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

In the Matter of the Accusation Against:	)	
JOONG YOUNG PARK, M.D.	)	Case No. 800-2015-014169
Physician's and Surgeon's Certificate No. A39059	)	
Respondent	)	

DECISION

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

This Decision shall become effective at 5:00 p.m. on July 26, 2019.

IT IS SO ORDERED June 26, 2019.

MEDICAL BOARD OF CALIFORNIA

By: Kristina Lawson

Kristina Lawson, JD, Chair
Panel B

XAVIER BECERRA
Attorney General of California
ROBERT MCKIM BELL
Supervising Deputy Attorney General
TRINA L. SAUNDERS
Deputy Attorney General
State Bar No. 207764
300 South Spring Street, Suite 1702
Los Angeles, California 90013
Telephone: (213) 269-6516
Facsimile: (213) 897-9395
Attorneys for Complainant

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

In the Matter of the Accusation Against: JOONG YOUNG PARK, M.D. 4444 Wilshire Boulevard, Suite 303 Los Angeles, California 90010 Physician's and Surgeon's Certificate A 39059, Respondent.	Case No. 800-2015-014169 OAH No. 2018110697 **STIPULATED SETTLEMENT AND DISCIPLINARY ORDER**

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

PARTIES

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

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2. Respondent Joong Young Park, M.D. (Respondent) is represented in this proceeding by attorney Jennifer L. Sturges of Carroll, Kelly, Trotter, Franzen, et. al., Post Office Box 22636, Long Beach, CA 90801-5636.

3. On August 30, 1982, the Board issued Physician's and Surgeon's Certificate No. A 39059 to Joong Young Park, M.D. (Respondent). That license was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2015-014169, and will expire on November 30, 2019, unless renewed.

JURISDICTION

4. Accusation No. 800-2015-014169 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 May 18, 2018. Respondent timely filed his Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 800-2015-014169 is attached as Exhibit A and is incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 800-2015-014169. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

7. 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.

8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

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CULPABILITY

9. Respondent understands and agrees that the charges and allegations in Accusation No. 800-2015-014169, if proven at a hearing, constitute cause for imposing discipline upon his Physician's and Surgeon's Certificate.

10. 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 factual basis for the charges in the Accusation, and that Respondent hereby gives up his right to contest those charges.

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

CONTINGENCY

12. 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.

13. 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.

14. 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

A. PUBLIC REPRIMAND

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 39059 issued to Respondent Joong Young Park, M.D. is hereby publicly reprimanded pursuant to California Business and Professions Code section 2227, subdivision (a)(4). This Public Reprimand, which is issued in connection with Respondent's care and treatment of one patient, as set forth in Accusation No. 800-2015-014169, is as follows:

In 2012, you committed an act of gross negligence by performing a colonoscopy without adequate training. The lack of adequate training led to the surgical disturbance and "almost" biopsy of an area of abnormality identified on colonoscopy, which the trained eye would have recognized from endoscopic photographs, as a vascular malformation. Such a lesion would not be biopsied by a competently trained and more experienced endoscopist.

A. MEDICAL RECORD KEEPING COURSE. Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a course in medical record keeping approved in advance by the Board or its designee. Respondent shall provide the approved course provider with any information and documents that the approved course provider may deem pertinent. Respondent shall participate in and successfully complete the classroom component of the course not later than six (6) months after Respondent's initial enrollment. Respondent shall successfully complete any other component of the course within one (1) year of enrollment. The medical record keeping course shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

A medical record keeping course taken after the acts that gave rise to the charges in the Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board or its designee, be accepted towards the fulfillment of this condition if the course would have been approved by the Board or its designee had the course been taken after the effective date of this Decision.

Respondent shall submit a certification of successful completion to the Board or its designee not later than 15 calendar days after successfully completing the course, or not later than

15 calendar days after the effective date of the Decision, whichever is later.

B. CLINICAL COMPETENCE ASSESSMENT PROGRAM. Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a clinical competence assessment program approved in advance by the Board or its designee. Respondent shall successfully complete the program not later than six (6) months after Respondent's initial enrollment unless the Board or its designee agrees in writing to an extension of that time.

The program shall consist of a comprehensive assessment of Respondent's physical and mental health and the six general domains of clinical competence as defined by the Accreditation Council on Graduate Medical Education and American Board of Medical Specialties pertaining to Respondent's current or intended area of practice. The program shall take into account data obtained from the pre-assessment, self-report forms and interview, and the Decision(s), Accusation(s), and any other information that the Board or its designee deems relevant. The program shall require Respondent's on-site participation for a minimum of three (3) and no more than five (5) days as determined by the program for the assessment and clinical education evaluation. Respondent shall pay all expenses associated with the clinical competence assessment program.

At the end of the evaluation, the program will submit a report to the Board or its designee which unequivocally states whether the Respondent has demonstrated the ability to practice safely and independently. Based on Respondent's performance on the clinical competence assessment, the program will advise the Board or its designee of its recommendation(s) for the scope and length of any additional educational or clinical training, evaluation or treatment for any medical condition or psychological condition, or anything else affecting Respondent's practice of medicine. Respondent shall comply with the program's recommendations.

Determination as to whether Respondent successfully completed the clinical competence assessment program is solely within the program's jurisdiction.

If Respondent fails to enroll, participate in, or successfully complete the clinical competence assessment program within the designated time period, Respondent shall receive a notification from the Board or its designee to cease the practice of medicine within three (3)

calendar days after being so notified. The Respondent shall not resume the practice of medicine until enrollment or participation in the outstanding portions of the clinical competence assessment program have been completed. If the Respondent did not successfully complete the clinical competence assessment program, the Respondent shall not resume the practice of medicine until a final decision has been rendered on the accusation.

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Jennifer L. Sturges. I understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Medical Board of California.

DATED: 4/25/2019

JOONG YOUNG PARK, M.D.
Respondent

I have read and fully discussed with Respondent JOONG YOUNG PARK, M.D. the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 04/25/2019

JENNIFER L. STURGES
Attorney for Respondent

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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: April 29, 2019

Respectfully submitted,

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

TRINA L. SAUNDERS
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 800-2015-014169

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO May 18 2018
BY R. Fitzwater ANALYST

XAVIER BECERRA
Attorney General of California
ROBERT MCKIM BELL
Supervising Deputy Attorney General
TRINA L. SAUNDERS
Deputy Attorney General
State Bar No. 207764
California Department of Justice
300 South Spring Street, Suite 1702
Los Angeles, California 90013
Telephone: (213) 269-6516
Facsimile: (213) 897-9395
Attorneys for Complainant

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

In the Matter of the Accusation Against: JOONG YOUNG PARK, M.D. 4444 Wilshire Blvd., Suite 303 Los Angeles, California 90010 Physician's and Surgeon's Certificate A 39059, Respondent.	Case No. 800-2015-014169 **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 (Board).

2. On August 30, 1982, the Medical Board issued Physician's and Surgeon's Certificate Number A 39059 to Joong Young Park, M.D. (Respondent). That license was in full force and effect at all times relevant to the charges brought herein and will expire on November 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 (Code) unless otherwise indicated.

4. 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."

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.

"(b) Gross negligence.

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

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

"(2) When the standard of care requires a change in the diagnosis, act, or omission that constitutes the negligent act described in paragraph (1), including, but not limited to, a reevaluation of the diagnosis or a change in treatment, and the licensee's conduct departs from the applicable standard of care, each departure constitutes a separate and distinct breach of the standard of care.

"(d) Incompetence.

"(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.

"(f) Any action or conduct which would have warranted the denial of a certificate.

"(g) The practice of medicine from this state into another state or country without meeting the legal requirements of that state or country for the practice of medicine. Section 2314 shall not apply to this subdivision. This subdivision shall become operative upon the implementation of the proposed registration program described in Section 2052.5.

"(h) The repeated failure by a certificate holder, in the absence of good cause, to attend and participate in an interview by the board. This subdivision shall only apply to a certificate holder who is the subject of an investigation by the board."

6. Section 2266 of the Code states:

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

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FIRST CAUSE FOR DISCIPLINE

(Gross Negligence)

7. Respondent Joong Young Park, M.D. is subject to disciplinary action under section 2234, subdivision (b), of the Code in that he performed a colonoscopy without adequate training and during the colonoscopy this inadequate training was evident in his flawed judgment in biopsying a vascular lesion. The circumstances are as follows:

8. Respondent is a family practice physician. Respondent completed a general medicine and surgery internship in 1974-1975. He completed a two-year family practice residency in 1982. He is not board certified and does not currently have hospital privileges. Respondent is board eligible in family practice. Respondent is not a gastroenterologist.

9. In April of 2012, a patient presented to Respondent for a comprehensive medical evaluation. The evaluation consisted of basic blood work, EKG, chest x-ray, sonography, echocardiography, CT scanning, gastroscopy and colonoscopy. Following a focused history and physical examination, Respondent proceeded to perform the endoscopic studies.

10. During the course of the colonoscopy, an area of abnormality was identified in what was thought to be the proximal colon. Respondent probed the area of abnormality with biopsy forceps. The area began to bleed. Respondent's dictated procedure note stated, "lesions appear to be tumor or AV malformation. Probing with cold biopsy head done. Firm appearing lesion was grabbed and almost biopsy was attempted but immediately changed mind and released it." The oozing of blood from the location occurred immediately following the intervention. Thereafter, Respondent cauterized the nearby area with hot biopsy forceps.

11. On the following morning, the patient developed massive but painless rectal bleeding. He was transported by ambulance to Desert Regional Medical Center. He was hospitalized from April 15 – 17, 2012.

12. During the hospitalization, multiple transfusions were given. The bleeding appeared to have resolved with expectant management.

13. However, within hours after his hospital discharge the bleeding recurred. The patient was transported back to Desert Regional Medical Center where he was re-hospitalized and given

additional transfusions. The bleeding could not be stopped with non-surgical intervention. Imaging showed that the bleeding was arising from arteriovenous (AV) malformations at the level of the splenic flexure, and not the proximal colon as previously identified by the Respondent.

14. On April 20, 2012, at Desert Regional Medical Center the patient underwent an extended left colon resection with placement of a temporary diverting colostomy. A surgeon performed the operation.

15. The patient was discharged on April 26, 2012.

16. In June 2012, the patient developed rectal bleeding identified by sigmoidoscopic examination, which showed ulceration at the staple line. Intestinal continuity was surgically restored. However, the patient developed a post-operative adhesive small bowel obstruction that required another surgery.

17. Thereafter, the patient reported continued functional limitations, including discomfort, and an inability to resume full-time work responsibilities.

18. On April 19, 2018, Respondent was interviewed by a Medical Board of California investigator. During the interview, Respondent reported that he received training in flexible sigmoidoscopy during his residency. He was in family medicine residency from 1980 - 1982. He had no additional formal training in colonoscopy apart from attending two proprietary day-long courses offered by the National Procedures Institute in 2008 and 2010. The courses included use of models, but no live subjects.

19. During his interview with Medical Board staff, Respondent estimated that he had performed 200 colonoscopies during the preceding five years. He estimated that his colonoscopic studies achieved cecal intubation (i.e. were technically adequate) in approximately 70% of the 200 cases, which is below the national benchmark of 95%.

20. Respondent's performance of a colonoscopy without adequate training constitutes an extreme departure from the standard of care. Respondent's lack of adequate training led him to surgically disturb and "almost" biopsy the area of abnormality identified on colonoscopy, in this case, which the trained eye would have recognized from endoscopic photographs, as a vascular malformation. Such a lesion would not be biopsied by a competently trained and more

experienced endoscopist, and tools such as a hemoclipping would have likely been chosen to stop the patient's bleeding.

SECOND CAUSE FOR DISCIPLINE

(Failure to Maintain Adequate Records)

21. Respondent Joong Young Park, M.D. is subject to disciplinary action under section 2266 in that he failed to maintain adequate and accurate medical records. The circumstances are as follows:

22. Respondent's handwritten records maintained for the patient were illegible. When the notes were read aloud by the Respondent at his interview with Medical Board staff, it became apparent that the records lacked clarity and detail.

PRAYER

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

1. Revoking or suspending Physician's and Surgeon's Certificate Number A 39059, issued to Joong Young Park, M.D.;

2. Revoking, suspending or denying approval of his authority to supervise physician assistants and advanced practice nurses;

3. If placed on probation, ordering him to pay the Board the costs of probation monitoring; and

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

DATED: May 18, 2018

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

Complainant

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