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

| | |
|---|---|
| In the Matter of the Petition to Revoke Probation Against,<br><br>**RICHARD BYOUNG SOO KIM, M.D.**<br>**3395 Michelson Drive, #5330**<br>**Irvine, CA 92612**<br><br>**Physician's and Surgeon's Certificate No. A 107769,**<br><br>Respondent. | Case No. 800-2022-085825<br><br>**DEFAULT DECISION AND ORDER**<br><br>[Gov. Code, §11520] |

## FINDINGS OF FACT

1. On or about June 14, 2022, Complainant William Prasifka, in his official capacity as the Executive Director of the Medical Board of California, Department of Consumer Affairs, filed Petition to Revoke Probation No. 800-2022-085825 against RICHARD BYOUNG SOO KIM, M.D. (Respondent) before the Medical Board of California.

2. On or about May 15, 2009, the Medical Board of California (Board) issued Physician's and Surgeon's Certificate No. A 107769 to Respondent. The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought herein and expired on April 30, 2021. A copy of the Certificate of Licensure is attached as **Exhibit A.**

3. On or about June 14, 2022, Merlene Francis, an employee of the Board, served by Certified Mail copies of the Petition to Revoke Probation No. 800-2022-085825, Statement to Respondent, Notice of Defense, Request for Discovery, and Government Code sections 11507.5, 11507.6, and 11507.7 to Respondent's address of record with the Board, which was and is 3395 Michelson Drive, #5330, Irvine, CA 92612, and to an address associated with Respondent, which is 3395 Michelson Drive, #2307, Irvine, CA 92612. A copy of the Petition to Revoke Probation, the related documents, and Declaration of Service are attached as **Exhibit B**, and are incorporated herein by reference.

4. On or about June 18, 2022, the U.S. Postal Service successfully delivered the aforementioned documents. A copy of the U.S. Postal Service Tracking History is attached as **Exhibit C**.

5. Service of the Petition to Revoke Probation was effective as a matter of law under the provisions of Government Code section 11505, subdivision (c).

6. Government Code section 11506 states, in pertinent part:

> (c) The respondent shall be entitled to a hearing on the merits if the respondent files a notice of defense, and the notice shall be deemed a specific denial of all parts of the accusation not expressly admitted. Failure to file a notice of defense shall constitute a waiver of respondent's right to a hearing, but the agency in its discretion may nevertheless grant a hearing.

7. Respondent failed to file a Notice of Defense within 15 days after service upon him of the Petition to Revoke Probation, and therefore waived his right to a hearing on the merits of Petition to Revoke Probation No. 800-2022-085825. Additionally, on or around July 1, 2022, Respondent was sent a Courtesy Notice of Default, which included a copy of the Petition to Revoke Probation and Notice of Defense previously served on Respondent, advising him that if he failed to take action to file a Notice of Defense by July 18, 2022, the Board would enter a Default Decision against his license, which may be revoked without hearing. (See **Exhibit D**.) The Courtesy Notice of Default was delivered at both Respondent's address of record and Respondent's associated address, on or about July 7, 2022. (See **Exhibit D**.)

8. Despite being served with the Petition to Revoke Probation, and related documents, to his address of record, and an associated address, on or about June 18, 2022, and being served with

a Courtesy Notice of Default, with the Petition and Notice of Defense form, on or about July 7, 2022, Respondent has failed to file a Notice of Defense or give any notice to Complainant of his intent to contest the Petition to Revoke Probation. **Exhibit E** is a declaration stating that no Notice of Defense has been received or filed since Respondent was served with the Petition to Revoke Probation.

9. California Government Code section 11520 states, in pertinent part:

> (a) If the respondent either fails to file a notice of defense or to appear at the hearing, the agency may take action based upon the respondent's express admissions or upon other evidence and affidavits may be used as evidence without any notice to respondent.

10. Section 125.3 of the Code states, in pertinent part:

> (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.

11. **Exhibit F** contains a Certification of Costs in the amount of $7,076.25 for the investigation and enforcement of the case. Based on the Certification, the Board finds that the cost amount is reasonable.

12. Pursuant to its authority under Government Code section 11520, the Board finds Respondent is in default. The Board will take action without further hearing and, based on Respondent's express admissions by way of default and the evidence before it, contained in exhibits A through F, finds that the allegations in Petition to Revoke Probation No. 800-2022-085825 are true.

## DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Richard Byoung Soo Kim, M.D. has subjected his Physician's and Surgeon's Certificate No. A 107769 to discipline.

2. A copy of the Petition to Revoke Probation and the related documents and Declaration of Service are attached.

3. The agency has jurisdiction to adjudicate this case by default.

4. The Medical Board of California is authorized to revoke Respondent's Physician's and Surgeon's Certificate based upon the following violations alleged in the Petition to Revoke Probation:

a. Failure to comply with Probation Condition 4, Professionalism Program (Ethics Course);

b. Failure to comply with Probation Condition 5, Psychiatric Evaluation;

c. Failure to comply with Probation Condition 6, Psychotherapy;

d. Failure to comply with Probation Condition 10, Quarterly Declarations;

e. Failure to comply with Probation Condition 11, General Probation Requirements;

f. Failure to comply with Probation Condition 12, Interview with the Board or its Designees;

g. Failure to comply with Probation Condition 13, Non-Practice While on Probation;

h. Failure to comply with Probation Condition 17, Probation Monitoring Costs; and

i. Failure to comply with Probation Condition 15, Violation of Probation.

5. Likewise, the Board is authorized to order Respondent to pay the Board the reasonable costs of the investigation and enforcement of this case in the amount of $7,076.25, pursuant to Code section 125.3.

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## ORDER

IT IS SO ORDERED that Physician's and Surgeon's Certificate No. A 107769, heretofore issued to Respondent Richard Byoung Soo Kim, M.D., is revoked.

**Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent**. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on OCT 14 2022.

It is so ORDERED SEP 14 2022

WILLIAM PRASIFKA
FOR THE MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS

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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 Petition to Revoke Probation Against:<br><br>**RICHARD BYOUNG SOO KIM, M.D.**<br>**3395 Michelson Drive, #5330**<br>**Irvine, California 92612**<br><br>**Physician's and Surgeon's Certificate No. A 107769,**<br><br>Respondent. | Case No. 800-2022-085825<br><br>PETITION TO REVOKE PROBATION |

## PARTIES

1. William Prasifka (Complainant) brings this Petition to Revoke Probation solely in his official capacity as the Executive Director of the Medical Board of California, Department of Consumer Affairs (Board).

2. On or about May 15, 2009, the Board issued Physician's and Surgeon's Certificate Number A 107769 to Richard Byoung Soo Kim, M.D. (Respondent). The Physician's and Surgeon's Certificate was in effect at all times relevant to the charges brought herein and expired on April 30, 2021.

3. In a disciplinary action titled "*In the Matter of Accusation Against Richard Byoung Soo Kim, M.D.*," Case Number 800-2014-009258, the Board issued a decision, effective December 18, 2019, in which Respondent's Physician's and Surgeon's Certificate was revoked. However, the revocation was stayed and Respondent's Physician's and Surgeon's Certificate was placed on probation for a period of seven (7) years with certain terms and conditions. A copy of that decision is attached as Exhibit A and is incorporated by reference.

## JURISDICTION

4. This Petition to Revoke Probation 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.

5. 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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6. 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."

## COST RECOVERY

7. Business and Professions Code section 125.3 states that:

(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 licentiate 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.

(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.

**FIRST CAUSE TO REVOKE PROBATION**

(Professionalism Program)

8. At all times after the effective date of Respondent's probation, Condition 4, Professionalism Program (Ethics Course), states in pertinent part:

Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a professionalism program, that meets the requirements of Title 16, California Code of Regulations (CCR) section 1358.1. Respondent shall participate in and successfully complete that program. Respondent shall provide any information and documents that the program may deem pertinent. Respondent shall successfully complete the classroom component of the program not later than six (6) months after Respondent's initial enrollment, and the longitudinal component of the program not later than the time specified by the program, but no later than one (1) year after attending the classroom component...

...

Respondent shall submit a certification of successful completion to the Board or its designee not later than 15 calendar days after successfully completing the program or not later than 15 calendar days after the effective date of the Decision, whichever is later.

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9. Respondent's probation is subject to revocation because he failed to comply with Probation Condition 4, referenced above. The facts and circumstances regarding this violation are as follows:

A. Respondent enrolled in a professionalism program at PBI Education (PBI).

B. On or about May 15-16, 2020, Respondent attended the PBI Medical Ethics and Professionalism Course, completing 22 continuing medical education credit hours. However, on May 15, 2020, Respondent was about one-and-a-half hours late to the course.

C. On or about July 20, 2020, PBI informed Respondent that, due to his initial tardiness, he needed to participate in and complete the six and twelve-month longitudinal follow-ups in November 2020 and May 2021, in order to receive a completion certificate.

D. On or about December 29, 2020, January 21, 2021, July 8, 2021, and November 5, 2021, Respondent was issued non-compliance letters indicating that Respondent was required to submit a six-month follow-up letter from his Ethics course by November 30, 2021.

E. On or about December 7, 2021, Respondent was issued another non-compliance letter indicating that he was required to submit proof of compliance by December 17, 2021.

F. On or about February 9, 2022, Respondent was issued another non-compliance letter indicating that he was required to submit proof of compliance by February 14, 2022.

G. To date, Respondent has not submitted proof of his completion of the Ethics course.

**SECOND CAUSE TO REVOKE PROBATION**

(Psychiatric Evaluation)

10. At all times after the effective date of Respondent's probation, Condition 5, Psychiatric Evaluation, states in pertinent part:

> Within 30 calendar days of the effective date of this Decision, and on whatever periodic basis thereafter may be required by the Board or its designee, Respondent shall undergo and complete a psychiatric evaluation (and psychological testing, if deemed necessary) by a Board-appointed board certified psychiatrist, who shall consider any information provided by the Board or designee and any other information the psychiatrist deems relevant, and shall furnish a written evaluation report to the Board or its designee...
>
> Respondent shall comply with all restrictions or conditions recommended by the evaluating psychiatrist within 15 calendar days after being notified by the Board or its designee.

11. Respondent's probation is subject to revocation because he failed to comply with Probation Condition 5, referenced above. The facts and circumstances regarding this violation are as follows:

A. On or about January 24, 2020, Respondent underwent a psychiatric evaluation. Following the evaluation, the evaluator recommended that Respondent continue psychotherapy and enroll in a Clinical Competence Assessment Program.

B. On or about March 16, 2020, Respondent enrolled in the PACE Program, a clinical competence assessment program offered by the University of California, San Diego. Respondent was advised that attendance dates would be provided.

C. In April 2020, Respondent was informed that PACE courses were canceled due to COVID-19, but, once reopened, Respondent would be able to complete the PACE Program.

D. On or about July 8, 2021 and November 5, 2021, Respondent was issued non-compliance letters indicating, among other things, that the Board had not received Respondent's proof of completion of the PACE Program and, consequently, Respondent was not in compliance with the probation condition. The Board requested proof of completion by November 12, 2021. Another non-compliance letter was issued on or about February 9, 2022, and the Board requested proof of compliance by February 14, 2022.

E. To date, Respondent has not submitted proof of his completion of the PACE Program.

**THIRD CAUSE TO REVOKE PROBATION**

(Psychotherapy)

12. At all times after the effective date of Respondent's probation, Condition 6, Psychotherapy, states in pertinent part:

> Within 60 calendar days of the effective date of this Decision, Respondent shall submit to the Board or its designee for prior approval the name and qualifications of a California-licensed board certified psychiatrist or a licensed psychologist who has a doctoral degree in psychology and at least five years of postgraduate experience in the diagnosis and treatment of emotional and mental disorders. Upon approval, Respondent shall undergo and continue psychotherapy treatment, including any modifications to the frequency of psychotherapy, until the Board or its designee deems that no further psychotherapy is necessary.

13. Respondent's probation is subject to revocation because he failed to comply with Probation Condition 6, referenced above. The facts and circumstances regarding this violation are as follows:

A. On or about January 21, 2020, Dr. T.O. was approved to provide psychotherapy services to Respondent.

B. Respondent attended psychotherapy sessions on or about the following dates: July 8, 2020; July 22, 2020; August 5, 2020; August 19, 2020; September 2, 2020; September 16, 2020; September 23, 2020; September 30, 2020; and October 7, 2020.

C. The Board received psychotherapy reports from Dr. T.O. on or about April 10, 2020, July 10, 2020, and October 10, 2020.

D. Respondent stopped attending psychotherapy sessions and stopped communicating with Dr. T.O. after his October 7, 2020 session.

E. On or about July 8, 2021, November 5, 2021, December 7, 2021, and February 9, 2022, Respondent was issued non-compliance letters indicating that he was no longer in compliance with the psychotherapy condition of his probation.

**FOURTH CAUSE TO REVOKE PROBATION**

(Quarterly Declarations)

14. At all times after the effective date of Respondent's probation, Condition 10, Quarterly Declarations, states:

> Respondent shall submit quarterly declarations under penalty of perjury on forms provided by the Board, stating whether there has been compliance with all the conditions of probation.
>
> Respondent shall submit quarterly declarations not later than 10 calendar days after the end of the preceding quarter.

15. Respondent's probation is subject to revocation because he failed to comply with Probation Condition 10, referenced above. The facts and circumstances regarding this violation are as follows:

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A. On or about March 17, 2020, April 22, 2020, July 10, 2020, and October 15, 2020, the Board received quarterly declarations from Respondent. The Board has not received any additional quarterly declarations.

B. On or about July 8, 2021, November 5, 2021, December 7, 2021, and February 9, 2022, Respondent was issued non-compliance letters indicating that the Board had not received the necessary quarterly declarations and he needed to provide proof of compliance.

**FIFTH CAUSE TO REVOKE PROBATION**

(General Probation Requirements)

16. At all times after the effective date of Respondent's probation, Condition 11 stated, in pertinent part:

> Respondent shall comply with the Board's probation unit.
>
> ...
>
> Respondent shall maintain a current and renewed California physician's and surgeon's license...

17. Respondent's probation is subject to revocation because he failed to comply with Probation Condition 11, referenced above. The facts and circumstances regarding this violation are as follows:

A. On or about April 30, 2021, Respondent's medical license expired.

B. On or about August 24, 2021, October 1, 2021, November 1, 2021, December 2, 2021, January 3, 2022, and April 1, 2022, Respondent was issued non-compliance letters indicating that, since he failed to renew his license, he was in violation of his probation and needed to come into compliance by renewing his medical license.

**SIXTH CAUSE TO REVOKE PROBATION**

(Interview with Board Designee)

18. At all times after the effective date of Respondent's probation, Condition 12, Interview with the Board or its Designee, states:

> Respondent shall be available in person upon request for interviews either at Respondent's place of business or at the probation unit office, with or without prior notice throughout the term of probation.

19. Respondent's probation is subject to revocation because he failed to comply with Probation Condition 12, referenced above. The facts and circumstances regarding this violation are as follows:

A. On or about March 17, 2020 and June 8, 2020, Respondent attended the required quarterly interviews with a Board probation monitor.

B. On or about July 8, 2021, Respondent was issued a non-compliance letter indicating that he failed to attend his 2021 quarter one and quarter two interviews, and he needed to come into compliance with this probation requirement.

C. On or about September 2, 2021, Respondent was informed that his 2021 quarter three interview was scheduled for September 9, 2021.

D. Respondent failed to attend his 2021 quarter three interview.

E. On or about September 13, 2021, November 5, 2021, December 7, 2021, and February 9, 2022, Respondent was issued non-compliance letters indicating that he failed to attend any 2021 quarterly interviews.

F. To date, Respondent has failed to attend any additional quarterly interviews.

**SEVENTH CAUSE TO REVOKE PROBATION**

(Non-Practice While on Probation)

20. At all times after the effective date of Respondent's probation, Condition 13, Non-Practice While on Probation, states in pertinent part:

> Respondent's period of non-practice while on probation shall not exceed two (2) years.
>
> ...

21. Respondent's probation is subject to revocation because he failed to comply with Probation Condition 13, referenced above. The facts and circumstances regarding this violation are as follows:

A. Respondent has been in non-practice status since the effective date of Decision No. 800-2014-009258, December 18, 2019.

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B. On or about August 24, 2021, Respondent was informed that his period of non-practice would exceed two years as of December 18, 2021. Additionally, Respondent was reminded that he would be in violation of his probation should his period of non-practice last through December 18, 2021.

C. On or about January 21, 2022, Respondent was issued a non-practice letter indicating that, as of December 18, 2021, his period of non-practice while on probation exceeded two years. Respondent was informed that he was in violation of his probation and his medical license was subject to revocation.

**EIGHTH CAUSE TO REVOKE PROBATION**

(Probation Monitoring Costs)

22. At all times after the effective date of Respondent's probation, Condition 17, Probation Monitoring Costs, states:

> Respondent shall pay the costs associated with probation monitoring each and every year of probation, as designated by the Board, which may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of California and delivered to the Board or its designee no later than January 31 of each calendar year.

23. Respondent's probation is subject to revocation because he failed to comply with Probation Condition 17, referenced above. The facts and circumstances regarding this violation are as follows:

A. On or about July 8, 2021, November 5, 2021, and December 7, 2021, Respondent was issued non-compliance letters indicating that he failed to pay his 2020 probation monitoring costs.

B. On or about February 9, 2022, Respondent was issued a non-compliance letter indicating that he failed to pay his 2021 probation monitoring costs. The Board requested payment and proof of compliance by February 14, 2022.

C. To date, Respondent has not paid his 2020 and 2021 probation monitoring costs.

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## NINTH CAUSE TO REVOKE PROBATION

(Violation of Probation)

24. At all times after the effective date of Respondent's probation, Condition 15, Violation of Probation, states:

> Failure to fully comply with any term or condition of probation is a violation of probation. If Respondent violates probation in any respect, the Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke Probation, or an Interim Suspension Order is filed against Respondent during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

25. Respondent's probation is subject to revocation because he failed to comply with Probation Condition 15, referenced above. The facts and circumstances regarding this violation are as follows:

A. Paragraphs 8 through 23, inclusive, above, are incorporated herein by reference.

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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 the probation that was granted by the Medical Board of California in Case Number 800-2014-009258 and imposing the disciplinary order that was stayed thereby revoking Physician's and Surgeon's Certificate No. A 107769 issued to Respondent Richard Byoung Soo Kim, M.D.;

2. Revoking or suspending Physician's and Surgeon's Certificate No. A 107769, issued to Respondent Richard Byoung Soo Kim, M.D.;

3. Revoking, suspending or denying approval of Respondent Richard Byoung Soo Kim, M.D.'s authority to supervise physician assistants and advanced practice nurses, pursuant to section 3527 of the Code;

4. Ordering Respondent Richard Byoung Soo Kim, M.D. to pay the Medical Board of California the reasonable costs of the investigation and enforcement of this case, and, if placed on probation, the costs of probation monitoring;

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

DATED: JUN 14 2022

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

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# Exhibit A

**Decision and Order**

**Medical Board of California Case No. 800-2014-009258**

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

| | | |
|---|---|---|
| **In the Matter of the Accusation Against:** | ) | |
| **Richard Byoung Soo Kim, M.D.** | ) | **Case No. 800-2014-009258** |
| **Physician's and Surgeon's Certificate No. A 107769** | ) | |
| **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 December 18, 2019.**

**IT IS SO ORDERED: November 18, 2019.**

**MEDICAL BOARD OF CALIFORNIA**

**Ronald H. Lewis, M.D., Chair**
**Panel A**

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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:<br><br>RICHARD BYOUNG SOO KIM, M.D.<br>3395 Michelson Drive, #2412<br>Irvine, California 92612<br><br>Physician's and Surgeon's Certificate Number A 107769<br><br>Respondent. | Case No. 800-2014-009258<br><br>OAH No. 2019040371<br><br>**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 Colleen M. McGurrin, Deputy Attorney General.

2. Richard Byoung Soo Kim, M.D. (Respondent) is represented in this proceeding by attorney Carlo A. Spiga, Esq., whose address is: 655 North Central Avenue, Suite 1700, Glendale, California 91203-1439.

3. On or about May 15, 2009, the Board issued Physician's and Surgeon's Certificate Number A 107769 to Richard Byoung Soo 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 in Accusation No. 800-2014-009258, and will expire on April 30, 2021, unless renewed.

## JURISDICTION

Accusation No. 800-2014-009258 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 December 11, 2018. Respondent timely filed his Notice of Defense contesting the Accusation.

4. A copy of Accusation No. 800-2014-009258 is attached as exhibit A and incorporated herein by reference.

## ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 800-2014-009258. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement 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 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 freely, voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

## CULPABILITY

8. Respondent understands and agrees that the charges and allegations in Accusation No. 800-2014-009258, if proven at a hearing, constitute cause for imposing discipline upon his Physician's and Surgeon's Certificate.

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

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

## CONTINGENCY

11. 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.

12. 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.

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

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate Number A 107769 issued to Respondent Richard Byoung Soo Kim, M.D. is revoked. However, the revocation is stayed and Respondent is placed on probation for seven (7) years on the following terms and

conditions.

1. ACTUAL SUSPENSION. As part of probation, Respondent is suspended from the practice of medicine for 45-days beginning the sixteenth (16th) day after the effective date of this decision.

2. COMMUNITY SERVICE - FREE SERVICES. Within 60 calendar days of the effective date of this Decision, Respondent shall submit to the Board or its designee for prior approval a community service plan in which Respondent shall, within the first 2 years of probation, provide 120-hours of free services (e.g., medical or nonmedical) to a community or non-profit organization.

Prior to engaging in any community service, Respondent shall provide a true copy of the Decision(s) to the chief of staff, director, office manager, program manager, officer, or the chief executive officer at every community or non-profit organization where Respondent provides community service and shall submit proof of compliance to the Board or its designee within 15 calendar days. This condition shall also apply to any change(s) in community service.

Community service performed prior to the effective date of the Decision shall not be accepted in fulfillment of this condition.

3. EDUCATION COURSE – ANGER MANAGEMENT. 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) in anger management. The educational program(s) or course(s) shall be aimed at anger management. 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 the anger management course or program, the Board or its designee may administer an examination to test Respondent's knowledge of the course. Respondent shall provide proof of attendance of the anger management program(s) or course(s) to the Board or its designee in satisfaction of this condition.

4. PROFESSIONALISM PROGRAM (ETHICS COURSE). Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a professionalism program, that

meets the requirements of Title 16, California Code of Regulations (CCR) section 1358.1. Respondent shall participate in and successfully complete that program. Respondent shall provide any information and documents that the program may deem pertinent. Respondent shall successfully complete the classroom component of the program not later than six (6) months after Respondent's initial enrollment, and the longitudinal component of the program not later than the time specified by the program, but no later than one (1) year after attending the classroom component. The professionalism program shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

A professionalism program 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 program would have been approved by the Board or its designee had the program 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 program or not later than 15 calendar days after the effective date of the Decision, whichever is later.

5. PSYCHIATRIC EVALUATION. Within 30 calendar days of the effective date of this Decision, and on whatever periodic basis thereafter may be required by the Board or its designee, Respondent shall undergo and complete a psychiatric evaluation (and psychological testing, if deemed necessary) by a Board-appointed board certified psychiatrist, who shall consider any information provided by the Board or designee and any other information the psychiatrist deems relevant, and shall furnish a written evaluation report to the Board or its designee. Psychiatric evaluations conducted prior to the effective date of the Decision shall not be accepted towards the fulfillment of this requirement. Respondent shall pay the cost of all psychiatric evaluations and psychological testing.

Respondent shall comply with all restrictions or conditions recommended by the evaluating psychiatrist within 15 calendar days after being notified by the Board or its designee.

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6. PSYCHOTHERAPY. Within 60 calendar days of the effective date of this Decision, Respondent shall submit to the Board or its designee for prior approval the name and qualifications of a California-licensed board certified psychiatrist or a licensed psychologist who has a doctoral degree in psychology and at least five years of postgraduate experience in the diagnosis and treatment of emotional and mental disorders. Upon approval, Respondent shall undergo and continue psychotherapy treatment, including any modifications to the frequency of psychotherapy, until the Board or its designee deems that no further psychotherapy is necessary.

The psychotherapist shall consider any information provided by the Board or its designee and any other information the psychotherapist deems relevant and shall furnish a written evaluation report to the Board or its designee. Respondent shall cooperate in providing the psychotherapist with any information and documents that the psychotherapist may deem pertinent.

Respondent shall have the treating psychotherapist submit quarterly status reports to the Board or its designee. The Board or its designee may require Respondent to undergo psychiatric evaluations by a Board-appointed board certified psychiatrist. If, prior to the completion of probation, Respondent is found to be mentally unfit to resume the practice of medicine without restrictions, the Board shall retain continuing jurisdiction over Respondent's license and the period of probation shall be extended until the Board determines that Respondent is mentally fit to resume the practice of medicine without restrictions.

Respondent shall pay the cost of all psychotherapy and psychiatric evaluations.

7. NOTIFICATION. Within seven (7) days of the effective date of this Decision, the Respondent shall provide a true copy of this Decision and Accusation to the Chief of Staff or the Chief Executive Officer at every hospital where privileges or membership are extended to Respondent, at any other facility where Respondent engages in the practice of medicine, including all physician and locum tenens registries or other similar agencies, and to the Chief Executive Officer at every insurance carrier which extends malpractice insurance coverage to Respondent. Respondent shall submit proof of compliance to the Board or its designee within 15 calendar days.

This condition shall apply to any change(s) in hospitals, other facilities or insurance carrier.

8. SUPERVISION OF PHYSICIAN ASSISTANTS AND ADVANCED PRACTICE NURSES. During probation, Respondent is prohibited from supervising physician assistants and advanced practice nurses.

9. OBEY ALL LAWS. Respondent shall obey all federal, state and local laws, all rules governing the practice of medicine in California and remain in full compliance with any court ordered criminal probation, payments, and other orders.

10. QUARTERLY DECLARATIONS. Respondent shall submit quarterly declarations under penalty of perjury on forms provided by the Board, stating whether there has been compliance with all the conditions of probation.

Respondent shall submit quarterly declarations not later than 10 calendar days after the end of the preceding quarter.

11. GENERAL PROBATION REQUIREMENTS.

Compliance with Probation Unit

Respondent shall comply with the Board's probation unit.

Address Changes

Respondent shall, at all times, keep the Board informed of Respondent's business and residence addresses, email address (if available), and telephone number. Changes of such addresses shall be immediately communicated in writing to the Board or its designee. Under no circumstances shall a post office box serve as an address of record, except as allowed by Business and Professions Code section 2021(b).

Place of Practice

Respondent shall not engage in the practice of medicine in Respondent's or patient's place of residence, unless the patient resides in a skilled nursing facility or other similar licensed facility.

License Renewal

Respondent shall maintain a current and renewed California physician's and surgeon's license.

Travel or Residence Outside California

Respondent shall immediately inform the Board or its designee, in writing, of travel to any areas outside the jurisdiction of California which lasts, or is contemplated to last, more than thirty (30) calendar days.

In the event Respondent should leave the State of California to reside or to practice ,Respondent shall notify the Board or its designee in writing 30 calendar days prior to the dates of departure and return.

12. INTERVIEW WITH THE BOARD OR ITS DESIGNEE. Respondent shall be available in person upon request for interviews either at Respondent's place of business or at the probation unit office, with or without prior notice throughout the term of probation.

13. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or its designee in writing within 15 calendar days of any periods of non-practice lasting more than 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is defined as any period of time Respondent is not practicing medicine as defined in Business and Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct patient care, clinical activity or teaching, or other activity as approved by the Board. If Respondent resides in California and is considered to be in non-practice, Respondent shall comply with all terms and conditions of probation. All time spent in an intensive training program which has been approved by the Board or its designee shall not be considered non-practice and does not relieve Respondent from complying with all the terms and conditions of probation. Practicing medicine in another state of the United States or Federal jurisdiction while on probation with the medical licensing authority of that state or jurisdiction shall not be considered non-practice. A Board-ordered suspension of practice shall not be considered as a period of non-practice.

In the event Respondent's period of non-practice while on probation exceeds 18 calendar months, Respondent shall successfully complete the Federation of State Medical Boards's Special Purpose Examination, or, at the Board's discretion, a clinical competence assessment program that meets the criteria of Condition 18 of the current version of the Board's "Manual of Model

Disciplinary Orders and Disciplinary Guidelines" prior to resuming the practice of medicine.

Respondent's period of non-practice while on probation shall not exceed two (2) years.

Periods of non-practice will not apply to the reduction of the probationary term.

Periods of non-practice for a Respondent residing outside of California will relieve Respondent of the responsibility to comply with the probationary terms and conditions with the exception of this condition and the following terms and conditions of probation: Obey All Laws; General Probation Requirements; Quarterly Declarations; Abstain from the Use of Alcohol and/or Controlled Substances; and Biological Fluid Testing..

14. COMPLETION OF PROBATION. Respondent shall comply with all financial obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the completion of probation. Upon successful completion of probation, Respondent's certificate shall be fully restored.

15. VIOLATION OF PROBATION. Failure to fully comply with any term or condition of probation is a violation of probation. If Respondent violates probation in any respect, the Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke Probation, or an Interim Suspension Order is filed against Respondent during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

16. LICENSE SURRENDER. Following the effective date of this Decision, if Respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy the terms and conditions of probation, Respondent may request to surrender his or her license. The Board reserves the right to evaluate Respondent's request and to exercise its discretion in determining whether or not to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent shall within 15 calendar days deliver Respondent's wallet and wall certificate to the Board or its designee and Respondent shall no longer practice medicine. Respondent will no longer be subject to the terms and conditions of probation. If Respondent re-applies for a medical license, the

application shall be treated as a petition for reinstatement of a revoked certificate.

17. PROBATION MONITORING COSTS. Respondent shall pay the costs associated with probation monitoring each and every year of probation, as designated by the Board, which may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of California and delivered to the Board or its designee no later than January 31 of each calendar year.

## ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Carlo A. Spiga, Esq. 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 freely, voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Medical Board of California.

DATED: 9/17/19

RICHARD BYOUNG SOO KIM, M.D.
*Respondent*

I have read and fully discussed with Respondent Richard Byoung Soo Kim, 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: 9/13/19

CARLO A. SPIGA, ESQ.
*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: 9/18/19

Respectfully submitted,

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

COLLEEN M. MCGURRIN
Deputy Attorney General
*Attorneys for Complainant*

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# Exhibit A

# Accusation No. 800-2014-009258

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*Attorneys for Complainant*

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO December 11, 2018
BY ANALYST

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

| | |
|---|---|
| In the Matter of the Accusation Against:<br><br>Richard Byoung Soo Kim, M.D.<br>3395 Michelson Drive, #2412<br>Irvine, California 92612<br><br>Physician's and Surgeon's Certificate<br>No. A 107769,<br><br>Respondent. | Case No. 800-2014-009258<br><br>**ACCUSATION** |

Complainant alleges:

**PARTIES**

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

2. On or about May 15, 2009, the Board issued Physician's and Surgeon's Certificate Number A 107769 to Richard Byoung Soo Kim, M.D. (Respondent). That license was in full force and effect at all times relevant to the charges brought herein and will expire on April 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 unless otherwise indicated.

4. Section 2001.1 of the Code states:

"Protection of the public shall be the highest priority for the Medical Board of California in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount."

5. 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."

6. 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.

"..."

7. 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 Division of Medical Quality[1] 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.

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[1] California Business and Professions Code Section 2002, as amended and effective January 1, 2008, provides that, unless otherwise expressly provided, the term "board" as used in the State Medical Practice Act (Cal. Bus. & Prof. Code §§§§ 2000, et seq.) means the "Medical Board of California" and references to the "Division of Medical Quality" and "Division of Licensing" in the Act or any other provision of law shall be deemed to refer to the Board.

"(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."

8. 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."

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9. Section 493 of the Code states:

"Notwithstanding any other provision of law, in a proceeding conducted by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially related to the qualifications, functions, and duties of the licensee in question, the record of conviction of the crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact, and the board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, and duties of the licensee in question.

". . ."

10. California Code of Regulations, title 16, Section 1360 states:

"For the purposes of denial, suspension or revocation of a license, certificate or permit pursuant to Division 1.5 (commencing with Section 475) of the code, a crime or act shall be considered to be substantially related to the qualifications, functions or duties of a person holding a license, certificate or permit under the Medical Practice Act if to a substantial degree it evidences present or potential unfitness of a person holding a license, certificate or permit to perform the functions authorized by the license, certificate or permit in a manner consistent with the public health, safety or welfare. Such crimes or acts shall include but not be limited to the following: Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate any provision of the Medical Practice Act."

## FACTUAL SUMMARY

11. On November 10, 2014, in the case entitled the *People of the State of California v. Richard Byoung Kim*, case number BA431297, in the Superior Court of California, County of Los Angeles, a Felony Complaint was filed by the Los Angeles County District Attorney's Office. Count One charged the Respondent with willfully and unlawfully threatening to commit a crime which would result in death and great bodily injury to the victim, S.F.,[2] in violation of Section

[2] The crime victim is referred to by his initials in order to protect his privacy.

422, subdivision (a) of the Penal Code, a felony. Count Two charged the Respondent with willfully and unlawfully discharging a firearm in a grossly negligent manner, which could result in injury and death to a person, as set forth in Count Two, in violation of Section 246.3, subdivision (a) of the Penal Code, a felony. The circumstances related to the filing of these criminal charges against Respondent are as follows:

A. On or about October 19, 2014, law enforcement officers with the Los Angeles Police Department (LAPD) were contacted by the Respondent's wife, S.K.,[3] who reported that Respondent had fired a shotgun at a tree in their front yard earlier that morning. S.K. requested that LAPD officers be dispatched to her residence in order to confiscate and recover the shotgun that Respondent had used that morning. S.K. indicated that the Respondent's shotgun was placed under her nanny's bed inside of her residence, and that Respondent was asleep at their home. Moreover, S.K. reported that she had been receiving threats to her life from Respondent because he believed that S.K. was cheating on him. During her interview with LAPD officers, S.K. disclosed that she had been married to Respondent for approximately eight years and that they had two children together. S.K. reported that Respondent had become increasingly insecure lately and that he had started to accuse S.K. of having an extramarital affair.

B. According to S.K., she decided to spend the night at the home of a male friend, S.F., on or about October 17, 2014. The following morning, Respondent exchanged text messages with S.K. in which he had threatened to beat up S.F. Although S.K. tried to calm him down, Respondent indicated that he would strangle S.F. and threatened to destroy S.K.'s property. Based upon these threatening text messages, S.K. decided not to return home because she was fearful of Respondent. S.K. decided to stay another evening with S.F. On or about October 19, 2014, Respondent communicated to S.K. that he intended to murder S.F. with his shotgun. Later that morning, Respondent texted S.K. that he had fired his shotgun at a tree in their front yard. S.K. worried that Respondent would kill her and S.F. and she reported the matter to LAPD.

C. Before going to the LAPD station to file a report, S.K. had also received an alarming text message from her nanny on October 19, 2014. The nanny also told S.K. that Respondent had

[3] The Respondent's wife is referred to by her initials in order to protect her privacy.

gone outside to the front yard and shot a tree with his shotgun. The nanny advised that Respondent had been drinking heavily the night before and that he had passed out on his bed. The nanny had taken the shotgun away from Respondent and hid it under her bed. The nanny then took the Respondent's two children to her family's residence in Bakersfield, California. She was fearful of what the Respondent might do next. S.K. relayed all of this information to the LAPD officers during her interview.

D. LAPD officers responded to the Respondent's residence based upon S.K.'s report. Respondent was contacted at the front door of the residence and immediately taken into custody. LAPD officers quickly observed numerous loose shotgun shells on the living room coffee table, as well as two spent shotgun shells on the floor of the Respondent's bedroom. The shotgun was located under the nanny's bed and seized by the LAPD officers. Lastly, the LAPD officers located two loaded 9 mm handgun magazines and three cases of 12 gauge shotgun ammunition.

E. While detained by the LAPD officers, Respondent spontaneously admitted to being responsible for the radio calls that were generated earlier that day concerning the gunshot at a tree in his front yard. Respondent explained that he did not hurt anyone, but rather threatened S.F. Respondent was subsequently transported to the jail.

F. LAPD officers also interviewed S.F. regarding the events that had transpired over the previous few days. S.F. provided copies of threatening text messages that he had received from Respondent. S.F. acknowledged that he was upset and afraid of Respondent's violent tone when reading the text messages. In fact, S.F. was visibly upset and shaken when interviewed by the LAPD officers. S.F. stated that he believed that Respondent would carry out his threats of violence.

12. On September 28, 2016, in the case entitled the *People of the State of California v. Richard Byoung Kim*, case number BA431297, in the Superior Court of California, County of Los Angeles, Respondent was found guilty of the crime of making criminal threats upon S.F. as outlined in Count One of the Felony Complaint, in violation of Section 422, subdivision (a) of the Penal Code, a felony, after the conclusion of a jury trial. Similarly, Respondent was found guilty of the crime of discharge of a firearm with gross negligence as outlined in Count Two of the

Felony Complaint, in violation of Section 246.3, subdivision (a) of the Penal Code, a felony, after the conclusion of a jury trial.

13. On January 3, 2017, in the case entitled the *People of the State of California v. Richard Byoung Kim*, case number BA431297, in the Superior Court of California, County of Los Angeles, Respondent was convicted and sentenced on Count One and Count Two in the Felony Complaint pursuant to the jury verdicts returned in September 2016. Respondent was placed on five years of formal probation with the following terms and conditions:

A. Cooperate with the probation officer in a plan for psychological counseling including dual diagnosis, as directed by the probation officer, for a period deemed appropriate by the probation officer.

B. Do not own, use, or possess any dangerous or deadly weapons including any firearms, knives, or other concealable weapons.

C. Not use force or violence on the victims or any witnesses in this case.

D. Do not harass, molest, annoy, or communicate with the victims or witnesses in this case and say away from these persons, their residences, or places of employment.

E. Obey all laws and orders of the Superior Court.

F. Standard terms and conditions of felony probation.

## FIRST CAUSE FOR DISCIPLINE

### (Conviction of a Substantially Related Crime)

14. By reason of the facts set forth in paragraphs 11 through 13 above, Respondent is subject to disciplinary action under Section 2236, subdivision (a), and Section 490 of the Code, as well as California Code of Regulations, title 16, Section 1360, in that Respondent has been convicted of a crime substantially related to the qualifications, function or duties of a physician and surgeon.

15. Respondent's acts and/or omissions as set forth in paragraphs 11 through 13 above, whether proven individually, jointly, or in any combination thereof, constitutes the conviction of a crime substantially related to the qualifications, function or duties of a physician and surgeon,

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pursuant to Section 2236, subdivision (a), and Section 490 of the Code, as well as California Code of Regulations, title 16, Section 1360.

## SECOND CAUSE FOR DISCIPLINE

**(Unprofessional Conduct)**

16. By reason of the facts set forth in paragraph 11 through 13 above, Respondent is subject to disciplinary action under Section 2234, subdivision (a) of the Code in that Respondent has been convicted of a crime substantially related to the qualifications, functions, or duties of a physician and surgeon.

17. Respondent's acts and/or omissions as set forth in paragraphs 11 through 13 above, whether proven individually, jointly, or in any combination thereof, constitutes the conviction of a crime substantially related to the qualifications, functions, or duties of a physician and surgeon, pursuant to Section 2234, subdivision (a) of the Code.

## PRAYER

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

1. Revoking or suspending Physician's and Surgeon's Certificate Number A 107769, issued to Richard Byoung Soo Kim, M.D.;

2. Revoking, suspending or denying approval of his authority to supervise physician assistants pursuant to Section 3527 of the Code, and advanced practice nurses;

3. If placed on probation, ordering Richard Byoung Soo Kim, M.D. to pay the Board the costs of probation monitoring; and

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

DATED:
December 11, 2018

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

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