professionalism program, that meets the requirements of Title 16,
19 California Code of Regulations (CCR) section 1358.1. Respondent shall participate
20 in and successfully complete that program. Respondent shall provide any information
21 and documents that the program may deem pertinent. Respondent shall successfully
complete the classroom component of the program not later than six (6) months after
Respondent's initial enrollment, and the longitudinal component of the program not
later than the time specified by the program, but no later than one (1) year after
attending the classroom component...

22 ...

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

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9. Respondent's probation is subject to revocation because he failed to comply with Probation Condition 4, referenced above. The facts and circumstances regarding this violation are as follows:

A. Respondent enrolled in a professionalism program at PBI Education (PBI).

B. On or about May 15-16, 2020, Respondent attended the PBI Medical Ethics and Professionalism Course, completing 22 continuing medical education credit hours. However, on May 15, 2020, Respondent was about one-and-a-half hours late to the course.

C. On or about July 20, 2020, PBI informed Respondent that, due to his initial tardiness, he needed to participate in and complete the six and twelve-month longitudinal follow-ups in November 2020 and May 2021, in order to receive a completion certificate.

D. On or about December 29, 2020, January 21, 2021, July 8, 2021, and November 5, 2021, Respondent was issued non-compliance letters indicating that Respondent was required to submit a six-month follow-up letter from his Ethics course by November 30, 2021.

E. On or about December 7, 2021, Respondent was issued another non-compliance letter indicating that he was required to submit proof of compliance by December 17, 2021.

F. On or about February 9, 2022, Respondent was issued another non-compliance letter indicating that he was required to submit proof of compliance by February 14, 2022.

G. To date, Respondent has not submitted proof of his completion of the Ethics course.

SECOND CAUSE TO REVOKE PROBATION

(Psychiatric Evaluation)

10. At all times after the effective date of Respondent's probation, Condition 5, Psychiatric Evaluation, states in pertinent part:

Within 30 calendar days of the effective date of this Decision, and on whatever periodic basis thereafter may be required by the Board or its designee, Respondent shall undergo and complete a psychiatric evaluation (and psychological testing, if deemed necessary) by a Board-appointed board certified psychiatrist, who shall consider any information provided by the Board or designee and any other information the psychiatrist deems relevant, and shall furnish a written evaluation report to the Board or its designee...

Respondent shall comply with all restrictions or conditions recommended by the evaluating psychiatrist within 15 calendar days after being notified by the Board or its designee.

1 11. Respondent's probation is subject to revocation because he failed to comply with
2 Probation Condition 5, referenced above. The facts and circumstances regarding this violation
3 are as follows:

4 A. On or about January 24, 2020, Respondent underwent a psychiatric evaluation.
5 Following the evaluation, the evaluator recommended that Respondent continue psychotherapy
6 and enroll in a Clinical Competence Assessment Program.

7 B. On or about March 16, 2020, Respondent enrolled in the PACE Program, a clinical
8 competence assessment program offered by the University of California, San Diego. Respondent
9 was advised that attendance dates would be provided.

10 C. In April 2020, Respondent was informed that PACE courses were canceled due to
11 COVID-19, but, once reopened, Respondent would be able to complete the PACE Program.

12 D. On or about July 8, 2021 and November 5, 2021, Respondent was issued non-
13 compliance letters indicating, among other things, that the Board had not received Respondent's
14 proof of completion of the PACE Program and, consequently, Respondent was not in compliance
15 with the probation condition. The Board requested proof of completion by November 12, 2021.
16 Another non-compliance letter was issued on or about February 9, 2022, and the Board requested
17 proof of compliance by February 14, 2022.

18 E. To date, Respondent has not submitted proof of his completion of the PACE
19 Program.

20 **THIRD CAUSE TO REVOKE PROBATION**

21 (Psychotherapy)

22 12. At all times after the effective date of Respondent's probation, Condition 6,
23 Psychotherapy, states in pertinent part:

24 Within 60 calendar days of the effective date of this Decision, Respondent shall
25 submit to the Board or its designee for prior approval the name and qualifications of a
26 California-licensed board certified psychiatrist or a licensed psychologist who has a
27 doctoral degree in psychology and at least five years of postgraduate experience in
28 the diagnosis and treatment of emotional and mental disorders. Upon approval,
Respondent shall undergo and continue psychotherapy treatment, including any
modifications to the frequency of psychotherapy, until the Board or its designee
deems that no further psychotherapy is necessary.

13. Respondent's probation is subject to revocation because he failed to comply with Probation Condition 6, referenced above. The facts and circumstances regarding this violation are as follows:

A. On or about January 21, 2020, Dr. T.O. was approved to provide psychotherapy services to Respondent.

B. Respondent attended psychotherapy sessions on or about the following dates: July 8, 2020; July 22, 2020; August 5, 2020; August 19, 2020; September 2, 2020; September 16, 2020; September 23, 2020; September 30, 2020; and October 7, 2020.

C. The Board received psychotherapy reports from Dr. T.O. on or about April 10, 2020, July 10, 2020, and October 10, 2020.

D. Respondent stopped attending psychotherapy sessions and stopped communicating with Dr. T.O. after his October 7, 2020 session.

E. On or about July 8, 2021, November 5, 2021, December 7, 2021, and February 9, 2022, Respondent was issued non-compliance letters indicating that he was no longer in compliance with the psychotherapy condition of his probation.

FOURTH CAUSE TO REVOKE PROBATION

(Quarterly Declarations)

14. At all times after the effective date of Respondent's probation, Condition 10, Quarterly Declarations, states:

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

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

15. Respondent's probation is subject to revocation because he failed to comply with Probation Condition 10, referenced above. The facts and circumstances regarding this violation are as follows:

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1 A. On or about March 17, 2020, April 22, 2020, July 10, 2020, and October 15, 2020,
2 the Board received quarterly declarations from Respondent. The Board has not received any
3 additional quarterly declarations.

4 B. On or about July 8, 2021, November 5, 2021, December 7, 2021, and February 9,
5 2022, Respondent was issued non-compliance letters indicating that the Board had not received
6 the necessary quarterly declarations and he needed to provide proof of compliance.

7 **FIFTH CAUSE TO REVOKE PROBATION**

8 (General Probation Requirements)

9 16. At all times after the effective date of Respondent's probation, Condition 11 stated, in
10 pertinent part:

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

12 ...

13 Respondent shall maintain a current and renewed California physician's and
14 surgeon's license...

15 17. Respondent's probation is subject to revocation because he failed to comply with
16 Probation Condition 11, referenced above. The facts and circumstances regarding this violation
17 are as follows:

18 A. On or about April 30, 2021, Respondent's medical license expired.

19 B. On or about August 24, 2021, October 1, 2021, November 1, 2021, December 2,
20 2021, January 3, 2022, and April 1, 2022, Respondent was issued non-compliance letters
21 indicating that, since he failed to renew his license, he was in violation of his probation and
22 needed to come into compliance by renewing his medical license.

23 **SIXTH CAUSE TO REVOKE PROBATION**

24 (Interview with Board Designee)

25 18. At all times after the effective date of Respondent's probation, Condition 12,
26 Interview with the Board or its Designee, states:

27 Respondent shall be available in person upon request for interviews either at
28 Respondent's place of business or at the probation unit office, with or without prior
notice throughout the term of probation.

1 19. Respondent's probation is subject to revocation because he failed to comply with
2 Probation Condition 12, referenced above. The facts and circumstances regarding this violation
3 are as follows:

4 A. On or about March 17, 2020 and June 8, 2020, Respondent attended the required
5 quarterly interviews with a Board probation monitor.

6 B. On or about July 8, 2021, Respondent was issued a non-compliance letter indicating
7 that he failed to attend his 2021 quarter one and quarter two interviews, and he needed to come
8 into compliance with this probation requirement.

9 C. On or about September 2, 2021, Respondent was informed that his 2021 quarter three
10 interview was scheduled for September 9, 2021.

11 D. Respondent failed to attend his 2021 quarter three interview.

12 E. On or about September 13, 2021, November 5, 2021, December 7, 2021, and
13 February 9, 2022, Respondent was issued non-compliance letters indicating that he failed to
14 attend any 2021 quarterly interviews.

15 F. To date, Respondent has failed to attend any additional quarterly interviews.

16 **SEVENTH CAUSE TO REVOKE PROBATION**

17 (Non-Practice While on Probation)

18 20. At all times after the effective date of Respondent's probation, Condition 13, Non-
19 Practice While on Probation, states in pertinent part:

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

22 ...

23 21. Respondent's probation is subject to revocation because he failed to comply with
24 Probation Condition 13, referenced above. The facts and circumstances regarding this violation
25 are as follows:

26 A. Respondent has been in non-practice status since the effective date of Decision No.
27 800-2014-009258, December 18, 2019.

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1 B. On or about August 24, 2021, Respondent was informed that his period of non-
2 practice would exceed two years as of December 18, 2021. Additionally, Respondent was
3 reminded that he would be in violation of his probation should his period of non-practice last
4 through December 18, 2021.

5 C. On or about January 21, 2022, Respondent was issued a non-practice letter indicating
6 that, as of December 18, 2021, his period of non-practice while on probation exceeded two years.
7 Respondent was informed that he was in violation of his probation and his medical license was
8 subject to revocation.

9 **EIGHTH CAUSE TO REVOKE PROBATION**

10 (Probation Monitoring Costs)

11 22. At all times after the effective date of Respondent's probation, Condition 17,
12 Probation Monitoring Costs, states:

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

16 23. Respondent's probation is subject to revocation because he failed to comply with
17 Probation Condition 17, referenced above. The facts and circumstances regarding this violation
18 are as follows:

19 A. On or about July 8, 2021, November 5, 2021, and December 7, 2021, Respondent was
20 issued non-compliance letters indicating that he failed to pay his 2020 probation monitoring costs.

21 B. On or about February 9, 2022, Respondent was issued a non-compliance letter
22 indicating that he failed to pay his 2021 probation monitoring costs. The Board requested
23 payment and proof of compliance by February 14, 2022.

24 C. To date, Respondent has not paid his 2020 and 2021 probation monitoring costs.

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1 **NINTH CAUSE TO REVOKE PROBATION**

2 (Violation of Probation)

3 24. At all times after the effective date of Respondent's probation, Condition 15,
4 Violation of Probation, states:

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

9 25. Respondent's probation is subject to revocation because he failed to comply with
10 Probation Condition 15, referenced above. The facts and circumstances regarding this violation
11 are as follows:

12 A. Paragraphs 8 through 23, inclusive, above, are incorporated herein by reference.

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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 the probation that was granted by the Medical Board of California in Case Number 800-2014-009258 and imposing the disciplinary order that was stayed thereby revoking Physician's and Surgeon's Certificate No. A 107769 issued to Respondent Richard Byoung Soo Kim, M.D.;


2. Revoking or suspending Physician's and Surgeon's Certificate No. A 107769, issued to Respondent Richard Byoung Soo Kim, M.D.;

3. Revoking, suspending or denying approval of Respondent Richard Byoung Soo Kim, M.D.'s authority to supervise physician assistants and advanced practice nurses, pursuant to section 3527 of the Code;

4. Ordering Respondent Richard Byoung Soo Kim, M.D. to pay the Medical Board of California the reasonable costs of the investigation and enforcement of this case, and, if placed on probation, the costs of probation monitoring;

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

DATED: JUN 14 2022



WILLIAM PRASIFKA
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

LA2022600593
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Exhibit A

Decision and Order

Medical Board of California Case No. 800-2014-009258

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

**In the Matter of the Accusation
Against:**

Richard Byoung Soo Kim, M.D.

**Physician's and Surgeon's
Certificate No. A 107769**

Respondent

Case No. 800-2014-009258

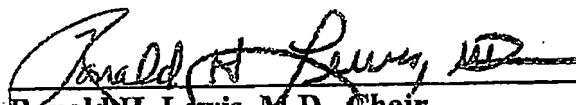
DECISION

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 December 18, 2019.

IT IS SO ORDERED: November 18, 2019.

MEDICAL BOARD OF CALIFORNIA



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

1 XAVIER BECERRA
Attorney General of California
2 ROBERT MCKIM BELL
Supervising Deputy Attorney General
3 COLLEEN M. MCGURRIN
Deputy Attorney General
4 State Bar Number 147250
California Department of Justice
5 300 South Spring Street, Suite 1702
Los Angeles, California 90013
6 Telephone: (213) 269-6546
Facsimile: (916) 731-2117
7 *Attorneys for Complainant*

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

12 In the Matter of the Accusation Against:

13 RICHARD BYOUNG SOO KIM, M.D.
14 3395 Michelson Drive, #2412
Irvine, California 92612

15 Physician's and Surgeon's Certificate Number
16 A 107769

17 Respondent.

Case No. 800-2014-009258

OAH No. 2019040371

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

18
19 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
20 entitled proceedings that the following matters are true:

21 **PARTIES**

22 1. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical Board
23 of California (Board). She brought this action solely in her official capacity and is represented in
24 this matter by Xavier Becerra, Attorney General of the State of California, by Colleen M.
25 McGurrin, Deputy Attorney General.

26 2. Richard Byoung Soo Kim, M.D. (Respondent) is represented in this proceeding by
27 attorney Carlo A. Spiga, Esq., whose address is: 655 North Central Avenue, Suite 1700,
28 Glendale, California 91203-1439.

3. On or about May 15, 2009, the Board issued Physician's and Surgeon's Certificate Number A 107769 to Richard Byoung Soo 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 in Accusation No. 800-2014-009258, and will expire on April 30, 2021, unless renewed.

JURISDICTION

Accusation No. 800-2014-009258 was filed before the Board, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on December 11, 2018. Respondent timely filed his Notice of Defense contesting the Accusation.

4. A copy of Accusation No. 800-2014-009258 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 800-2014-009258. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement 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; 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. Respondent freely, voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

8. Respondent understands and agrees that the charges and allegations in Accusation No. 800-2014-009258, if proven at a hearing, constitute cause for imposing discipline upon his Physician's and Surgeon's Certificate.

9. For the purpose of resolving the Accusation without the expense and uncertainty of further proceedings, Respondent agrees that, at a hearing, Complainant could establish a prima facie factual basis for the charges in the Accusation, and that Respondent hereby gives up his right to contest those charges.

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

CONTINGENCY

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

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

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

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate Number A.107769 issued to Respondent Richard Byoung Soo Kim, M.D. is revoked. However, the revocation is stayed and Respondent is placed on probation for seven (7) years on the following terms and

1 conditions.

2 1. ACTUAL SUSPENSION. As part of probation, Respondent is suspended from the
3 practice of medicine for 45-days beginning the sixteenth (16th) day after the effective date of this
4 decision.

5 2. COMMUNITY SERVICE - FREE SERVICES. Within 60 calendar days of the
6 effective date of this Decision, Respondent shall submit to the Board or its designee for prior
7 approval a community service plan in which Respondent shall, within the first 2 years of
8 probation, provide 120-hours of free services (e.g., medical or nonmedical) to a community or
9 non-profit organization.

10 Prior to engaging in any community service, Respondent shall provide a true copy of the
11 Decision(s) to the chief of staff, director, office manager, program manager, officer, or the chief
12 executive officer at every community or non-profit organization where Respondent provides
13 community service and shall submit proof of compliance to the Board or its designee within 15
14 calendar days. This condition shall also apply to any change(s) in community service.

15 Community service performed prior to the effective date of the Decision shall not be
16 accepted in fulfillment of this condition.

17 3. EDUCATION COURSE – ANGER MANAGEMENT. Within 60 calendar days of
18 the effective date of this Decision, Respondent shall submit to the Board or its designee for its
19 prior approval educational program(s) or course(s) in anger management. The educational
20 program(s) or course(s) shall be aimed at anger management. The educational program(s) or
21 course(s) shall be at Respondent's expense and shall be in addition to the Continuing Medical
22 Education (CME) requirements for renewal of licensure. Following the completion of the anger
23 management course or program, the Board or its designee may administer an examination to test
24 Respondent's knowledge of the course. Respondent shall provide proof of attendance of the
25 anger management program(s) or course(s) to the Board or its designee in satisfaction of this
26 condition.

27 4. PROFESSIONALISM PROGRAM (ETHICS COURSE). Within 60 calendar days of
28 the effective date of this Decision, Respondent shall enroll in a professionalism program, that

1 meets the requirements of Title 16, California Code of Regulations (CCR) section 1358.1.
2 Respondent shall participate in and successfully complete that program. Respondent shall
3 provide any information and documents that the program may deem pertinent. Respondent shall
4 successfully complete the classroom component of the program not later than six (6) months after
5 Respondent's initial enrollment, and the longitudinal component of the program not later than the
6 time specified by the program, but no later than one (1) year after attending the classroom
7 component. The professionalism program shall be at Respondent's expense and shall be in
8 addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

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

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

17 5. PSYCHIATRIC EVALUATION. Within 30 calendar days of the effective date of
18 this Decision, and on whatever periodic basis thereafter may be required by the Board or its
19 designee, Respondent shall undergo and complete a psychiatric evaluation (and psychological
20 testing, if deemed necessary) by a Board-appointed board certified psychiatrist, who shall
21 consider any information provided by the Board or designee and any other information the
22 psychiatrist deems relevant, and shall furnish a written evaluation report to the Board or its
23 designee. Psychiatric evaluations conducted prior to the effective date of the Decision shall not
24 be accepted towards the fulfillment of this requirement. Respondent shall pay the cost of all
25 psychiatric evaluations and psychological testing.

26 Respondent shall comply with all restrictions or conditions recommended by the evaluating
27 psychiatrist within 15 calendar days after being notified by the Board or its designee.

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1 6. PSYCHOTHERAPY. Within 60 calendar days of the effective date of this Decision,
2 Respondent shall submit to the Board or its designee for prior approval the name and
3 qualifications of a California-licensed board certified psychiatrist or a licensed psychologist who
4 has a doctoral degree in psychology and at least five years of postgraduate experience in the
5 diagnosis and treatment of emotional and mental disorders. Upon approval, Respondent shall
6 undergo and continue psychotherapy treatment, including any modifications to the frequency of
7 psychotherapy, until the Board or its designee deems that no further psychotherapy is necessary.

8 The psychotherapist shall consider any information provided by the Board or its designee
9 and any other information the psychotherapist deems relevant and shall furnish a written
10 evaluation report to the Board or its designee. Respondent shall cooperate in providing the
11 psychotherapist with any information and documents that the psychotherapist may deem
12 pertinent.

13 Respondent shall have the treating psychotherapist submit quarterly status reports to the
14 Board or its designee. The Board or its designee may require Respondent to undergo psychiatric
15 evaluations by a Board-appointed board certified psychiatrist. If, prior to the completion of
16 probation, Respondent is found to be mentally unfit to resume the practice of medicine without
17 restrictions, the Board shall retain continuing jurisdiction over Respondent's license and the
18 period of probation shall be extended until the Board determines that Respondent is mentally fit
19 to resume the practice of medicine without restrictions.

20 Respondent shall pay the cost of all psychotherapy and psychiatric evaluations.

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

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

2 8. SUPERVISION OF PHYSICIAN ASSISTANTS AND ADVANCED PRACTICE

3 NURSES. During probation, Respondent is prohibited from supervising physician assistants and
4 advanced practice nurses.

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

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

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

13 11. GENERAL PROBATION REQUIREMENTS.

14 Compliance with Probation Unit

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

16 Address Changes

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

22 Place of Practice

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

26 License Renewal

27 Respondent shall maintain a current and renewed California physician's and surgeon's
28 license.

1 Travel or Residence Outside California

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

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

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

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

25 In the event Respondent's period of non-practice while on probation exceeds 18 calendar
26 months, Respondent shall successfully complete the Federation of State Medical Boards's Special
27 Purpose Examination, or, at the Board's discretion, a clinical competence assessment program
28 that meets the criteria of Condition 18 of the current version of the Board's "Manual of Model

1 Disciplinary Orders and Disciplinary Guidelines" prior to resuming the practice of medicine.

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

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

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

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

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

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

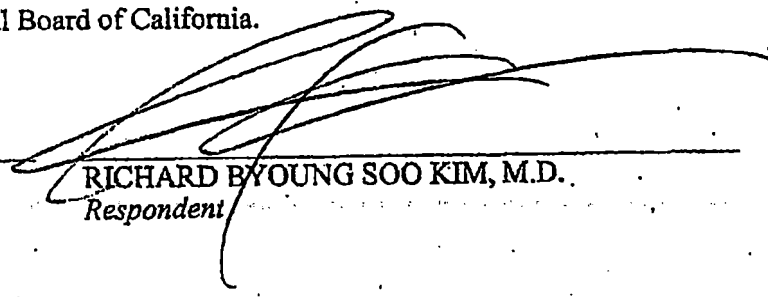
1 application shall be treated as a petition for reinstatement of a revoked certificate.

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

7 ACCEPTANCE

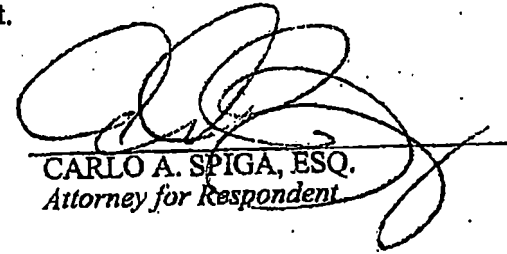
8 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
9 discussed it with my attorney, Carlo A. Spiga, Esq. I understand the stipulation and the effect it
10 will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement and
11 Disciplinary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

13
14 DATED: 9/17/19


15 RICHARD BYOUNG SOO KIM, M.D.
16 Respondent

17
18 I have read and fully discussed with Respondent Richard Byoung Soo Kim, M.D. the terms
19 and conditions and other matters contained in the above Stipulated Settlement and Disciplinary
20 Order. I approve its form and content.

21
22 DATED: 9/13/19


23 CARLO A. SPIGA, ESQ.
24 Attorney for Respondent

25 ///

26 ///

27 ///

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ENDORSEMENT

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

DATED: 9/18/19

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
ROBERT MCKIM BELL
Supervising Deputy Attorney General



COLLEEN M. MCGURRIN
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 800-2014-009258

1 XAVIER BECERRA
2 Attorney General of California
3 JUDITH T. ALVARADO
4 Supervising Deputy Attorney General
5 State Bar No. 155307
6 California Department of Justice
7 300 South Spring Street, Suite 1702
8 Los Angeles, CA 90013
9 Telephone: (213) 269-6453
10 Facsimile: (213) 897-9395
11 E-mail: Judith.Alvarado@doj.ca.gov
12 *Attorneys for Complainant*

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO, September 11, 2018
BY [Signature] ANALYST

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

In the Matter of the Accusation Against:

Case No. 800-2014-009258

Richard Byoung Soo Kim, M.D.
3395 Michelson Drive, #2412
Irvine, California 92612

ACCUSATION

Physician's and Surgeon's Certificate
No. A 107769,

Respondent.

Complainant alleges:

PARTIES

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

2. On or about May 15, 2009, the Board issued Physician's and Surgeon's Certificate Number A 107769 to Richard Byoung Soo Kim, M.D. (Respondent). That license was in full force and effect at all times relevant to the charges brought herein and will expire on April 30, 2019, 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 2001.1 of the Code states:

"Protection of the public shall be the highest priority for the Medical Board of California in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount."

5. Section 2227 of the Code states:

"(a) A licensee whose matter has been heard by an administrative law judge of the Medical Quality Hearing Panel as designated in Section 11371 of the Government Code, or whose default has been entered, and who is found guilty, or who has entered into a stipulation for disciplinary action with the board, may, in accordance with the provisions of this chapter:

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

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

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

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

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

"(b) Any matter heard pursuant to subdivision (a), except for warning letters, medical review or advisory conferences, professional competency examinations, continuing education activities, and cost reimbursement associated therewith that are agreed to with the board and successfully completed by the licensee, or other matters made confidential or privileged by existing law, is deemed public, and shall be made available to the public by the board pursuant to Section 803.1."

1 6. Section 2234 of the Code states:

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

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

7 ". . ."

8 7. Section 2236 of the Code states:

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

13 "(b) The district attorney, city attorney, or other prosecuting agency shall notify the
14 Division of Medical Quality¹ of the pendency of an action against a licensee charging a felony or
15 misdemeanor immediately upon obtaining information that the defendant is a licensee. The
16 notice shall identify the licensee and describe the crimes charged and the facts alleged. The
17 prosecuting agency shall also notify the clerk of the court in which the action is pending that the
18 defendant is a licensee, and the clerk shall record prominently in the file that the defendant holds
19 a license as a physician and surgeon.

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

25 ///

26 ¹ California Business and Professions Code Section 2002, as amended and effective January 1,
27 2008, provides that, unless otherwise expressly provided, the term "board" as used in the State Medical
28 Practice Act (Cal. Bus. & Prof. Code §§§§ 2000, et seq.) means the "Medical Board of California" and
references to the "Division of Medical Quality" and "Division of Licensing" in the Act or any other
provision of law shall be deemed to refer to the Board.

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

4 8. Section 490 of the Code states:

5 “(a) In addition to any other action that a board is permitted to take against a licensee, a
6 board may suspend or revoke a license on the ground that the licensee has been convicted of a
7 crime, if the crime is substantially related to the qualifications, functions, or duties of the business
8 or profession for which the license was issued.

9 “(b) Notwithstanding any other provision of law, a board may exercise any authority to
10 discipline a licensee for conviction of a crime that is independent of the authority granted under
11 subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties
12 of the business or profession for which the licensee's license was issued.

13 “(c) A conviction within the meaning of this section means a plea or verdict of guilty or a
14 conviction following a plea of nolo contendere. Any action that a board is permitted to take
15 following the establishment of a conviction may be taken when the time for appeal has elapsed, or
16 the judgment of conviction has been affirmed on appeal, or when an order granting probation is
17 made suspending the imposition of sentence, irrespective of a subsequent order under the
18 provisions of Section 1203.4 of the Penal Code.

19 “(d) The Legislature hereby finds and declares that the application of this section has been
20 made unclear by the holding in *Petropoulos v. Department of Real Estate* (2006) 142 Cal.App.4th
21 554, and that the holding in that case has placed a significant number of statutes and regulations
22 in question, resulting in potential harm to the consumers of California from licensees who have
23 been convicted of crimes. Therefore, the Legislature finds and declares that this section
24 establishes an independent basis for a board to impose discipline upon a licensee, and that the
25 amendments to this section made by Chapter 33 of the Statutes of 2008 do not constitute a change
26 to, but rather are declaratory of, existing law.”

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1 422, subdivision (a) of the Penal Code, a felony. Count Two charged the Respondent with
2 willfully and unlawfully discharging a firearm in a grossly negligent manner, which could result
3 in injury and death to a person, as set forth in Count Two, in violation of Section 246.3,
4 subdivision (a) of the Penal Code, a felony. The circumstances related to the filing of these
5 criminal charges against Respondent are as follows:

6 A. On or about October 19, 2014, law enforcement officers with the Los Angeles Police
7 Department (LAPD) were contacted by the Respondent's wife, S.K.,³ who reported that
8 Respondent had fired a shotgun at a tree in their front yard earlier that morning. S.K. requested
9 that LAPD officers be dispatched to her residence in order to confiscate and recover the shotgun
10 that Respondent had used that morning. S.K. indicated that the Respondent's shotgun was placed
11 under her nanny's bed inside of her residence, and that Respondent was asleep at their home.
12 Moreover, S.K. reported that she had been receiving threats to her life from Respondent because
13 he believed that S.K. was cheating on him. During her interview with LAPD officers, S.K.
14 disclosed that she had been married to Respondent for approximately eight years and that they
15 had two children together. S.K. reported that Respondent had become increasingly insecure
16 lately and that he had started to accuse S.K. of having an extramarital affair.

17 B. According to S.K., she decided to spend the night at the home of a male friend, S.F.,
18 on or about October 17, 2014. The following morning, Respondent exchanged text messages
19 with S.K. in which he had threatened to beat up S.F. Although S.K. tried to calm him down,
20 Respondent indicated that he would strangle S.F. and threatened to destroy S.K.'s property.
21 Based upon these threatening text messages, S.K. decided not to return home because she was
22 fearful of Respondent. S.K. decided to stay another evening with S.F. On or about October 19,
23 2014, Respondent communicated to S.K. that he intended to murder S.F. with his shotgun. Later
24 that morning, Respondent texted S.K. that he had fired his shotgun at a tree in their front yard.
25 S.K. worried that Respondent would kill her and S.F. and she reported the matter to LAPD.

26 C. Before going to the LAPD station to file a report, S.K. had also received an alarming
27 text message from her nanny on October 19, 2014. The nanny also told S.K. that Respondent had

28 ³ The Respondent's wife is referred to by her initials in order to protect her privacy.

1 gone outside to the front yard and shot a tree with his shotgun. The nanny advised that
2 Respondent had been drinking heavily the night before and that he had passed out on his bed.
3 The nanny had taken the shotgun away from Respondent and hid it under her bed. The nanny
4 then took the Respondent's two children to her family's residence in Bakersfield, California. She
5 was fearful of what the Respondent might do next. S.K. relayed all of this information to the
6 LAPD officers during her interview.

7 D. LAPD officers responded to the Respondent's residence based upon S.K.'s report.
8 Respondent was contacted at the front door of the residence and immediately taken into custody.
9 LAPD officers quickly observed numerous loose shotgun shells on the living room coffee table,
10 as well as two spent shotgun shells on the floor of the Respondent's bedroom. The shotgun was
11 located under the nanny's bed and seized by the LAPD officers. Lastly, the LAPD officers
12 located two loaded 9 mm handgun magazines and three cases of 12 gauge shotgun ammunition.

13 E. While detained by the LAPD officers, Respondent spontaneously admitted to being
14 responsible for the radio calls that were generated earlier that day concerning the gunshot at a tree
15 in his front yard. Respondent explained that he did not hurt anyone, but rather threatened S.F.
16 Respondent was subsequently transported to the jail.

17 F. LAPD officers also interviewed S.F. regarding the events that had transpired over the
18 previous few days. S.F. provided copies of threatening text messages that he had received from
19 Respondent. S.F. acknowledged that he was upset and afraid of Respondent's violent tone when
20 reading the text messages. In fact, S.F. was visibly upset and shaken when interviewed by the
21 LAPD officers. S.F. stated that he believed that Respondent would carry out his threats of
22 violence.

23 12. On September 28, 2016, in the case entitled the *People of the State of California v.*
24 *Richard Byoung Kim*, case number BA431297, in the Superior Court of California, County of Los
25 Angeles, Respondent was found guilty of the crime of making criminal threats upon S.F. as
26 outlined in Count One of the Felony Complaint, in violation of Section 422, subdivision (a) of the
27 Penal Code, a felony, after the conclusion of a jury trial. Similarly, Respondent was found guilty
28 of the crime of discharge of a firearm with gross negligence as outlined in Count Two of the

1 Felony Complaint, in violation of Section 246.3, subdivision (a) of the Penal Code, a felony, after
2 the conclusion of a jury trial.

3 13. On January 3, 2017, in the case entitled the *People of the State of California v.*
4 *Richard Byoung Kim*, case number BA431297, in the Superior Court of California, County of Los
5 Angeles, Respondent was convicted and sentenced on Count One and Count Two in the Felony
6 Complaint pursuant to the jury verdicts returned in September 2016. Respondent was placed on
7 five years of formal probation with the following terms and conditions:

8 A. Cooperate with the probation officer in a plan for psychological counseling including
9 dual diagnosis, as directed by the probation officer, for a period deemed appropriate by the
10 probation officer.

11 B. Do not own, use, or possess any dangerous or deadly weapons including any firearms,
12 knives, or other concealable weapons.

13 C. Not use force or violence on the victims or any witnesses in this case.

14 D. Do not harass, molest, annoy, or communicate with the victims or witnesses in this
15 case and stay away from these persons, their residences, or places of employment.

16 E. Obey all laws and orders of the Superior Court.

17 F. Standard terms and conditions of felony probation.

18 **FIRST CAUSE FOR DISCIPLINE**

19 **(Conviction of a Substantially Related Crime)**

20 14. By reason of the facts set forth in paragraphs 11 through 13 above, Respondent is
21 subject to disciplinary action under Section 2236, subdivision (a), and Section 490 of the Code, as
22 well as California Code of Regulations, title 16, Section 1360, in that Respondent has been
23 convicted of a crime substantially related to the qualifications, function or duties of a physician
24 and surgeon.

25 15. Respondent's acts and/or omissions as set forth in paragraphs 11 through 13 above,
26 whether proven individually, jointly, or in any combination thereof, constitutes the conviction of
27 a crime substantially related to the qualifications, function or duties of a physician and surgeon,

28 ///

1 pursuant to Section 2236, subdivision (a), and Section 490 of the Code, as well as California
2 Code of Regulations, title 16, Section 1360.

3 **SECOND CAUSE FOR DISCIPLINE**

4 **(Unprofessional Conduct)**

5 16. By reason of the facts set forth in paragraph 11 through 13 above, Respondent is
6 subject to disciplinary action under Section 2234, subdivision (a) of the Code in that Respondent
7 has been convicted of a crime substantially related to the qualifications, functions, or duties of a
8 physician and surgeon.

9 17. Respondent's acts and/or omissions as set forth in paragraphs 11 through 13 above,
10 whether proven individually, jointly, or in any combination thereof, constitutes the conviction of
11 a crime substantially related to the qualifications, functions, or duties of a physician and surgeon,
12 pursuant to Section 2234, subdivision (a) of the Code.

13 **PRAYER**

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

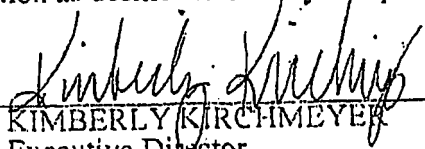
16 1. Revoking or suspending Physician's and Surgeon's Certificate Number A 107769,
17 issued to Richard Byoung Soo Kim, M.D.;

18 2. Revoking, suspending or denying approval of his authority to supervise physician
19 assistants pursuant to Section 3527 of the Code, and advanced practice nurses;

20 3. If placed on probation, ordering Richard Byoung Soo Kim, M.D. to pay the Board the
21 costs of probation monitoring; and

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

23 DATED:
24 December 11, 2018


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

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