

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

In the Matter of the Accusation Against:

Un Hui Faith Nam, M.D.

Physician's & Surgeon's
Certificate No A 106352

Respondent.

Case No.: 800-2020-070554

**DENIAL BY OPERATION OF LAW
PETITION FOR RECONSIDERATION**

No action having been taken on the petition for reconsideration, filed by Un Hui Faith Nam, and the time for action having expired at 5:00 p.m. on October 16, 2023, the petition is deemed denied by operation of law.

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

In the Matter of the Accusation Against:

Un Hui Faith Nam, M.D.

Physician's & Surgeon's
Certificate No. A 106352

Respondent.

Case No. 800-2020-070554

ORDER GRANTING STAY

(Government Code Section 11521)

Un Hui Faith Nam, M.D., has filed a Request for Stay of execution of the Decision in this matter with an effective date of September 7, 2023, at 5:00 p.m.

Execution is stayed until October 16, 2023, at 5:00 p.m.

This Stay is granted solely for the purpose of allowing the Board time to review and consider the Petition for Reconsideration.

DATED: October 6, 2023

JENNA JONES FOR

Reji Varghese
Executive Director
Medical Board of California

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

In the Matter of the Accusation Against:

Un Hui Faith Nam, M.D.

Physician's and Surgeon's
Certificate No. A 106352

Respondent.

MBC File # 800-2020-070554

**ORDER CORRECTING NUNC PRO TUNC
CLERICAL ERROR IN "THE CHARGING DOCUMENT" PORTION OF DECISION**

On its own motion, the Medical Board of California (hereafter "Board") finds that there is a clerical error in the "charging document" portion of the Decision in the above-entitled matter and that such clerical error should be corrected.

IT IS HEREBY ORDERED that the Decision in the above-entitled matter be and hereby is amended and corrected, pursuant to Government Code section 11518.5, subdivision (d), as follows:

1. "First Amended Accusation" is amended and corrected to read "Accusation" wherever it appears.

IT IS SO ORDERED August 11, 2023



Richard E. Thorp, M.D.,
Chair
Panel B

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

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

Un Hui Faith Nam, M.D.

**Physician's & Surgeon's
Certificate No. A 106352**

Respondent.

Case No. 800-2020-070554

ORDER GRANTING STAY

**(Government Code Section
11521)**

Respondent, Un Hui Faith Nam M.D., has filed a Request for Stay of execution of the Decision in this matter with an effective date of September 7, 2023, at 5:00 p.m.

Execution is stayed until October 6, 2023, at 5:00 p.m.

This stay is granted solely for the purpose of allowing the Respondent to file a Petition for Reconsideration.

DATED: August 24, 2023

JENNA JONES FOR
Reji Varghese
Executive Director
Medical Board of California

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

In the Matter of the First Amended
Accusation Against:

Un Hui Faith Nam, M.D.

Physician's and Surgeon's
Certificate No. A 106352

Respondent.

Case No.: 800-2020-070554

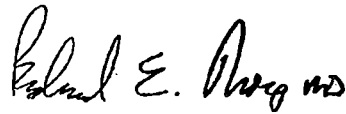
DECISION

The attached Proposed Decision 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 September 7, 2023.

IT IS SO ORDERED: August 8, 2023.

MEDICAL BOARD OF CALIFORNIA



Richard E. Thorp, M.D., Chair
Panel B

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

In the Matter of the First Amended Accusation Against:

UN HUI FAITH NAM, M.D.,

Physician's and Surgeon's Certificate No. A 106352

Respondent.

Agency Case No. 800-2020-070554

OAH No. 2023030078

PROPOSED DECISION

Administrative Law Judge Michael C. Starkey, State of California, Office of Administrative Hearings, heard this matter on June 1, 2022, in Oakland and via videoconference.

Deputy Attorneys General Greg Chambers and Harriet Newman represented complainant Reji Varghese, Deputy Director, Medical Board of California, Department of Consumer Affairs.

Respondent Un Hui Faith Nam, M.D., who is a licensed attorney, represented herself. Attorney Jamon R. Hicks also represented respondent.

The record was held open to allow respondent to submit a "dashcam" video, a copy of an adoption contract, and a transcript of a hearing in the underlying criminal proceeding; and for complainant to submit a written response. Respondent submitted five exhibits, described below. Complainant submitted no response.

Respondent submitted a letter regarding the exhibits she submitted after hearing, which was marked and admitted as Exhibit G.

Respondent submitted a copy of the "dashcam" video and another video purportedly showing an aerial view of her arrest. These documents were marked as Exhibits H and D, respectively. At hearing, respondent reported that the "dashcam" video was not viewable due to technical problems. In her letter, respondent again reported that "the corrupt dashcam video files could not be repaired." Neither Exhibit D nor Exhibit H is viewable in Case Center, the digital evidence platform used in this proceeding. Additionally, Case Center indicates an error in both exhibits. Because neither exhibit is viewable, both were excluded.

Respondent submitted an email and letter from her to Newman with several attachments including: respondent's curriculum vitae; an excerpt of a transcript of an August 1, 2022, hearing in the underlying criminal matter; two emails from respondent to a Medical Board employee with attached photos; an email from respondent's counsel to the underlying complaining witness' counsel regarding alleged injuries; emails between respondent and the complaining witness with attached photos; respondent's social media post regarding puppy adoption, adoption application, and adoption contract; a document related to early termination of respondent's criminal probation; letters of reference; and additional letters of support. This collection of documents was marked and admitted as Exhibit E.

Respondent also submitted another copy of the email from herself to a Medical Board employee with attached photos; and a complete transcript of the August 1, 2022, hearing in the criminal matter, which were marked and admitted as Exhibit F.

The record closed and the matter was submitted on June 22, 2023.

FACTUAL FINDINGS

Jurisdictional Matters

1. On December 19, 2008, the Medical Board of California (Board) issued Physician's and Surgeon's Certificate No. A 106352 to respondent Un Hui Faith Nam, M.D. This certificate was in full force and effect at all relevant times and is scheduled to expire on December 31, 2024, unless renewed.

2. On February 2, 2023, acting in his official capacity as Deputy Director of the Board, complainant Reji Varghese issued an accusation against respondent. Complainant alleges that in 2020 respondent was involved in a physical altercation with an elderly woman; later that day at her residence, respondent failed to cooperate with law enforcement officers and resisted arrest; in August 2022, respondent was convicted of resisting or obstructing a police officer; and these facts establish cause to revoke or suspend respondent's physician's and surgeon's certificate. Complainant also seeks costs.

3. Respondent timely filed a notice of defense and this proceeding followed.

Criminal Conviction

4. On August 1, 2022, respondent was convicted in the Superior Court of California, County of San Mateo, upon her plea of no contest, of a violation of Penal Code section 148, subdivision (a)(1) (willfully delaying a peace officer), a misdemeanor. Imposition of sentence was suspended, and respondent was placed on court probation for a term of one year, on conditions including that she perform 20 hours of public service, complete a 32-hour anger management class, and pay fines and fees.

5. On March 3, 2023, the court granted respondent's motion for early termination of her criminal probation.

6. On April 5, 2023, the court granted respondent's petition and ordered that her plea of no contest be set aside, the guilty verdict be set aside and vacated, a plea of not guilty be entered, and the criminal complaint be dismissed, all pursuant to Penal Code section 1203.4. The court also ordered that respondent's arrest record be sealed pursuant to Penal Code section 851.91.

Events Leading to the Criminal Conviction

7. For a period of time, respondent fostered puppies and helped find them permanent homes. This process involved having interested parties complete an application, and if approved, signing an adoption contract. Respondent was intent on ensuring the well-being of the adopted puppies. The adoption contract contained many restrictive terms and provided respondent the right to rescind the agreement and repossess the animal upon breach of the contract.

8. On August 3, 2022, respondent and Cynthia Woodman entered into such a contract for Woodman to adopt a small, seven-month-old puppy. Woodman was 73

years old. Woodman initialed one of the rescission terms in the agreement. Woodman paid respondent \$600 (less than respondent's actual costs) and took possession of the puppy.

9. Over the next few weeks, respondent became concerned that Woodman was not providing appropriate care for the puppy. Regardless of whether respondent's concerns were objectively reasonable, they were sincere. Ultimately, Woodman agreed to meet respondent at a park near Woodman's home.

10. On August 29, 2020, respondent met Woodman at the park. Respondent picked up the puppy, removed the leash, handed Woodman an envelope with a check for \$650, told Woodman that she was rescinding the adoption, and carried the puppy towards her vehicle. Woodman protested, followed respondent, and physically attempted to take back the puppy. Respondent maintained possession of the puppy, continued to her vehicle, entered the vehicle, and closed the door.

11. Woodman then walked in front of respondent's car and placed her hands on the hood in an attempt to prevent respondent from driving away with the puppy. Woodman screamed that respondent was stealing her dog. Respondent asked Woodman to move multiple times, slowly moved her vehicle forward and back multiple times, and ultimately drove away.

12. In a police report, an officer later described the video footage from respondent's "dashcam," depicting this interaction:

On 8/29/2020 at approximately 1009 hours, the dash cam activates, and it appears [respondent] is in the Prius, and [Woodman] is standing in front of the vehicle. [Respondent] is telling [Woodman] to "move out of the way." I could not

hear exactly what [Woodman] is saying because [Woodman] is standing outside the vehicle. I believe she is saying things similar to "that's my dog", "she took my dog", and "you're stealing my dog." [Respondent] slowly inches forward several times. [Respondent] eventually starts slowly driving forward while [Woodman] is still standing in front of her car. [Woodman] eventually steps away from the front of [respondent's] vehicle and to the passenger side. [Respondent] then drives away from the scene.

I did not see the laceration to [Woodman's] left forearm during the video surveillance. As [respondent] drove away from the scene, [Woodman] was on the passenger's side of [respondent's] vehicle. [Respondent's] vehicle appeared to have made contact with [Woodman] a final time as [respondent] drove away, but I could not see it because it occurred out of view of the camera.

13. After respondent drove away, Woodman went back to her residence and called the police. Redwood City Police Department officers responded quickly. Officers observed that Woodman was bleeding from a large abrasion on her left forearm. Woodman told them that respondent had stolen her dog, and that Woodman fell out of her shoes in order to avoid being run over by respondent's vehicle. It appears that Woodman did not tell the officers about respondent's right to rescind the adoption contract and repossess the puppy.

14. Based on the information available to them at the time, Redwood City Police Department officers, including Sergeant Diana Villegas, proceeded to respondent's residence, with the intent of arresting her.

15. Much of the interaction between respondent and the officers at her residence was captured on video via a camera and microphone on the porch of her residence. The video shows the following:

- When the officers arrived, one knocked on respondent's front door. No one answered for over a minute. Eventually respondent opened the door and stepped out onto the front porch. One officer indicated that they wanted to speak with respondent regarding the incident with "the dog and the lady."
- After some preliminary conversation and a delay for one officer to get and put on a face covering, four officers approached respondent. One officer asked respondent "Do you want to tell me what happened today?" She responded "Uh, nope. We gotta stay six feet. . ." While she was beginning the last sentence, respondent began turning her body counterclockwise, away from the officers, in the direction of her front door. Almost instantly, the closest officer grabbed her right arm and began to pull her towards him. Respondent bent at the waist in an apparent attempt to maintain her position or to retreat. As she was doing this, Sergeant Villegas grabbed respondent's left arm and the first officer pulled respondent forward. Respondent stumbled off the porch as a third officer leaned in and took her left arm from the sergeant. Within three or four seconds after respondent first began turning away, the officers had physical control of her in front of her porch. Within approximately 15 seconds, the officers had handcuffed respondent's wrists behind her back. She remained standing.

- Shortly thereafter respondent called out to her husband, who was at that time some distance down the street from their residence. Within approximately 30 seconds, respondent complained that the handcuffs were too tight on her wrists. She again called out to her husband, stating "They're arresting me!"
- Approximately one minute after the initial physical interaction, respondent asked if she was under arrest. An officer stated that she was. Respondent protested that the officers had not "read me my rights." An officer responded that they would do that. Respondent took a step to her left, appearing to stumble, but was held upright by the officers.
- Sergeant Villegas multiple times informed respondent that she was under arrest and that the officers were not at that time asking her questions. Sergeant Villegas told respondent that they would appreciate it if she cooperated. Respondent emphatically stated "No" and again shouted for her husband. Sergeant Villegas asked her "Are you saying no, you are not going to cooperate?" Respondent stated "No, I'm not going to cooperate."
- Approximately 10 seconds later an officer told respondent that they were going to "walk outside" and gestured to a patrol car parked on the street in front of the residence. He asked respondent if she was able to walk on her own, to which she replied "No" and then screamed "You're hurting me!" The officer explained that they had checked her handcuffs multiple times and they were applied properly. About 10 seconds later one officer said to another "Should we walk her?" and then respondent appeared to go limp in an attempt to prevent the officers from moving her. She then appeared to struggle with the two officers holding her arms and bent forward. One

officer reached his arm over the back of her neck and she angrily stated "Are you having me in a headlock right now?" as she stood erect and twisted towards this officer. Respondent shouted "You just did. You just applied pressure to my cervical spine" as the officers marched her down a walkway towards the street. Respondent appeared to resist this movement until she reached the sidewalk. After they turned right on to the sidewalk, she appeared to walk somewhat more compliantly with the officers and they walked out of view of the porch video camera. This occurred approximately two and one-half minutes after respondent was first handcuffed.

- Approximately eight seconds later respondent (out of view) screamed unintelligibly and loudly. Approximately 30 seconds after this, respondent screamed something to the effect that "he just hit my head."
- Approximately one minute later respondent's husband walked from the street into the front yard of their residence, followed by a police officer. He then entered the residence and came back outside, stating "Boy, the next time she wants to foster puppies, I give up." He then transferred the puppy in dispute to the officers.
- The demeanor of the police officers throughout this incident was calm and professional.

16. Respondent was transported to jail. She complained of back and neck pain. She was transported to a hospital to be evaluated and released several hours later.

17. Shortly thereafter, respondent was charged with five criminal offenses: felony counts of second-degree robbery and elder abuse; and misdemeanor counts of theft from an elder; petty theft; and resisting, obstructing, or delaying a peace officer.

18. On August 1, 2022, at a pretrial hearing, the assistant district attorney (ADA) told the court that the People moved to dismiss all of the charges against respondent, except for the resisting, obstructing, or delaying a peace officer charge, not as part of a plea deal, but due to insufficient evidence. She provided the following explanations: “[s]urprisingly,” the jury instruction showed that respondent had a viable “claim of right” defense even if her belief that Woodman breached the adoption agreement was unreasonable; Woodman did not fall during her interaction with respondent’s vehicle and her later claim of hip injury was determined to be age-related; Woodman had recently alleged that respondent’s car pinned her to another car, but the dashcam footage disproved that allegation “and the creation of this statement further created concerns of exaggerations surrounding the charges only the victim could testify to”; and Woodman also admitted during cross-examination in a preliminary hearing that she had not been “pushed out of her shoes” by respondent’s vehicle, as she previously claimed. The ADA reported that her office ultimately concluded that it could no longer ethically pursue felony prosecution against respondent.

19. In this same proceeding, respondent’s counsel clarified that respondent was only pleading no contest to the “delay” prong of the Penal Code section 148, subdivision (a)(1), prohibition against resisting, delaying, or obstructing a peace officer. The court accepted respondent’s plea and found her guilty on that basis.

Complainant's Additional Evidence

20. Two of the arresting officers testified at hearing. They contend that they grabbed respondent because it appeared that she was trying to flee. They denied that respondent was handcuffed too tightly, and reported that it appeared that the pressure on her wrists was caused by her trying to pull her wrists out of the handcuffs. They denied that she hit her head when they placed her in the patrol car. They denied using excessive force. They contend that respondent physically resisted arrest. One of the officers believes respondent was lying when she complained of pain in her wrists, and later when she complained of pain in her back and neck.

21. In a police report, an officer noted that respondent has been involved in:
a similar incident on 4/7/20. On that incident, it was reported that [respondent] sold a Chihuahua and after [respondent] learned the other party neutered the dog earlier than [respondent] wanted; [respondent] took possession of the dog and refused to give it back.

22. In a police report, an officer reported statements of respondent's husband shortly after her arrest. He stated that he had not seen the whole arrest and wouldn't know what to compare it with. The officer asked him if he thought the officers "handled his wife with care and that we had not harmed her during the arrest?" Respondent's husband replied that respondent "was going to complain no matter what."

Respondent's Additional Evidence

23. Respondent holds doctoral degrees in pharmacy, medicine, and law. She currently operates a medical and legal practice as a solo practitioner. She "at times" is retained to review medical records and consult on cases. She reports that her clinical medical practice consists primarily of volunteering at a local clinic and with a medical mission team that travels to Ethiopia.

24. Respondent reports that she is not board-certified because she was terminated from her residency after reporting patient harm. She reports that this was the subject of a 10-year wrongful termination and retaliation legal "battle." She reports that being prevented from becoming board-certified has resulted in her being "completely shut out of medicine," other than jobs she got on Craigslist, which did not comport with her ethical standards.

25. Regarding the incident with Woodman, respondent testified that when she arrived in the park, she saw Woodman dragging the puppy on the ground and that is when respondent decided to rescind the adoption contract and repossess the puppy. Respondent reports that the envelope containing a check for \$650 that she gave Woodman, was to refund the \$600 Woodman paid, plus \$50 for Woodman's "incidentals" during the three weeks she had the puppy. Respondent did not explain why she had the check in the envelope if she had not already decided to repossess the dog.

26. Respondent reports that she never touched Woodman during the incident. Respondent reports that when she got in her vehicle, it was blocked in back by another vehicle and in front by Woodman. Respondent asked Woodman to move at least three times and noticed that people were starting to come towards her car.

She reports that this was during the height of crimes against Asians, and with Woodman, a Caucasian woman, yelling at her, she was afraid that the gathering crowd would drag her out of her vehicle. Respondent credibly denies driving off at a high rate of speed.

27. Regarding her arrest, respondent reports that she turned away from the officers to create six feet of distance between them due to COVID-19, not to flee. She contends that the time she was accused of going limp, she actually tripped because her sandal fell off. She denies trying to escape the handcuffs. Respondent also claims that one of the officers caused her head to hit the top of the entrance to the back seat of the patrol vehicle when they placed her inside. She denies resisting the officers' efforts to do so. She claims that she suffered injuries to her neck, wrists, arm and both shoulders, including "extensive tearing" of her left shoulder.

28. Respondent completed the court-ordered 20 hours of community service. She reports that she satisfied the court's order to complete 32 hours of anger management via one-on-one counseling, although the counseling she completed was not specifically for anger management. However, she reports that the counseling covered ways to deal with confrontation, including strategies such as pausing before responding, walking away from or diffusing tense situations, and reflecting on unpleasant issues or topics. Respondent reports that she found the counseling beneficial because she found a Christian-based counselor, who addressed her questions like "why there is so much suffering in the world?"

29. Respondent expressed concern that, if she is placed on probation, she will not be allowed join the team that will provide volunteer medical services in Ethiopia in fall 2023.

30. Respondent submitted a letter from a former federal public defender, which is comprised mostly of arguments why this proceeding should be dismissed. However, the author also reports working with respondent and provides high praise for respondent's medical and legal work and her generosity with needy clients.

31. Respondent submitted letters of support from an individual and colleagues/supervisors familiar with her volunteer medical work, and from colleagues during her residency. These six authors are aware of the nature of the current proceeding. The authors hold respondent in high regard. They view her as a physician of integrity, and compliment her work ethic, professionalism, and generosity.

32. Respondent also submitted letters of support from two of her former law professors, a former law school classmate/roommate, a member of her religious congregation, and two neighbors/friends. These authors are also aware of the allegations against respondent and regard her as a conscientious individual of integrity, who is generous and kind.

Ultimate Factual Findings

33. The evidence did not establish that respondent perpetrated physical violence or any crime against Woodman. Respondent's concerns about the puppy may not have been reasonable, but it was not proven that she acted unlawfully towards Woodman. To the extent Woodman was injured during the incident, her injuries were likely caused by her understandable but dangerous efforts to prevent respondent's vehicle from leaving the park with the puppy.

34. Respondent was convicted of willfully delaying a peace officer. She cannot impeach her criminal conviction in this proceeding. (*Arneson v. Fox* (1980) 28 Cal. 3d. 440, 449.) The conviction is conclusive evidence of her guilt of this offense.

(Ibid.) Moreover, the video shows that respondent expressly refused to cooperate with the officers' attempts to arrest her and she physically resisted arrest.

35. Respondent's contention that she turned away from the officers to maintain social distancing, rather than to flee, is plausible, but it was unwise and directly led to officers pulling her off the porch and placing her in handcuffs. This was likely uncomfortable and a shock to respondent, but her demeanor during this incident alternated between calm and very angry. It does not appear that she was in such distress as to prevent her from making rational decisions.

36. Through her statements and demeanor at hearing, respondent evidenced no remorse for or acknowledgement of wrongfulness of any of her actions with Woodman or the arresting officers. There was no indication that respondent was able to view the events from the perspective of Woodman or the arresting officers, or that she had any empathy for Woodman's distress or injuries. On the contrary, it appears that respondent believes that she is entirely blameless for the events that unfolded. Her testimony regarding the court-ordered counseling demonstrated little insight and was untethered to the conduct at issue in this matter. Respondent proved little rehabilitation.

37. The evidence suggests that this incident is part of a larger pattern of interpersonal conflict in respondent's life. However, the supporting letters suggest that respondent also maintains many positive professional and personal relationships and genuinely attempts to contribute to her community.

Costs

38. In connection with the investigation and enforcement of this accusation, complainant requests an award of costs in the total amount of \$27,510.50 for attorney

and paralegal services provided by the Department of Justice and billed to the Board from December 6, 2022, through May 31, 2023, including three hours of estimated attorney time for further hearing preparation after that date. That request is supported by a declaration that complies with the requirements of California Code of Regulations, title 1, section 1042. In the absence of any argument or evidence to the contrary, those costs are found to be reasonable.

LEGAL CONCLUSIONS

Burden and Standard of Proof

1. Complainant is required to prove cause for discipline of a physician's and surgeon's certificate by "clear and convincing proof to a reasonable certainty." (*Ettinger v. Board of Medical Quality Assurance* (1982) 135 Cal.App.3d 853, 856; see Bus. & Prof. Code, § 23.7 [all statutory references are to the Business and Professions Code, unless otherwise stated].)

Cause for Discipline (Unprofessional Conduct: Criminal Conviction)

2. The Board may discipline the physician's and surgeon's certificate of a licensee who commits unprofessional conduct. (§ 2234.) Conviction of an offense substantially related to the qualifications, functions, or duties of a physician and surgeon constitutes unprofessional conduct. (§ 2236, subd. (a).) A criminal offense is substantially related to the qualifications, functions, or duties of a physician and surgeon "if to a substantial degree it evidences present or potential unfitness of a person holding a license . . . to perform the functions authorized by the license . . . in a manner consistent with the public health, safety or welfare." (Cal. Code Regs., tit. 16, § 1360.) Respondent's criminal offense of willfully delaying a peace officer suggests

potential unfitness to safely perform her licensed functions. Cause exists to discipline respondent's physician's and surgeon's certificate under sections 2234 and 2236, subdivision (a), and California Code of Regulations, title 16, section 1360, in light of the matters stated in Factual Findings 4 and 34.

Determination of Discipline

3. Cause for discipline having been established, the next issue is what discipline is appropriate. The Board's highest priority is protection of the public. (§ 2229.) However, "to the extent not inconsistent with public protection, disciplinary actions shall be calculated to aid in the rehabilitation of licensees." (Board's Manual of Model Disciplinary Orders and Disciplinary Guidelines ("Guidelines") (12th ed. 2016), at p. 2; see Cal. Code Regs., tit. 16, § 1361.) The Board may consider a respondent's attitude toward her offense and her character, as evidenced by her behavior and demeanor at hearing. (*Yellen v. Board of Medical Quality Assurance* (1985) 174 Cal.App.3d 1040, 1059–1060.)

The Board expects that, absent mitigating or other appropriate circumstances such as early acceptance of responsibility, demonstrated willingness to undertake Board-ordered rehabilitation, the age of the case, and evidentiary problems, Administrative Law Judges hearing cases on behalf of the Board and proposed settlements submitted to the Board will follow the guidelines, including those imposing suspensions. Any proposed decision or settlement that departs from the disciplinary guidelines shall identify the departures and the facts supporting the departure.

(Guidelines, at p. 2.)

4. For conviction of a misdemeanor not arising from patient care, treatment, management, or billing, the Guidelines recommend a minimum disciplinary order of: a five-year period of probation, with standard conditions of probation plus (1) community service; (2) professionalism program; (3) psychiatric evaluation; (4) medical evaluation and training; and (5) victim restitution. (Guidelines, at p. 25.) In this matter, complainant argues for a three-year period of probation with standard terms, plus an anger management course and a practice monitor. Respondent argues that no discipline is warranted.

5. In favor of respondent's position, her offense was relatively minor; her interactions with Woodman appeared to be motivated by sincere concerns for the puppy; her conviction was expunged; and she demonstrated significant support from colleagues and friends familiar with her professionally and personally. Cause to deviate from the minimum discipline recommended by the Guidelines was established, but some discipline is necessary to protect the public. Respondent's offense was recent and she evidenced little rehabilitation, especially in terms of taking responsibility for her offense. (See *Seide v. Committee of Bar Examiners* (1989) 49 Cal.3d 933, 940 [fully acknowledging the wrongfulness of past actions is an essential step towards rehabilitation].) Moreover, the evidence suggests a pattern of interpersonal conflict in respondent's life and raises questions about her judgment, an essential quality for a physician. Based on a totality of the evidence, the public will be adequately protected by imposition of revocation, stayed with a three-year period of probation including a 52-week anger management course, and standard conditions.

Costs

6. A physician found to have committed a violation of the laws governing medical practice in California may be required to pay the Board the reasonable costs of the investigation and enforcement of the case, but only as incurred on and after January 1, 2022. (Bus. & Prof. Code, § 125.3.) The reasonable costs for this matter total \$27,510.50. (Factual Finding 28.)

7. Cost awards must not deter licensees with potentially meritorious claims from exercising their right to an administrative hearing. (*Zuckerman v. State Board of Chiropractic Examiners* (2002) 29 Cal.4th 32, 45.) Cost awards must be reduced where a licensee has been successful at hearing in getting the charges dismissed or reduced; a licensee is unable to pay; or where the scope of the investigation was disproportionate to the alleged misconduct. (*Ibid.*) The agency must also consider whether the licensee has raised a colorable challenge to the proposed discipline, and a licensee's good faith belief in the merits of his or her position. (*Ibid.*) In this matter, respondent successfully proved that some of Woodman's allegations were not credible and that the four most serious criminal charges against her were dismissed for insufficient evidence. Respondent also strongly believes in her position. She established cause to reduce the cost award to \$15,000.

ORDER

Physician's and Surgeon's Certificate No. A 106352, issued to respondent Un Hui Faith Nam, M.D., is revoked. The revocation is stayed, however, and respondent is placed on probation for three years upon the following terms and conditions.

1. Anger Management Course

Within 60 calendar days of the effective date of this Decision, respondent shall submit to the Board or its designee for prior approval the name and details of a 52-week anger management program that consists of at least 52 hours of participation. The program must be primarily designed to treat anger-management problems, it must be generally available to the public, and respondent's participation must be primarily in a group setting.

Once respondent receives the Board's approval of such a program, she must within 24 additional months provide written evidence satisfactory to the Board that she has completed the program.

Respondent shall pay all costs associated with her completion of this anger management program.

2. Notification

Within seven days of the effective date of this decision, respondent shall provide a true copy of the decision and the accusation in this matter to the Chief of Staff or the Chief Executive Officer at every hospital where privileges or membership are extended to respondent, at any other facility where respondent engages in the practice of medicine, including all physician and locum tenens registries or other similar agencies, and to the Chief Executive Officer at every insurance carrier which extends malpractice insurance coverage to respondent. Respondent shall submit proof of compliance to the Board or its designee within 15 calendar days.

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

3. Supervision of Physician Assistants and Advanced Practice Nurses

During probation, respondent is prohibited from supervising physician assistants and advanced practice nurses.

4. Obey All Laws

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

5. Quarterly Declarations

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.

6. General Probation Requirements

Compliance with Probation Unit: Respondent shall comply with the Board's probation unit and all terms and conditions of this decision.

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

Place of Practice: Respondent shall not engage in the practice of medicine in respondent's or patient's place of residence, unless the patient resides in a skilled nursing facility or other similar licensed facility.

License Renewal: Respondent shall maintain a current and renewed California physician's and surgeon's license.

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

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

7. Interview with the Board or its Designee

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

8. Non-Practice While on Probation

Respondent shall notify the Board or its designee in writing within 15 calendar days of any periods of non-practice lasting more than 30 calendar days and within 15 calendar days of respondent's return to practice. Non-practice is defined as any period of time respondent is not practicing medicine in California as defined in Business and Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct patient care, clinical activity or teaching; or other activity as approved by the Board. All time spent in an intensive training program which has been approved by the

Board or its designee shall not be considered non-practice. Practicing medicine in another state of the United States or Federal jurisdiction while on probation with the medical licensing authority of that state or jurisdiction shall not be considered non-practice. A Board-ordered suspension of practice shall not be considered as a period of non-practice.

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

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

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

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

9. Completion of Probation

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

10. Violation of Probation

Failure to fully comply with any term or condition of probation is a violation of probation. If respondent violates probation in any respect, the Board, after giving respondent notice and the opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If an accusation, or petition to revoke probation, 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.

11. License Surrender

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

12. Cost Recovery

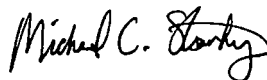
Respondent is hereby ordered to reimburse the Medical Board of California the amount of \$15,000 for its enforcement costs. Respondent shall complete this reimbursement within 90 days from the effective date of this decision, or pursuant to a

payment plan authorized by the Board, with final payment made no later than 33 months after the effective date of this decision.

13. Probation Monitoring Costs

Respondent shall pay the costs associated with probation monitoring each and every year of probation, as designated by the Board, which may be adjusted on an 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.

DATE: 07/12/2023



MICHAEL C. STARKEY

Administrative Law Judge

Office of Administrative Hearings