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

In the Matter of the Accusation Against:	)	
Daniel Young Soon Kim, M.D.	)	Case No. 800-2016-024586
Physician's and Surgeon's Certificate No. G 55909	)	
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 January 10, 2020.

IT IS SO ORDERED December 11, 2019.

MEDICAL BOARD OF CALIFORNIA

By: Ronald H. Lewis, M.D.
Ronald H. Lewis, M.D., Chair
Panel A

XAVIER BECERRA
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Attorneys for Complainant

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

In the Matter of the Accusation Against: **DANIEL YOUNG SOON KIM, M.D.** **24891 La Vida Drive** **Laguna Niguel, CA 92677-1917** **Physician's and Surgeon's Certificate No. G 55909** Respondent.	Case No. 800-2016-024586 OAH No. 2019060443 **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 Martin W. Hagan, Deputy Attorney General.

2. Respondent Daniel Young Soon Kim, M.D. (Respondent) is representing himself in this proceeding and has chosen not to exercise his right to be represented by counsel.

3. On or about September 3, 1985, the Board issued Physician's and Surgeon's Certificate No. G 55909 to 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. 800-2016-024586, and expired on August 31, 2019, and has not been renewed.

JURISDICTION

Accusation No. 800-2016-024586 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 September 26, 2018. Respondent did not timely file his Notice of Defense contesting the Accusation and a default was entered against him on March 14, 2019, with an effective date of April 12, 2019. Respondent filed a Petition for Reconsideration, which was treated as a request to vacate the default decision, which was granted by the Board on April 22, 2019. A true and correct copy of Accusation No. 800-2016-024586 is attached as Exhibit A and incorporated herein by reference as if fully set forth herein.

ADVISEMENT AND WAIVERS

4. Respondent has carefully read, and understands the charges and allegations in Accusation No. 800-2016-024586. Respondent has also carefully read, and understands the effects of this Stipulated Settlement and Disciplinary Order.

5. 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 be represented by counsel at his own expense; 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.

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

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CULPABILITY

7. Respondent admits the truth of each and every charge and allegation in Accusation No. 800-2016-024586. 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.

8. Respondent further agrees that if an accusation and/or petition for revocation of probation is filed against her before the Board, or, if he ever petitions for early termination or modification of probation, all of the charges and allegations contained in Accusation No. 800-2016-024586 shall be deemed true, correct and fully admitted by Respondent for purposes of that proceeding or any other licensing proceeding involving Respondent in the State of California or elsewhere.

CONTINGENCY

9. 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. 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.

10. The parties agree that this Stipulated Settlement and Disciplinary Order shall be null and void and not binding upon the parties unless approved and adopted by the Board, except for this paragraph, which shall remain in full force and effect. Respondent fully understands and agrees that in deciding whether or not to approve and adopt this Stipulated Settlement and Disciplinary Order, the Board may receive oral and written communications from its staff and/or the Attorney General's Office. Communications pursuant to this paragraph shall not disqualify

the Board, any member thereof, and/or any other person from future participation in this or any other matter affecting or involving respondent. In the event that the Board does not, in its discretion, approve and adopt this Stipulated Settlement and Disciplinary Order, with the exception of this paragraph, it shall not become effective, shall be of no evidentiary value whatsoever, and shall not be relied upon or introduced in any disciplinary action by either party hereto. Respondent further agrees that should this Stipulated Settlement and Disciplinary Order be rejected for any reason by the Board, Respondent will assert no claim that the Board, or any member thereof, was prejudiced by its/his/her review, discussion and/or consideration of this Stipulated Settlement and Disciplinary Order or of any matter or matters related hereto.

ADDITIONAL PROVISIONS

11. This Stipulated Settlement and Disciplinary Order is intended by the parties herein to be an integrated writing representing the complete, final and exclusive embodiment of the agreements of the parties in the above-entitled matter.

12. The parties agree that copies of this Stipulated Settlement and Disciplinary Order, including copies of the signatures of the parties, may be used in lieu of original documents and signatures and, further, that such copies shall have the same force and effect as 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

A. PUBLIC REPRIMAND

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. G 55909 issued to Respondent Daniel Young Soon Kim, M.D., shall be and 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 patient A and Respondent's medical record documentation, as set forth in Accusation No. 800-2016-024586, is as follows:

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You are hereby publicly reprimanded in regard to the care and treatment you provided to patient A and your medical record documentation, as more fully set forth in Accusation No. 800-2016-024586, a true and correct copy of which is attached hereto as Exhibit A and incorporated by reference as if fully set forth herein.

B. EDUCATION COURSE. Within 60 calendar days of the effective date of this Decision, Respondent shall submit to the Board or its designee for its prior approval educational program(s) or course(s) which shall not be less than 20 hours. The educational program(s) or course(s) shall be aimed at correcting any areas of deficient practice or knowledge and shall be Category I certified. The educational program(s) or course(s) shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure. Following the completion of each course, the Board or its designee may administer an examination to test Respondent's knowledge of the course. Respondent shall provide proof of attendance for 45 hours of CME of which 20 hours were in satisfaction of this condition. Failure to participate in and successfully complete the education program or course requirements as outlined above shall constitute unprofessional conduct and be grounds for further disciplinary action.

C. 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. Failure to participate in and successfully complete the medical record course requirements as outlined above shall constitute unprofessional conduct and be grounds for further disciplinary action.

ACCEPTANCE

I have carefully read the Stipulated Settlement and Disciplinary Order. 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: 10/7/2019

DANIEL YOUNG SOON KIM, M.D.
Respondent

ENDORSEMENT

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

DATED: October 16, 2019

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
MATTHEW M. DAVIS
Supervising Deputy Attorney General

MARTIN W. HAGAN
Deputy Attorney General
Attorneys for Complainant

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EXHIBIT A

Accusation No. 800-2016-024586

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Attorneys for Complainant

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO Sep. 26 2018
BY: ANALYST

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

In the Matter of the Accusation Against: **Daniel Young Soon Kim, M.D.** **23141 Moulton Pkwy, #102** **Laguna Hills, CA 92653-1241** **Physician's and Surgeon's Certificate No. G55909,** Respondent.	Case No. 800-2016-024586 **A C C U S A T I O N**

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 September 3, 1985, the Medical Board issued Physician's and Surgeon's Certificate Number G55909 to Daniel Young Soon 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 herein and will expire on August 31, 2019, unless renewed.

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 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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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:

"...

"(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.

"...."

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 is subject to disciplinary action under sections 2227 and 2234, as defined by section 2234, subdivision (b), of the Code, in that he committed gross negligence in his care and treatment of patient A,[1] as more particularly alleged hereinafter:

8. On or about August 18, 2009, respondent had his first visit with patient A, a then-77-year old male for his primary health care needs. According to the certified medical records for this visit, patient A was noted to be healthy, active, and noted as preferring natural and healthy foods and supplements. On physical examination, patient A was assessed as having some limitations from a right knee injury sustained when racing cars. The assessment for this visit included "DJD" [degenerative joint disease] and respondent, among other things, scheduled lab tests and referred patient A for an orthopedic consultation.

9. From on or about August 19, 2009, through September 13, 2014, respondent had approximately six (6) visits with patient A which took place on April 16, 2012, November 11, 2013, February 21, 2014, March 24, 2014, July 7, 2014, and July 28, 2014, for various health reasons including, but not limited to, degenerative joint disease, spinal compression fracture related to osteopenia (reduced bone density), hernia surgery, hearing loss, and osteoarthritis in both knees with right knee greater than the left knee. As of July 28, 2014, patient A was "resigned to have TKR [total knee replacement]" for the osteoarthritis in his right knee and surgery was scheduled with an orthopedic surgeon for September 30, 2014.

10. On or about September 16, 2014, respondent had a pre-operative visit with patient A. The purpose of the visit was pre-admission and pre-operative lab testing and medical clearance prior to patient A's scheduled total right knee replacement surgery. At this pre-operative visit, respondent documented vital signs and that patient A was scheduled for his right total knee replacement on September 30, 2014. An EKG was performed on patient A. The objective portion of respondent's progress note indicated "VSS [vital signs stable]" and "EKG – NSR

[1] Patient A is being used in place of the patient's name or initials to maintain patient confidentiality.

[normal sinus rhythm], NSTW Δ's [non-specific T-wave changes]." The plan was documented as checking labs, chest X-ray, and patient declined flu vaccine. The progress note for this visit is cursory and missing pertinent information including, but not limited to, any of patient A's symptoms, his current exercise tolerance, and information regarding patient A's risk profile for the scheduled surgery. Additionally, respondent's documentation of "NSTW Δ's [non-specific T-wave changes]" on the progress note of September 16, 2014, is inconsistent with respondent's subsequent claim that he did not discover the non-specific T-wave changes until later and, thus, the progress note is confusing and fails to clearly indicate when respondent became aware of the T-wave changes.[2]

11. On or about September 18, 2014, samples were collected from patient A for laboratory analysis. According to the LabCorp report the tests ordered included "CBC, Platelet, No Differential; Basic Metabolic Panel (8); Lipid Panel; TSH; Prostate-Specific AG, Serum; Venipuncture; Cardiovascular Risk Assessment." This was the first time that respondent ordered lab testing to determine patient A's cholesterol level. The lab results were reported on September 19, 2014, at 9:39 ET [Eastern Time] which included a total cholesterol level of 274, indicating severely elevated cholesterol level.

12. On or about September 22, 2014, in the early-evening, patient A was admitted to the hospital after experiencing chest pain while he was walking with his wife. Patient A "was brought to the emergency room where he was diagnosed with ST elevation inferior wall myocardia infarction, [and] was taken to cardiac catherterization" on an emergent basis where he had three stents to the right coronary artery.

13. On or about September 23, 2014, at 6:25 p.m., respondent, unaware of patient A's hospital admission, sent an email to one of his staff members, T.M., which stated:

> "[A]sk pt. [patient] to come back in ASAP for repeat EKG. Upon reviewing EKG, there has been a significant change from 2012 which raises some concern about whether it is safe to proceed with his knee surgery. I may have to refer him to

[2] In correspondence to the Board dated January 20, 2018, respondent claimed, in pertinent part, "I mistakenly did not immediately review his EKG done on 9/16/14 until I received his pre-op lab results on 9/23/14 in order to complete his clearance evaluation. This is when I first noted his EKG to be abnormal." However, respondent indicated "EKG – NSR [normal sinus rhythm], NSTW Δ's [non-specific T wave changes]" on his note dated September 16, 2014.

Cardiology to clear him for surgery which may postpone his surgery for a few weeks. [T]hanks."

14. On September 24, 2014, at 8:39 a.m., respondent's staff member, T.M., responded to respondent's email, above, and advised respondent, "pt [patient] admitted to [the hospital] monday evening [-] pt's wife stated that he had a 'light' heart attack during exercise." In a letter to the Board dated January 20, 2018, respondent described the series of events that occurred shortly prior to him learning of patient A's heart attack, wherein he stated, in pertinent part:

> "I performed a routine pre-operative clearance evaluation on 9/16/14 for [patient A's] surgery scheduled for 9/30/14. He complained of no other symptoms than his knee pain at the time. He was still going to the gym to exercise several days per week up to that point. I mistakenly did not immediately review his EKG done on 9/16/14 until I received his pre-op lab results on 9/23/14 in order to complete his clearance evaluation. This is when I first noted his EKG to be abnormal. We called him to return to the office to repeat his EKG and if the abnormal finding remained he would need to be referred to Cardiology for further evaluation. Please see message in his records from 9/23/14 documenting this phone call. I was informed by his wife that he had been admitted to the hospital the day before (9/22/14) with an acute MI [myocardial infarction] ..."

15. While in the hospital, patient A's condition got progressively worse. He was treated with an intra-aortic balloon pump and pressors because he remained persistently hypotensive. Patient A was found to have evidence of septic shock but multiple blood cultures were negative. Eventually, patient A had acute respiratory failure and was intubated. During his hospital course, patient A started to have hemoptysis (coughing up blood) and a bronchoscopy was done, but the source of the bleeding could not be identified. On the morning of September 30, 2014, patient A went into cardiac arrest and could not be revived. Patient A's death certificate lists the causes of death as cardiogenic shock, acute myocardial infarction, and coronary artery disease.

16. Respondent committed gross negligence in his care and treatment of patient A which included, but was not limited to, the following:

(a) Respondent failed to properly document an appropriate pre-operative evaluation of patient A on September 16, 2014.

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SECOND CAUSE FOR DISCIPLINE

(Repeated Negligent Acts)

17. Respondent is further subject to disciplinary action under sections 2227 and 2234, as defined by section 2234, subdivision (c), of the Code, in that he committed repeated negligent acts in his care and treatment of patient A, as more particularly alleged herein.

18. Respondent committed repeated negligent acts in his care and treatment of patient A which included, but was not limited to, the following:

(a) Paragraphs 7 through 16, above, are hereby incorporated by reference and realleged as if fully set forth herein;

(b) Respondent failed to properly document an appropriate pre-operative evaluation of patient A on September 16, 2014;

(c) Respondent failed to perform a cholesterol screening test on patient A prior to September 16, 2014; and

(d) Respondent failed to adequately respond to and/or document the results of the EKG taken on September 16, 2014.

THIRD CAUSE FOR DISCIPLINE

(Failure to Maintain Adequate and Accurate Records)

19. Respondent is further subject to disciplinary action under sections 2227 and 2234, as defined by section 2266, of the Code, in that respondent failed to maintain adequate and accurate records regarding his care and treatment of patient A, as more particularly alleged in paragraphs 7 through 16, above, which are hereby incorporated by reference and realleged as if fully set forth herein.

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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 or suspending Physician's and Surgeon's Certificate Number G55909, issued to respondent Daniel Young Soon Kim, M.D.;

2. Revoking, suspending or denying approval of respondent Daniel Young Soon Kim, M.D.'s authority to supervise physician assistants and advanced practice nurses;

3. Ordering respondent Daniel Young Soon Kim, M.D., if placed on probation, to pay the Board the costs of probation monitoring; and

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

DATED: September 26, 2018

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

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