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

In the Matter of the Accusation Against:	)	
Paul Yeh, M.D.	)	**Case No. 800-2018-043778**
Physician's and Surgeon's Certificate No. A 155642	)	
Respondent	)	

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 May 24, 2019.

IT IS SO ORDERED April 26, 2019.

MEDICAL BOARD OF CALIFORNIA

By: Kristina Lawson
Kristina D. Lawson, J.D., Chair
Panel B

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

In the Matter of the Accusation Against: PAUL YEH, M.D. Physician's and Surgeon's Certificate No. A 155642, Respondent.	Case No. 800-2018-043778 OAH No. 2018101332

PROPOSED DECISION

Administrative Law Judge Thomas Heller, State of California, Office of Administrative Hearings, heard this matter in Los Angeles, California on February 21, 2019.

David Carr, Deputy Attorney General, represented complainant Kimberly Kirchmeyer, Executive Director, Medical Board of California (Board), Department of Consumer Affairs.

No appearance was made by or on behalf of respondent Paul Yeh, M.D.

The matter was submitted on February 21, 2019.

FACTUAL FINDINGS

1. On March 21, 2018, respondent submitted an application to the Board for licensure as a physician and surgeon. On the application, respondent stated under penalty of perjury that he had satisfied the examination requirement for licensure by achieving passing scores on Step 1, Step 2, and Step 3 of the United States Medical Licensing Examination (USMLE). Respondent specifically stated he passed Step 3 of the USMLE on February 12, 2018.

2. On Monday, April 23, 2018, the Board received a Federal Express envelope containing what appeared to be a Certified Transcript of Scores from the Federation of State Medical Boards of the United States, Inc. (FSMB), which administers the USMLE. The transcript stated respondent had successfully passed all three steps of the USMLE.

3. Based in part on the Certified Transcript of Scores, the Board issued Physician's and Surgeon's Certificate Number A155642 to respondent on April 27, 2018.

4. On May 4, 2018, Frances Cain, FSMB's Assistant Vice President for Assessment Services, contacted the Board about respondent's license status and learned that the Board had received what appeared to be a Certified Transcript of Scores from FSMB. Cain notified the Board that respondent had not passed Step 3 of the USMLE, and that FSMB had not submitted respondent's scores to the Board. She also provided the Board with a true copy of respondent's Certified Transcript of Scores, indicating that respondent had passed Steps 1 and 2 of the USMLE, but not Step 3.

5. On May 7, 2018, April Alameda, the Board's Chief of Licensing, sent Cain a scanned copy of the Federal Express envelope that the Board received on April 23, 2018. Ms. Cain observed that the envelope was shipped on Saturday, April 21, 2018, from a Federal Express office in Euless, Texas. While Euless is the location of FSMB's office in Texas, FSMB does not ship on Saturdays. Furthermore, FSMB tenders any transcripts sent via Federal Express through a secure pick-up box in FSMB's office, not through a Federal Express office.

6. In addition, Cain observed other differences between the Federal Express envelope and FSMB's normal Federal Express envelopes:

a. FSMB designates "Assessment Services" on its Federal Express transcript mailings, but that phrase did not appear on the questioned envelope. Furthermore, much of the shipper's information on the envelope was whited out, and the word "Paul" appeared above "FSMB."

b. FSMB's Federal Express machine is set to a default weight of 1.00 pounds, and does not allow a lower weight to be entered. But the indicated weight for the questioned envelope was 0.10 pounds.

c. FSMB addresses any Federal Express mailings to a specific person at the Board, whereas the questioned envelope was addressed alternatively to "CASB Medical Board of Cal" and "CASB Medical Board of California," with no person named as a recipient.

d. FSMB's Federal Express mailings to the Board list the Board's street number and suite number on the same line, but the questioned envelope listed the numbers on separate lines.

e. FSMB inserts the telephone number (916) 263-2389 as the Board's contact number for Federal Express shipments, but the questioned envelope listed (916) 263-2382 as the Board's contact number.

f. FSMB includes a numerical internal code for the Assessment Services department at FSMB in two sections on its Federal Express shipping labels, but no reference number appeared in either section on the questioned envelope.

7. Based on the information from FSMB, complainant petitioned for and obtained an Interim Order of Suspension of respondent's Physician's and Surgeon's certificate from an administrative law judge at the Office of Administrative Hearings. On July 3, 2018, complainant filed an accusation in her official capacity requesting that the Board revoke the certificate, asserting three causes for discipline: (1) fraudulent alteration of the transcript; (2) falsely stating that he passed Step 3 of the USMLE; and (3) dishonest acts. Respondent timely filed a Notice of Defense.

8. The Office of Administrative Hearings set the matter for hearing at 9:00 a.m. on February 21, 2019, at its Los Angeles office. On November 1, 2018, complainant sent respondent a Notice of Hearing via certified mail addressed to respondent's counsel, using the address of counsel listed on the Notice of Defense.

9. Respondent did not appear at the hearing personally or through counsel. Therefore, at complainant's request, the hearing proceeded as a default under Government Code section 11520.

Hearing Evidence

10. Alarcon testified about the Board's application process, its receipt of the inaccurate transcript, and its subsequent communications with FSMB. Complainant also offered into evidence a declaration from Cain concerning the questioned transcript and the many irregularities with the Federal Express envelope sent to the Board. Cain also declared that FSMB received two requests from respondent for hard copies of his official transcript of USMLE scores in late February 2018. FSMB processed both requests promptly, and the Board received the inaccurate transcript via Federal Express about two months later.

11. Overall, the hearing evidence established that respondent falsified the USMLE transcript and submitted the false transcript to the Board in order to obtain his Physician's and Surgeon's certificate. He also falsely attested on his application that he had passed Step 3 of the USMLE when he had not.

LEGAL CONCLUSIONS

Legal Standards

1. "The board shall take action against any licensee who is charged with unprofessional conduct." (Bus. & Prof. Code, § 2234.)[1] "In addition to other provisions of

[1] Undesignated statutory references are to the Business and Professions Code.

this article, unprofessional conduct includes, but is not limited to, the following: [¶] (a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the violation of, or conspiring to violate any provision of this chapter. [¶] . . . [¶] (e) The commission of any act involving dishonesty or corruption which is substantially related to the qualifications, functions, or duties of a physician and surgeon. . . ." (*Ibid.*) Unprofessional conduct also includes the fraudulent alteration of a transcript required for issuing a certificate. (§ 2287.) "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, . . . may, in accordance with the provisions of this chapter: [¶] (1) Have his or her license revoked upon order of the board. . . ." (§ 2227, subd. (a).)

2. Complainant bears the burden of proving the alleged grounds for disciplinary action by clear and convincing evidence to a reasonable certainty. (*Ettinger v. Board of Medical Quality Assurance* (1982) 135 Cal.App.3d 853, 856.) Clear and convincing evidence "requires a finding of high probability," and has been described as "requiring that the evidence be '"so clear as to leave no substantial doubt"; "sufficiently strong to command the unhesitating assent of every reasonable mind."' [Citation.]" (*In re Angelia P.* (1981) 28 Cal.3d 908, 919.)

Discussion

FIRST CAUSE FOR DISCIPLINE

3. Clear and convincing evidence established that respondent fraudulently altered his USMLE transcript in order to obtain a Physician and Surgeon's certificate. (Factual Findings 1-6 & 10-11.) This was unprofessional conduct under section 2287 and constitutes cause to revoke the certificate.

SECOND CAUSE FOR DISCIPLINE

4. Clear and convincing evidence established that respondent made a knowingly false statement of material fact on his application that he had passed Step 3 of the USMLE. (Factual Findings 1-6 & 10-11.) This was unprofessional conduct under section 2234 and constitutes cause to revoke the certificate.

THIRD CAUSE FOR DISCIPLINE

5. Clear and convincing evidence established that respondent committed dishonest acts in submitting a fraudulent USMLE transcript to the Board and making a false statement on his application. (Factual Findings 1-6 & 10-11.) This was unprofessional conduct under section 2234, subdivision (e) and constitutes cause to revoke the certificate.

LEVEL OF DISCIPLINE

6. With the evidence establishing the three alleged causes for discipline, the Board has discretion to determine the suitable discipline, "subject to the Legislative mandate that the Board's highest priority be protection of the public; and, secondarily, discipline should 'aid in the rehabilitation of the licensee.' (§ 2229, subds. (a) & (b).)" (*Pirouzian v. Superior Court* (2016) 1 Cal.App.5th 438, 448.) In exercising its discretion, the Board shall consider the Manual of Model Disciplinary Orders and Disciplinary Guidelines (12th Edition/2016) (Guidelines) that it has adopted. (Cal. Code Regs., tit. 16, § 1361.) The recommended penalty for dishonest acts ranges from a stayed revocation with probation to outright revocation, and the recommended penalty for procuring a license by fraud is revocation. (Guidelines at p. 24.)

7. Respondent falsified the USMLE transcript and lied on his application in order to obtain a Physician's and Surgeon's certificate. Revocation of respondent's certificate for this fraud is the appropriate discipline.

ORDER

Certificate No. A 155642 issued to respondent Paul Yeh, M.D. is revoked pursuant to Legal Conclusions 1 through 7, separately and for each cause for discipline.

DATED: March 11, 2019

DocuSigned by:
Thomas Heller
CFDEA0142171444

THOMAS HELLER
Administrative Law Judge
Office of Administrative Hearings

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FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO July 3 20 18
BY _____ ANALYST

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

In the Matter of the Accusation Against: **PAUL YEH, M.D.** 1200 North State St. CT A7D-GME Los Angeles, CA 90033-1083 Physician's and Surgeon's Certificate No. A 155642, Respondent.	Case No. 800-2018-043778 **ACCUSATION**

Complainant alleges:

PARTIES

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

2. On or about April 27, 2018, the Board issued Physician's and Surgeon's Certificate Number A 155642 to Paul Yeh, M.D. (Respondent). The Certificate will expire on April 30, 2020, unless renewed. Upon Complainant's ex parte petition, on May 14, 2018, an administrative law judge of the Medical Quality Hearing Panel of the Office of Administrative Hearings issued an Interim Order of Suspension of Respondent's Physician and Surgeon Certificate. After a

noticed hearing on the petition on June 4, 2018, the Interim Order of Suspension was upheld and Respondent's Physician's and Surgeon's certificate is suspended pending the Board's Decision and Order rendered in the matter of this Accusation.

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 2220 of the Code states:

"Except as otherwise provided by law, the board may take action against all persons guilty of violating this chapter. The board shall enforce and administer this article as to physician and surgeon certificate holders, including those who hold certificates that do not permit them to practice medicine, such as, but not limited to, retired, inactive, or disabled status certificate holders, and the board shall have all the powers granted in this chapter for these purposes including, but not limited to:

"(a) Investigating complaints from the public, from other licensees, from health care facilities, or from the board that a physician and surgeon may be guilty of unprofessional conduct. The board shall investigate the circumstances underlying a report received pursuant to Section 805 or 805.01 within 30 days to determine if an interim suspension order or temporary restraining order should be issued. The board shall otherwise provide timely disposition of the reports received pursuant to Section 805 and Section 805.01.

"(b) Investigating the circumstances of practice of any physician and surgeon where there have been any judgments, settlements, or arbitration awards requiring the physician and surgeon or his or her professional liability insurer to pay an amount in damages in excess of a cumulative total of thirty thousand dollars ($30,000) with respect to any claim that injury or damage was proximately caused by the physician's and surgeon's error, negligence, or omission.

"(c) Investigating the nature and causes of injuries from cases which shall be reported of a high number of judgments, settlements, or arbitration awards against a physician and surgeon."

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5. Section 2234 of the Code states:

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

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

"..."

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

"...."

6. Section 2287 of the Code provides that the altering in any material regard, with fraudulent intent, of any transcript or other evidence required for issuing a certificate under the Medical Practice Act constitutes unprofessional conduct.

7. Section 2235 of the Code states:

"Upon referral from the division, the Senior Assistant Attorney General of the Health Quality Enforcement Section shall initiate action against any licensee who obtains a certificate by fraud or misrepresentation, including a reciprocity certificate which is based upon a certificate or license obtained by fraud or mistake. The division shall take action against any licensee whose certificate was issued by mistake."

8. Section 2290 of the Code states:

"The provisions of Article 4 (commencing with Section 580) of Chapter 1, relating to frauds of medical records, degrees, diplomas, certificates, and transcripts are not affected by the provisions of this article and, so far as any act is a crime within their scope, such provisions control over the provisions of this article."

9. Section 581 of the Code states:

"No person, company, or association shall purchase or procure by barter or by any unlawful means or method, or have in possession any diploma, certificate, transcript, or any other writing with intent that it shall be used as evidence of the holder's qualifications to practice as a physician

and surgeon, osteopathic physician, podiatrist, any other system or mode of treating the sick or afflicted, as provided in the Medical Practice Act, Chapter 5 (commencing with Section 2000), or to practice as any other licentiate under this division or in any fraud of the law regulating this practice or, shall with fraudulent intent, alter in a material regard, any such diploma, certificate, transcript, or any other writing."

10. Section 583 of the Code states:

"No person shall in any document or writing required of an applicant for examination, license, certificate, or registration under this division, the Osteopathic Initiative Act, or the Chiropractic Initiative Act, willfully make a false statement in a material regard."

FIRST CAUSE FOR DISCIPLINE

(Fraudulent Alteration of Transcript)

11. Respondent Paul Yeh, M.D. has committed unprofessional conduct and subjected his license to disciplinary action under sections 2234, 580, and 2287 by fraudulently altering a material portion of the transcript required for licensure as a physician and surgeon. The circumstances are as follows:

12. On March 27, 2018, Respondent submitted an application to the Board for licensure as a physician and surgeon. On his application, Respondent attested under penalty of perjury that he had satisfied the examination requirement for licensure by achieving passing scores on Step 1, Step 2, and Step 3 of the United States Medical Licensing Examination (USMLE). Respondent expressly stated that he passed Step 3 of the USMLE on February 12, 2018. The Board received documentation confirming Respondent's completion of medical school and related transcripts, and verifying his participation in a postgraduate training program.

13. On April 18, 2018, the Board received a Federal Express package containing a document purporting to be a Certified Transcript of Scores from the Federation of State Medical Boards (FSMB), which administers the USMLE. The document stated that Respondent had successfully passed all three steps of the USMLE.

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14. Based in part on the apparent attestation of the FSMB transcript that Respondent had passed all three parts of the USMLE, on April 27, 2018, the Board issued Physician's and Surgeon's Certificate Number A155642 to Respondent.

15. On May 4, 2018, the Board was notified by the FSMB that Respondent had submitted a falsified USMLE Certified Transcript of Scores to the Board as part of his application for licensure. The FSMB stated that Respondent had not passed USMLE Step 3 and that the FSMB had not submitted Respondent's scores to the Board. The FSMB also provided the Board with a true copy of Respondent's Certified Transcript of Scores, indicting that Respondent had passed Step 1 and Step 2, but that he had neither taken the required third examination nor passed Step 3.

16. Review of the actual transcript and comparison with the altered documents Respondent submitted to the Board in support of his application reveal a remarkably adept forgery, sufficient to pass as genuine under any reasonable degree of scrutiny. Indeed, it did suffice to warrant the Board's issuance of a Physician's and Surgeon's certificate to Respondent.

17. Respondent is subject to license discipline for unprofessional conduct under 2287 of the Code in that his willful alteration of the USMLE transcript he submitted to obtain a Physician's and Surgeon's certificate violates the prohibitions of sections 2287 and 581 of the Code.

SECOND CAUSE FOR DISCIPLINE

(False Statement of Material Fact)

18. The allegations of paragraphs 11 through 15 above are incorporated by reference as if set out in full. Respondent has subjected his license to disciplinary action in that his knowingly false assertion that he had passed Step 3 of the USMLE on his sworn application for licensure as a Physician and Surgeon violated the explicit prohibition of section 583 of the Code and constitutes unprofessional conduct under section 2234 of the Code.

THIRD CAUSE FOR DISCIPLINE

(Dishonest Act)

19. The allegations of paragraphs 11 through 15 above are incorporated by reference as if set out in full. Respondent has subjected his license to disciplinary action in that his knowingly

false statement in his application for licensure and his multiple acts in furtherance of his fraudulent alteration of the USMLE transcript and subsequent submission of that document to the Board are dishonest acts constituting unprofessional conduct under section 2234 and subsection 2234(e) of the Code.

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 Physician's and Surgeon's Certificate Number A 155642, issued to Paul Yeh, M.D.;

2. Revoking approval of Paul Yeh, M.D.'s authority to supervise physician assistants and advanced practice nurses; and

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

DATED: July 3, 2018

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

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