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

In the Matter of the First Amended Accusation Against: Kanagasabai Kanakeswaran, M.D. Physician's and Surgeon's Certificate No. A 63159 Respondent.	Case No. 800-2017-034726

DECISION

The attached Stipulated Surrender of License and 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 March 15, 2022.

IT IS SO ORDERED March 8, 2022.

MEDICAL BOARD OF CALIFORNIA

William Prasifka
Executive Director

ROB BONTA
Attorney General of California
JUDITH T. ALVARADO
Supervising Deputy Attorney General
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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 First Amended Accusation Against: **KANAGASABAI KANAKESWARAN, M.D.** **1601 West Avenue J, Suite 202** **Lancaster, CA 93534** **Physician's and Surgeon's Certificate No. A 63159,** Respondent.	Case No. 800-2017-034726 OAH No. 2021080747 **STIPULATED SURRENDER OF LICENSE AND 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 Rob Bonta, Attorney General of the State of California, by Latrice R. Hemphill, Deputy Attorney General.

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

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3. On or about August 1, 1997, the Board issued Physician's and Surgeon's Certificate No. A 63159 to Respondent. The Physician's and Surgeon's Certificate expired on November 30, 2020, and has not been renewed.

JURISDICTION

4. First Amended Accusation No. 800-2017-034726 was filed before the Board, and is currently pending against Respondent. The First Amended Accusation and all other statutorily required documents were properly served on Respondent on February 11, 2022. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of First Amended Accusation No. 800-2017-034726 is attached as Exhibit A and incorporated by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, and understands the charges and allegations in First Amended Accusation No. 800-2017-034726. Respondent also has carefully read, and understands the effects of this Stipulated Surrender of License and 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 First Amended Accusation No. 800-2017-034726, agrees that cause exists for discipline and hereby surrenders his Physician's and Surgeon's Certificate No. A 63159 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. This stipulation shall be subject to approval by the Board. Respondent understands and agrees that counsel for Complainant and the staff of the Board may communicate directly with the Board regarding this stipulation and surrender, 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 Surrender 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.

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

12. 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 63159, issued to Respondent KANAGASABAI KANAKESWARAN, M.D., is surrendered and accepted by the Board.

1. The surrender of Respondent's Physician's and Surgeon's Certificate and the acceptance of the surrendered license by the Board shall constitute the imposition of discipline against Respondent. This stipulation constitutes a record of the discipline and shall become a part of Respondent's license history with the Board.

2. 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.

3. 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.

4. 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 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 First Amended Accusation No. 800-2017-034726 shall be deemed to be true, correct and admitted by Respondent when the Board determines whether to grant or deny the petition.

5. Respondent shall pay the agency its costs of investigation and enforcement in the amount of $2,306.25 prior to issuance of a new or reinstated license.

6. 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 First Amended Accusation, No. 800-2017-034726 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 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 Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Medical Board of California.

DATED: 02/23/2022

KANAGASABAI KANAKESWARAN, M.D.
Respondent

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ENDORSEMENT

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

DATED: 2/23/2022

Respectfully submitted,

ROB BONTA
Attorney General of California
JUDITH T. ALVARADO
Supervising Deputy Attorney General

LATRICE R. HEMPHILL
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

First Amended Accusation No. 800-2017-034726

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

In the Matter of the First Amended Accusation Against: **Kanagasabai Kanakeswaran, M.D.** **1601 West Avenue J, Suite 202** **Lancaster, CA 93534** **Physician's and Surgeon's Certificate No. A 63159,** Respondent.	Case No. 800-2017-034726 **FIRST AMENDED ACCUSATION**

PARTIES

1. William Prasifka (Complainant) brings this First Amended Accusation solely in his official capacity as the Executive Director of the Medical Board of California, Department of Consumer Affairs (Board).

2. On or about August 1, 1997, the Medical Board issued Physician's and Surgeon's Certificate Number A 63159 to Kanagasabai Kanakeswaran, 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. The Physician's and Surgeon's Certificate expired on November 30, 2020, and has not been renewed.

JURISDICTION

3. This First Amended 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.

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(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 that is substantially related to the qualifications, functions, or duties of a physician and surgeon.

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

(g) The 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 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 [Chapter 5, the Medical Practice Act]. The record of conviction shall be conclusive evidence only of the fact that the conviction occurred.

(b) The district attorney, city attorney, or other prosecuting agency shall notify the Medical Board of the pendency of an action against a licensee charging a felony or misdemeanor immediately upon obtaining information that the defendant is a licensee. The notice shall identify the licensee and describe the crimes charged and the facts alleged. The prosecuting agency shall also notify the clerk of the court in which the action is pending that the defendant is a licensee, and the clerk shall record prominently in the file that the defendant holds a license as a physician and surgeon.

(c) The clerk of the court in which a licensee is convicted of a crime shall, within 48 hours after the conviction, transmit a certified copy of the record of conviction to the board. The division may inquire into the circumstances surrounding the commission of a crime in order to fix the degree of discipline or to determine if the conviction is of an offense substantially related to the qualifications, functions, or duties of a physician and surgeon.

(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.

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7. Section 490 of the Code states:

(a) In addition to any other action that a board is permitted to take against a licensee, a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

(b) Notwithstanding any other provision of law, a board may exercise any authority to discipline a licensee for conviction of a crime that is independent of the authority granted under subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the licensee's license was issued.

(c) A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may be taken 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 the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.

(d) The Legislature hereby finds and declares that the application of this section has been made unclear by the holding in *Petropoulos* v. *Department of Real Estate* (2006) 142 Cal.App.4th 554, and that the holding in that case has placed a significant number of statutes and regulations in question, resulting in potential harm to the consumers of California from licensees who have been convicted of crimes. Therefore, the Legislature finds and declares that this section establishes an independent basis for a board to impose discipline upon a licensee, and that the amendments to this section made by Chapter 33 of the Statutes of 2008 do not constitute a change to, but rather are declaratory of, existing law.

8. Section 118 of the Code states:

(a) The withdrawal of an application for a license after it has been filed with a board in the department shall not, unless the board has consented in writing to such withdrawal, deprive the board of its authority to institute or continue a proceeding against the applicant for the denial of the license upon any ground provided by law or to enter an order denying the license upon any such ground.

(b) The suspension, expiration, or forfeiture by operation of law of a license issued by a board in the department, or its suspension, forfeiture, or cancellation by order of the board or by order of a court of law, or its surrender without the written consent of the board, shall not, during any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its authority to institute or continue a disciplinary proceeding against the licensee upon any ground provided by law or to enter an order suspending or revoking the license or otherwise taking disciplinary action against the licensee on any such ground.

(c) As used in this section, "board" includes an individual who is authorized by any provision of this code to issue, suspend, or revoke a license, and "license" includes "certificate," "registration," and "permit."

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COST RECOVERY

9. Section 125.3 of the Code states:[1]

(a) Except as otherwise provided by law, in any order issued in resolution of a disciplinary proceeding before any board within the department or before the Osteopathic Medical Board, upon request of the entity bringing the proceeding, the administrative law judge may direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

(b) In the case of a disciplined licensee that is a corporation or a partnership, the order may be made against the licensed corporate entity or licensed partnership.

(c) A certified copy of the actual costs, or a good faith estimate of costs where actual costs are not available, signed by the entity bringing the proceeding or its designated representative shall be prima facie evidence of reasonable costs of investigation and prosecution of the case. The costs shall include the amount of investigative and enforcement costs up to the date of the hearing, including, but not limited to, charges imposed by the Attorney General.

(d) The administrative law judge shall make a proposed finding of the amount of reasonable costs of investigation and prosecution of the case when requested pursuant to subdivision (a). The finding of the administrative law judge with regard to costs shall not be reviewable by the board to increase the cost award. The board may reduce or eliminate the cost award, or remand to the administrative law judge if the proposed decision fails to make a finding on costs requested pursuant to subdivision (a).

(e) If an order for recovery of costs is made and timely payment is not made as directed in the board's decision, the board may enforce the order for repayment in any appropriate court. This right of enforcement shall be in addition to any other rights the board may have as to any licensee to pay costs.

(f) In any action for recovery of costs, proof of the board's decision shall be conclusive proof of the validity of the order of payment and the terms for payment.

(g) (1) Except as provided in paragraph (2), the board shall not renew or reinstate the license of any licensee who has failed to pay all of the costs ordered under this section.

(2) Notwithstanding paragraph (1), the board may, in its discretion, conditionally renew or reinstate for a maximum of one year the license of any licensee who demonstrates financial hardship and who enters into a formal agreement with the board to reimburse the board within that one-year period for the unpaid costs.

(h) All costs recovered under this section shall be considered a reimbursement for costs incurred and shall be deposited in the fund of the board recovering the costs to be available upon appropriation by the Legislature.

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[1] Effective January 1, 2022, subdivision (k) of Section 125.3 (which exempted physicians and surgeons from the Board seeking recovery of the costs of investigation and prosecution), was repealed.

(i) Nothing in this section shall preclude a board from including the recovery of the costs of investigation and enforcement of a case in any stipulated settlement.

(j) This section does not apply to any board if a specific statutory provision in that board's licensing act provides for recovery of costs in an administrative disciplinary proceeding.

FACTUAL SUMMARY

10. At all times relevant to this First Amended Accusation, Respondent owned and operated a medical clinic located at 1601 West Avenue J, Suite 202, Lancaster, California. Respondent also owned Digital Perfection Corporation ("Digital Perfection"), which was located at the same address as Respondent's medical clinic.

11. At all times relevant to this First Amended Accusation, Star Home Health Resources, Inc. ("Star") was a home health agency located in La Verne, California.

12. In or around May 2008 through May 2016, Respondent conspired with at least four co-conspirators to refer Medicare beneficiaries to Star to receive home health services. Those services were then billed to Medicare by Star.

13. In exchange for the Medicare referrals, the owners and operators of Star paid Respondent a kickback of approximately $100 to $700 per Medicare beneficiary referral.

14. Star paid kickbacks to Respondent by providing cash payments and writing checks to Respondent's company, Digital Perfection.

15. Star kept track of the kickback payments by maintaining password-protected spreadsheets that listed each Medicare beneficiary referred to Star and the amount paid to Respondent, and other co-conspirators, for each patient referral.

16. On or about May 20, 2013, Respondent deposited $2,000 cash into his account at California Bank and Trust, which represented kickbacks that Respondent received in exchange for referring Medicare beneficiaries to Star.

17. On or about September 16, 2013, Respondent deposited $2,000 cash into his account at California Bank and Trust, which represented kickbacks that Respondent received in exchange for referring Medicare beneficiaries to Star.

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18. On or about April 10, 2014, Respondent deposited a check in the amount of $3,500 into an account for Digital Perfection at Bank of America, which represented kickbacks that Respondent received in exchange for referring Medicare beneficiaries to Star.

19. On or about October 24, 2015, Respondent deposited a check in the amount of $5,600 into an account for Digital Perfection at Bank of America, which represented kickbacks that Respondent received in exchange for referring Medicare beneficiaries to Star.

20. From about May 2008 to May 2016, Star billed Medicare approximately $4,157,311 based on bills for home health services to Medicare beneficiaries referred to Star, as the result of referrals from Respondent.

21. On or about June 29, 2017, in the case of *The United States of America v. Kanagasabai Kanakeswaran, M.D.*, United States District Court for the Central District of California, case number 17-CR-00410-PSG, Respondent was charged with violating Title 18, United States Code, section 371 (18 U.S.C. § 371), commonly known as Conspiracy to Pay and Receive Illegal Remunerations for Health Care Referrals, a felony. Respondent was also charged with 4 counts of violating Title 42, United States Code, section 1320a-7b, subdivision (b)(1)(A), (42 U.S.C § 1320a-7b(b)(1)(A)), commonly known as Receiving Illegal Remunerations for Health Care Referrals, each a felony.

22. On or about January 22, 2019, Respondent was convicted of violating one count of 18 U.S.C. § 371, a felony, and four counts of 42 U.S.C. § 1320a-7b(b)(1)(A), each a felony.

23. On or about January 22, 2019, Respondent was sentenced to a forty-two (42) month prison term. Respondent was ordered to pay restitution in the amount of $509,662 and a special assessment of $500. Upon his release from prison, Respondent would be placed on supervised release for two (2) years. Respondent was also prohibited from being employed in any position that requires licensing and/or certification by any local, state, or federal agency without prior written approval of his Probation Officer.

24. On or about June 4, 2019, Respondent surrendered to the United States Penitentiary at Lompoc in Lompoc, California.

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25. On or about April 22, 2020, Respondent's sentence was reduced pursuant to 18 U.S.C. § 3582(c)(1)(A). Respondent was ordered to spend the remainder of his prison sentence on supervised release, in which he would remain confined at all times to his residence in Lancaster, California, except for purposes of seeking necessary medical care.

FIRST CAUSE FOR DISCIPLINE

(Conviction of a Crime)

26. Respondent is subject to disciplinary action under sections 490 and 2236 of the Code in that he was convicted of a crime substantially related to the qualifications, functions, or duties of a physician or surgeon, as more particularly alleged in paragraphs 10 through 25, above, which are hereby incorporated by reference as if fully set forth herein.

SECOND CAUSE FOR DISCIPLINE

(Unprofessional Conduct/Dishonest and Corrupt Acts)

27. Respondent is subject to disciplinary action under section 2234, subdivisions (a) and (e), of the Code in that he engaged in dishonest and corrupt acts and unprofessional conduct. The circumstances are as follows:

28. Respondent's acts as set forth in paragraphs 10 through 25, above, are hereby incorporated by reference and alleged as if fully set forth herein.

29. The allegations in the First Cause of Action, in paragraph 26, above, are incorporated herein by reference as if fully set forth.

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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 A 63159, issued to Kanagasabai Kanakeswaran, M.D.;

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

3. Ordering Kanagasabai Kanakeswaran, M.D., to pay the Board costs of the investigation and enforcement of this case, and if placed on probation, the costs of probation monitoring; and

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

DATED: FEB 11 2022

WILLIAM PRASIFKA
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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