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

In the Matter of the Accusation Against: Nigel L. Kent, M.D. Physician's and Surgeon's Certificate No. A 43767 Respondent.	Case No. 800-2018-051111

DECISION

The attached Stipulated Surrender of License 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

DEC 16 2020.

IT IS SO ORDERED DEC 09 2020.

MEDICAL BOARD OF CALIFORNIA

William Prasifka
Executive Director

XAVIER BECERRA
Attorney General of California
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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: **NIGEL L. KENT, M.D.** **1868 Paros Circle** **Costa Mesa, CA 92626** **Physician's and Surgeon's Certificate No. A 43767** Respondent.	Case No. 8002018051111 OAH No. 2020030551 **STIPULATED SURRENDER OF LICENSE 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. William Prasifka (Complainant) is the Executive Director of the Medical Board of California (Board). He brought this action solely in his official capacity and is represented in this matter by Xavier Becerra, Attorney General of the State of California, by Keith C. Shaw, Deputy Attorney General.

2. Nigel L. Kent, 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 June 22, 1987, the Board issued Physician's and Surgeon's Certificate No. A 43767 to Nigel L. Kent, M.D. (Respondent). The Physician's and Surgeon's Certificate expired on June 30, 2019, and has not been renewed.

JURISDICTION

4. Accusation No. 8002018051111 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 February 14, 2020. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation No. 8002018051111 is attached as Exhibit A and incorporated by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, and understands the charges and allegations in Accusation No. 8002018051111. Respondent also has carefully read, and understands the effects of this Stipulated Surrender of License and Disciplinary Order.

6. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to 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.

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

CULPABILITY

8. Respondent admits the truth of each and every charge and allegation in Accusation No. 8002018051111, agrees that cause exists for discipline and hereby surrenders his Physician's and Surgeon's Certificate No. A 43767 for the Board's formal acceptance.

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9. Respondent understands that by signing this stipulation he enables the Board to issue an order accepting the surrender of his Physician's and Surgeon's Certificate without further process.

CONTINGENCY

10. Business and Professions Code section 2224, subdivision (b), provides, in pertinent part, that the Medical Board "shall delegate to its executive director the authority to adopt a . . . stipulation for surrender of a license."

11. This Stipulated Surrender of License and Disciplinary Order shall be subject to approval of the Executive Director on behalf of the Medical Board. The parties agree that this Stipulated Surrender of License and Disciplinary Order shall be submitted to the Executive Director for his consideration in the above-entitled matter and, further, that the Executive Director shall have a reasonable period of time in which to consider and act on this Stipulated Surrender of License and Disciplinary Order after receiving it. By signing this stipulation, Respondent fully understands and agrees that he may not withdraw his agreement or seek to rescind this stipulation prior to the time the Executive Director, on behalf of the Medical Board, considers and acts upon it.

13. The parties agree that this Stipulated Surrender of License and Disciplinary Order shall be null and void and not binding upon the parties unless approved and adopted by the Executive Director on behalf of 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 Surrender of License, the Executive Director and/or 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 Executive Director, 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 Executive Director on behalf of the Board does not, in his discretion, approve and adopt this Stipulated Surrender of License, 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 Surrender of License and Disciplinary Order be rejected for any reason by the Executive Director on behalf of the Board, Respondent will assert no claim that the Executive Director, the Board, or any member thereof, was prejudiced by its/his review, discussion and/or consideration of this Stipulated Surrender of License and Disciplinary Order, or of any matter or matters related hereto.

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

15. 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 Order:

ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 43767, issued to Respondent Nigel L. Kent, M.D., is surrendered and accepted by the Board.

1. Respondent shall lose all rights and privileges as a physician and surgeon in California as of the effective date of the Board's Decision and Order.

2. Respondent shall cause to be delivered to the Board his pocket license and, if one was issued, his wall certificate on or before the effective date of the Decision and Order.

3. If Respondent ever files an application for licensure or a petition for reinstatement in the State of California, the Board shall treat it as a petition for reinstatement. Respondent agrees that he will not petition for reinstatement for at least two (2) years following the effective date of the decision. Respondent must comply with all the laws, regulations and procedures for reinstatement of a revoked or surrendered license in effect at the time the petition is filed, and all of the charges and allegations contained in Accusation No. 8002018051111 shall be deemed to be true, correct and admitted by Respondent when the Board determines whether to grant or deny the petition.

4. If Respondent should ever apply or reapply for a new license or certification, or petition for reinstatement of a license, by any other health care licensing agency in the State of

California, all of the charges and allegations contained in Accusation, No. 8002018051111 shall be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or restrict licensure.

ACCEPTANCE

I have carefully read the Stipulated Surrender of License 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 Surrender of License and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Medical Board of California.

DATED: 8.30.2020

NIGEL E. KENT, M.D.
Respondent

ENDORSEMENT

The foregoing Stipulated Surrender of License and Disciplinary Order is hereby respectfully submitted for consideration by the Medical Board of California of the Department of Consumer Affairs.

DATED: 9/4/2020

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
ALEXANDRA M. ALVAREZ
Supervising Deputy Attorney General

KEITH C. SHAW
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 8002018051111

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO Feb 14 2020
BY Jana Pearson ANALYST

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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: **NIGEL L. KENT, M.D.** **1868 Paros Circle** **Costa Mesa, CA 92626** **Physician's and Surgeon's Certificate No. A 43767,** Respondent.	Case No. 800-2018-051111 **ACCUSATION**

PARTIES

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

2. On or about June 22, 1987, the Medical Board issued Physician's and Surgeon's Certificate No. A 43767 to Nigel L. Kent, M.D. (Respondent). The Physician's and Surgeon's Certificate expired on June 30, 2019, and has not been renewed.

JURISDICTION

3. This Accusation is brought before the Medical Board of California (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 provides that a licensee who is found guilty under the Medical Practice Act may have his or her license revoked, suspended for a period not to exceed one year, placed on probation and required to pay the costs of probation monitoring, or such other action taken in relation to discipline as the Board deems proper.

5. Section 2234 of the Code requires the Board to take action against any licensee who is charged with unprofessional conduct, defined to include "[v]iolating or attempting to violate, directly or indirectly, assisting in or abetting the violation of, or conspiring to violate any provision of this chapter."

6. Section 2236 of the Code states:

"(a) The conviction of any offense substantially related to the qualifications, functions, or duties of a physician and surgeon constitutes unprofessional conduct within the meaning of this chapter. The record of conviction shall be conclusive evidence only of the fact that the conviction occurred.

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

7. Section 2239 of the Code states:

"(a) The use .....of alcoholic beverages, to the extent, or in such a manner as to be dangerous or injurious to the licensee, or to any other person or to the public, or to the extent that such use impairs the ability of the licensee to practice medicine safely or more than one misdemeanor or any felony involving the use, consumption, or self-administration of any of the substances referred to in this section, or any combination thereof, constitutes unprofessional conduct. The record of the conviction is conclusive evidence of such unprofessional conduct.

"(b) A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this section. The Division of Medical Quality[1] may order discipline of the licensee in accordance with Section 2227 or the Division of Licensing may order the denial of the license when the time for appeal has elapsed or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, complaint, information, or indictment."

FIRST CAUSE FOR DISCIPLINE

(Unprofessional Conduct: Conviction of a Crime)

8. Respondent is subject to disciplinary action under sections 2234 and 2236, in that Respondent engaged in unprofessional conduct and was convicted of a crime. The circumstances are as follows:

9. On or about December 8, 2018, at approximately 12:59 a.m., a Costa Mesa Police Department officer observed Respondent's vehicle unlawfully turn against a red signal arrow. The officer conducted an enforcement stop and made contact with Respondent, who was the sole occupant of the vehicle. Respondent displayed objective signs of alcohol intoxication, including slurred speech, red and watery eyes, flushed face, and the strong odor of alcohol. When the officer asked why he made an illegal left turn at the signal, Respondent replied, "I saw the potential and I went." Respondent indicated that he had consumed "three, four" beers. Respondent performed a series of field sobriety tests with results that indicated he was under the influence of alcohol. He declined to submit to a preliminary alcohol-screening device. Respondent was placed under arrest for driving under the influence of alcohol. Respondent then submitted to two breath alcohol tests which resulted in 0.171% and 0.166% blood alcohol content, over twice the legal limit.

[1] The "Division of Medical Quality" refers to the Board pursuant to Business and Profession Code section 2002.

10. Respondent was charged in the Superior Court of California, County of Orange, with two misdemeanor charges: 1) Vehicle Code (VC) section 23152(a) – Driving Under the Influence of Alcohol and; 2) VC section 23152(b) – Driving with a Blood Alcohol Level of 0.08% or More. The Complaint contained an enhancement for Excessive Blood Alcohol pursuant to VC section 23578, in that Respondent drove with a blood alcohol content of 0.15% or more. The Complaint also included a special allegation pursuant to VC section 23540, in that Respondent committed a separate DUI offense for which he was convicted within 10 years of the commission of the offense.

11. On October 2, 2019, Respondent pled no contest to VC sections 23152(a) and 23152(b), and admitted the enhancement for driving with a blood alcohol content of 0.15% or more, as well as the allegation for committing of a separate DUI for which he was convicted within 10 years of the commission of the offense. He was sentenced to the following: five (5) years of court probation, forty-five (45) days in jail, attend the DUI multiple offender eighteen (18) month driving program, not operate a motor vehicle with any measurable amount of alcohol, and obey all laws.

12. Respondent's October 2, 2019, criminal convictions for driving under the influence of alcohol are substantially related to the qualifications, functions and duties of a physician and surgeon. As such, his convictions and conduct constitute unprofessional conduct under section 2234, and a violation under section 2236 (criminal conviction).

SECOND CAUSE FOR DISCIPLINE

(Unprofessional Conduct: Dangerous Use of Alcohol)

13. Respondent is subject to disciplinary action under section 2239 in that Respondent used alcohol in a dangerous manner. The circumstances are as follows:

(a) Paragraphs 9 through 12, above, are hereby incorporated by reference and realleged as if fully set forth herein.

14. Respondent's conduct involving driving while excessively intoxicated amounts to the use of alcohol in a manner dangerous to both Respondent and the public. As such, his convictions and conduct constitute unprofessional conduct under section 2234, and section 2239.

DISCIPLINARY CONSIDERATIONS

15. To determine the degree of discipline, if any, to be imposed on Respondent Nigel L. Kent, M.D., Complainant alleges that on or about February 24, 2010, in the Superior Court of California, County of Orange, in the case entitled, *The People of the State of California v. Nigel Leigh Kent*, Respondent was convicted of VC section 23152(a) – Driving Under the Influence of Alcohol. The record of the criminal proceeding is incorporated as if fully set forth herein.

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 No. A 43767, issued to Nigel L. Kent, M.D.;

2. Revoking, suspending or denying approval of Nigel L. Kent, M.D.'s authority to supervise physician assistants and advanced practice nurses;

3. Ordering Nigel L. Kent, 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: FEB 14 2020

CHRISTINE J. LALLY
Interim Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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