

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

In the Matter of the Accusation)
Against:)
)
)
DONALD WOO LEE, M.D.)
)
Physician's and Surgeon's)
Certificate No. A-56294)
)
Respondent)
_____)

Case No. 09-2010-205998

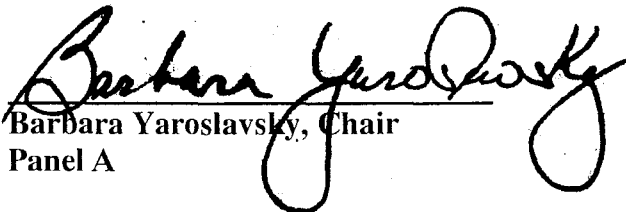
DECISION

The attached Stipulation 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 November 2, 2012.

IT IS SO ORDERED: October 3, 2012.

MEDICAL BOARD OF CALIFORNIA


Barbara Yaroslavsky, Chair
Panel A

1 KAMALA D. HARRIS
Attorney General of California
2 GLORIA L. CASTRO
Supervising Deputy Attorney General
3 DOUG KNOLL
Deputy Attorney General
4 State Bar No. 077040
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5 Los Angeles, CA 90013
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Attorneys for Complainant

7
8 **BEFORE THE**
MEDICAL BOARD OF CALIFORNIA
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Case No. 09-2010-205998

11 **DONALD WOO LEE, M.D.**
12 **33203 Wolfe Street**
13 **Temecula, CA 92592**
14 **Physician's and Surgeon's Certificate**
No. A 56294

OAH No. 2011120070

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

15 Respondent.

16
17 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
18 entitled proceedings that the following matters are true:

19 PARTIES

20 1. Linda K. Whitney ("Complainant") is the Executive Director of the Medical Board of
21 California ("Board"). She brought this action solely in her official capacity and is represented in
22 this matter by Kamala D. Harris, Attorney General of the State of California, by Doug Knoll,
23 Deputy Attorney General.

24 2. Respondent DONALD WOO LEE, M.D. ("Respondent") is represented in this
25 proceeding by attorney Samuel G. Lockhart, whose address is: 41856 Ivy Street, Suite 207
26 Murrieta, CA 92562

27 3. On or about August 21, 1996, the Board issued Physician's and Surgeon's Certificate
28 No. A 56294 to Respondent. The Physician's and Surgeon's Certificate was in full force and

1 effect at all times relevant to the charges brought in Accusation No. 09-2010-205998 and will
2 expire on August 31, 2014, unless renewed.

3 JURISDICTION

4 4. Accusation No. 09-2010-205998 was filed before the Board on October 13, 2011, and
5 is currently pending against Respondent. The Accusation and all other statutorily required
6 documents were properly served on Respondent on October 13, 2011. Respondent timely filed
7 his Notice of Defense contesting the Accusation.

8 5. A copy of Accusation No. 09-2010-205998 is attached as exhibit A and incorporated
9 herein by reference.

10 ADVISEMENT AND WAIVERS

11 6. Respondent has carefully read, fully discussed with counsel, and understands the
12 charges and allegations in Accusation No. 09-2010-205998. Respondent has also carefully read,
13 fully discussed with counsel, and understands the effects of this Stipulated Settlement and
14 Disciplinary Order.

15 7. Respondent is fully aware of his legal rights in this matter, including the right to a
16 hearing on the charges and allegations in the Accusation; the right to be represented by counsel at
17 his own expense; the right to confront and cross-examine the witnesses against him; the right to
18 present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel
19 the attendance of witnesses and the production of documents; the right to reconsideration and
20 court review of an adverse decision; and all other rights accorded by the California
21 Administrative Procedure Act and other applicable laws.

22 8. In the interest of resolving the Accusation without the expense and uncertainty of
23 further proceedings, Respondent voluntarily, knowingly, and intelligently waives and gives up
24 each and every right set forth above.

25 CULPABILITY

26 9. Respondent understands and agrees that the charges and allegations in Accusation
27 No. 09-2010-205998, if proven at a hearing, constitute cause for imposing discipline upon his
28 Physician's and Surgeon's Certificate.

1 Respondent shall complete a minimum of one hundred (100) hours of his community service in
2 each successive twelve (12) month period following the effective date of this Decision.

3 Respondent understands and agrees that he will not petition the Board for any modification of his
4 probation unless, and until, he has completed his entire five hundred (500) hour community
5 service requirement. Any such petition brought to hearing prior to completion of Respondent's
6 entire community service requirement shall be null and void.

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

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

14 2. PROFESSIONALISM PROGRAM (ETHICS COURSE). Within sixty (60) calendar
15 days of the effective date of this Decision, Respondent shall enroll in a professionalism program,
16 that meets the requirements of Title 16, California Code of Regulations (CCR) section 1358.
17 Respondent shall participate in and successfully complete that program. Respondent shall
18 provide any information and documents that the program may deem pertinent. Respondent shall
19 successfully complete the classroom component of the program not later than six (6) months after
20 Respondent's initial enrollment, and the longitudinal component of the program not later than the
21 time specified by the program, but no later than one (1) year after attending the classroom
22 component. The professionalism program shall be at Respondent's expense and shall be in
23 addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

24 A professionalism program taken after the acts that gave rise to the charges in the
25 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board
26 or its designee, be accepted towards the fulfillment of this condition if the program would have
27 been approved by the Board or its designee had the program been taken after the effective date of
28 this Decision.

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

4 3. BILLING MONITOR. Within thirty (30) calendar days of the effective date of this
5 Decision, Respondent shall submit to the Board or its designee for prior approval as a billing
6 monitor, the name and qualifications of one or more licensed physicians and surgeons whose
7 licenses are valid and in good standing, and who are preferably American Board of Medical
8 Specialties (ABMS) certified. A monitor shall have no prior or current business or personal
9 relationship with Respondent, or other relationship that could reasonably be expected to
10 compromise the ability of the monitor to render fair and unbiased reports to the Board, including
11 but not limited to any form of bartering, shall be in Respondent's field of practice, and must agree
12 to serve as Respondent's monitor. Respondent shall pay all monitoring costs.

13 The Board or its designee shall provide the approved monitor with copies of this Decision,
14 Accusation No. 09-2010-205998, and a proposed monitoring plan. Within fifteen (15) calendar
15 days of receipt of the Decision, Accusation, and proposed monitoring plan, the monitor shall
16 submit a signed statement that the monitor has read the Decision and Accusation, fully
17 understands the role of a monitor, and agrees or disagrees with the proposed monitoring plan. If
18 the monitor disagrees with the proposed monitoring plan, the monitor shall submit a revised
19 monitoring plan with the signed statement for approval by the Board or its designee.

20 Within sixty (60) calendar days of the effective date of this Decision, and continuing
21 throughout probation, Respondent's billing shall be monitored by the approved monitor.
22 Respondent shall make all records available for immediate inspection and copying on the
23 premises by the monitor at all times during business hours and shall retain the records for the
24 entire term of probation.

25 If Respondent fails to obtain approval of a monitor within sixty (60) calendar days of the
26 effective date of this Decision, Respondent shall receive a notification from the Board or its
27 designee to cease the practice of medicine. Within three (3) calendar days after being so notified,
28 Respondent shall cease the practice of medicine until a monitor is approved to provide monitoring

1 responsibility.

2 The monitor shall submit a quarterly written report to the Board or its designee which
3 includes an evaluation of Respondent's performance, indicating whether Respondent's practices
4 are within the standards of practice of medical billing, and whether Respondent is billing
5 appropriately. It shall be the sole responsibility of Respondent to ensure that the monitor submits
6 the quarterly written reports to the Board or its designee within ten (10) calendar days after the
7 end of the preceding quarter.

8 If the monitor resigns or is no longer available, Respondent shall, within five (5) calendar
9 days of such resignation or unavailability, submit to the Board or its designee, for prior approval,
10 the name and qualifications of a replacement monitor who will be assuming that responsibility
11 within fifteen (15) calendar days. If Respondent fails to obtain approval of a replacement monitor
12 within sixty (60) calendar days of the resignation or unavailability of the monitor, Respondent
13 shall receive a notification from the Board or its designee to cease the practice of medicine.
14 Within three (3) calendar days after being so notified, Respondent shall cease the practice of
15 medicine until a replacement monitor is approved and assumes monitoring responsibility.

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

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

25 5. SUPERVISION OF PHYSICIAN ASSISTANTS. During probation, Respondent is
26 prohibited from supervising physician assistants.

27 6. OBEY ALL LAWS. Respondent shall obey all federal, state and local laws, all rules
28 governing the practice of medicine in California and remain in full compliance with any court

1 ordered criminal probation, payments, and other orders.

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

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

7 8. GENERAL PROBATION REQUIREMENTS.

8 Compliance with Probation Unit

9 Respondent shall comply with the Board's probation unit and all terms and conditions of
10 this Decision.

11 Address Changes

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

17 Place of Practice

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

21 License Renewal

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

24 Travel or Residence Outside California

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

28 In the event Respondent should leave the State of California to reside or to practice

1 Respondent shall notify the Board or its designee in writing thirty (30) calendar days prior to the
2 dates of departure and return.

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

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

17 In the event Respondent's period of non-practice while on probation exceeds eighteen (18)
18 calendar months, Respondent shall successfully complete a clinical training program that meets
19 the criteria of Condition 18 of the current version of the Board's "Manual of Model Disciplinary
20 Orders and Disciplinary Guidelines" prior to resuming the practice of medicine.

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

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

23 Periods of non-practice will relieve Respondent of the responsibility to comply with the
24 probationary terms and conditions with the exception of this condition and the following terms
25 and conditions of probation: Obey All Laws; and General Probation Requirements.

26 11. COMPLETION OF PROBATION. Respondent shall comply with all financial
27 obligations (e.g., probation costs) not later than one hundred and twenty 120 calendar days prior to
28 the completion of probation. Upon successful completion of probation, Respondent's certificate

1 shall be fully restored.

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

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

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

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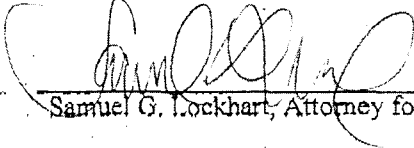
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ACCEPTANCE

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

DATED: 9/5/12 
DONALD WOO LEE, M.D., Respondent

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

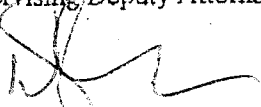
DATED: 9/5/12 
Samuel G. Lockhart, Attorney for Respondent

ENDORSEMENT

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

Dated: 9/5/12

Respectfully submitted,
KAMALA D. HARRIS
Attorney General of California
GLORIA L. CASTRO
Supervising Deputy Attorney General


DOUG KNOLL
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 09-2010-205998

1 KAMALA D. HARRIS
Attorney General of California
2 GLORIA L. CASTRO
Supervising Deputy Attorney General
3 DOUG KNOLL
Deputy Attorney General
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Attorneys for Complainant

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO October 13 2011
BY: [Signature] ANALYST

7
8 **BEFORE THE**
9 **MEDICAL BOARD OF CALIFORNIA**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:	Case No. 09-2010-205998
11 DONALD WOO LEE, M.D.	
12 41601 Laurel Valley Circle	
13 Temecula, CA 92591	ACCUSATION
14 Physician's and Surgeon's Certificate	
15 No. A 56294	
16 Respondent.	

17
18 Complainant alleges:

19 PARTIES

- 20 1. Linda K. Whitney (Complainant) brings this Accusation solely in her official capacity
21 as the Executive Director of the Medical Board of California, Department of Consumer Affairs.
- 22 2. On or about August 21, 1996, the Medical Board of California ("Board") issued
23 Physician's and Surgeon's Certificate Number A 56294 to DONALD WOO LEE, M.D.
24 (Respondent)¹. The Physician's and Surgeon's Certificate was in full force and effect at all times
25 relevant to the charges brought herein and will expire on August 31, 2012, unless renewed.

26
27 ¹ As used in this Accusation, "Respondent," depending upon the context, may also refer to
28 Respondent's practice, Prime Partners Medical Group, Inc., of which Respondent, at all times
relevant herein, was the President, CEO and sole shareholder.

1 (1) A canceled, revoked, suspended, or fraudulently altered license.

2 (2) A fictitious license or any document simulating a license or purporting to be or
3 have been issued as a license.

4 “(c) Displays or represents any license not issued to him or her as being his or her license.

5 “(d) Photographs, photostats, duplicates, manufactures, or in any way reproduces any
6 license or facsimile thereof in a manner that it could be mistaken for a valid license, or displays or
7 has in his or her possession any such photograph, photostat, duplicate, reproduction, or facsimile
8 unless authorized by this code.

9 “(g) Buys or receives a fraudulent, forged, or counterfeited license knowing that it is
10 fraudulent, forges, or counterfeited. For purposed of this subdivision, “fraudulent” means
11 containing any misrepresentation of fact.

12 “As used in this section, “license” includes “certificate,” “permit” “authority,” and
13 “registration” or any other indicia giving authorization to engage in a business or profession
14 regulated by this code or referred to in Section 1000 or 3600.” (Emphasis added.)

15 8. Section 581 of the Code states, *inter alia*:

16 “No person...shall purchase or procure...by any unlawful means or method, or have in
17 possession any diploma, certificate, transcript or any other writing with intent that it shall be used
18 as evidence of the holder’s qualifications to practice as a physician and surgeon...or to practice as
19 any other licentiate under this division or in any fraud of the law regulating this practice, or, shall
20 with fraudulent intent, alter in material regard any such diploma, certificate, transcript, or any
21 other writing.”

22 9. Section 2052 of the Code states:

23 “(a) Notwithstanding Section 146, any person who practices or attempts to practice, or who
24 advertises or holds himself or herself out as practicing, any system or mode of treating the sick or
25 afflicted in this state, or who diagnoses, treats, operates for, or prescribes for any ailment,
26 blemish, deformity, disease, disfigurement, disorder, injury, or other physical or mental condition
27 of any person, without having at the time of so doing a valid, unrevoked, or unsuspended
28 certificate as provided in this chapter [Chapter 5, the Medical Practice Act], or without being

1 authorized to perform the act pursuant to a certificate obtained in accordance with some other
2 provision of law, is guilty of a public offense, punishable by a fine not exceeding ten thousand
3 dollars (\$10,000), by imprisonment in the state prison, by imprisonment in a county jail not
4 exceeding one year, or by both the fine and either imprisonment.”

5 10. Section 2261 of the Code states:

6 “Knowingly making or signing any certificate or other document directly or indirectly
7 related to the practice of medicine or podiatry which falsely represents the existence or
8 nonexistence of a state of facts, constitutes unprofessional conduct.”

9 B. Law Applicable to Unlawful Use of X-ray (DEXA).

10 11. Section 107110 of the Health and Safety Code states, *inter alia*:

11 “It shall be unlawful for any licentiate of the healing arts to administer or use
12 diagnostic...or therapeutic X-ray on human beings in this state after January 1, 1972, unless that
13 person is certified pursuant to subdivision (e) of Section 114870...and is acting within the scope
14 of that certification.”

15 12. Section 114870 of the Health and Safety Code states, *inter alia*:

16 “The [Department of Public Health] shall do all of the following:

17 “(e) Provide, upon recommendation of the committee, for certification of licentiates of the
18 healing arts to supervise the operation of X-ray machines or to operate X-ray machines, or both,
19 prescribe minimum standards of training and experience for these licentiates of the healing arts,
20 and prescribe procedures for examining applicants for certification.”

21 13. Section 106965 of the Health and Safety Code states, *inter alia*:

22 “(a) It shall be unlawful for any person to administer or use diagnostic or therapeutic X-ray
23 on human beings in this state after July 1, 1971, unless that person has been certified or granted a
24 permit pursuant to subdivision (b) [“Radiologic Technologist”] or (c) [“Limited Permit X-ray
25 Technician”] of Section 114870 or pursuant to Section 114885, is acting within the scope of that
26 certification or permit, and is acting under the supervision of a licentiate of the healing arts.”

1 14. Section 106980 of the Health and Safety Code states, *inter alia*:

2 “Certification in radiologic technology pursuant to subdivision (b) or (c) of Section 114870
3 shall not authorize any of the following:

4 “(a) The use of diagnostic, mammographic, or therapeutic X-ray equipment except under
5 the supervision of a certified supervisor or operator.”

6 15. Section 114850 of the Health and Safety Code states, *inter alia*:

7 “As used in this chapter [Chapter 6: “Radiologic Technology”]:

8 “(g) ‘Supervision’ means responsibility for, and control of, quality, radiation safety, and
9 technical aspects of all X-ray examinations and procedures.”

10 16. Section 107075 of the Health and Safety Code states:

11 “Any person who violates or aids or abets the violation of any of the provisions of the
12 Radiologic Technology Act (Section 27)³ or regulation of the [Department of Public health]
13 adopted pursuant to that act is guilty of a misdemeanor.”

14 C. Law Applicable to Submission of False Insurance Claims.

15 17. Section 810 of the Code states, *inter alia*:

16 “(a) It shall constitute unprofessional conduct and grounds for disciplinary action, including
17 suspension or revocation of a license or certificate, for a health care professional to do any of the
18 following in connection with his or her professional activities:

19 “(1) Knowingly present or cause to be presented any false or fraudulent claim for the
20 payment of a loss under a contract of insurance.

21 “(2) Knowingly prepare, make or subscribe any writing, with intent to present or use the
22 same, or to allow it to be presented or used in support of any false or fraudulent claim.

23 “(b) It shall constitute cause for revocation or suspension of a license or certificate for a
24 health care professional to engage in any conduct prohibited under Section 1871.4 of the
25 Insurance Code or Section 549 or 550 of the Penal Code.”

26 _____
27 ³ Health and Safety Code, section 27, provides that the *Radiologic Technology Act* is
28 comprised of sections 106965 through 107120, and Chapter 6 of Part 9 of Division 104 (sections
114840, et seq.)

1 18. Section 550 of the Penal Code states, *inter alia*:

2 “(a) It is unlawful to do any of the following or to aid, abet, solicit or conspire with any
3 person to do any of the following:

4 “(1) Knowingly present or cause to be presented any false or fraudulent claim for the
5 payment of a loss or injury, including payment of a loss or injury under a contract of insurance.

6 “(6) Knowingly make or cause to be made any false or fraudulent claim for payment of a
7 health care benefit.

8 “(7) Knowingly submit a claim for a health care benefit that was not used by, or on behalf
9 of, the claimant.”

10 19. Section 1871 of the Insurance Code states, *inter alia*:

11 “The Legislature finds and declares as follows:

12 “(h) Health insurance fraud is a particular problem for health insurance policyholders.
13 Although there are no precise figures, it is believed that fraudulent activities account for billions
14 of dollars annually in added health care costs nationally. Health care fraud causes losses in
15 premium dollars and increases health care costs unnecessarily.”

16 *****

17 FACTS RE:UNLAWFUL USE OF X-RAY (DEXA AND
18 FLUOROSCOPY PERMIT, AND FRAUDULENT CREATION AND
19 ALTERATION OF DOCUMENTS INCLUDING A FLUOROSCOPY PERMIT.

20 20. Respondent specializes in internal medicine.

21 21. At all times relevant, Respondent was the President, CEO, and sole owner of Prime
22 Partners Medical Group, Inc., located at 31720 Temecula Parkway (a.k.a. Highway 79 South),
23 Suite 200, Temecula, California 92592.

24 22. At all times relevant, Respondent was also the founder, owner, and Medical Director
25 of Prime Partners IPA⁴, which was located in the same office suite as Prime Partners Medical
26 Group, Inc.

27 ⁴ “IPA” stands for Independent Physician Association, a group of physicians that contracts
28 with Health Maintenance Organizations (“HMOs”) to provide medical services to member
(continued...)

1 23. Prime Partners IPA contracted with Prime Partners Medical Group, Inc. to provide
2 internal medicine services to the member patients of the HMOs with which Prime Partners IPA
3 contracted.

4 24. In 2006, Respondent purchased, Prime Partners Medical Group, Inc., a DEXA⁵
5 machine, in order to be able to perform X-ray bone densitometry scans in his office.

6 25. Respondent was not a Certified Supervisor or Operator, as defined in Health and
7 Safety Code section 114850, subdivision (i), i.e. he was not certified, pursuant to Health and
8 Safety Code section 114870, subdivision (e), to operate the DEXA machine or to supervise the
9 operation of the DEXA machine. As such, he was aware that it was unlawful for him to operate
10 the DEXA machine.

11 26. Two of Respondent's employees, Gina Bae and Cindy Estacio, each obtained, from
12 the Radiologic Health Branch of the Department of Public Health ("DPH"), a "Limited Permit in
13 X-ray Technology," authorizing them to perform procedures in "X-ray Bone Densitometry," and
14 to use the title, "X-ray Technician." Said Limited Permits, as defined in Health and Safety Code
15 section 114850, subdivision (g), were issued pursuant to Health and Safety Code section 115870,
16 subdivision (c), authorizing issuance of "limited radiologic technology permits" to persons who
17 qualify to become a "limited permit X-ray technician."

18 27. Respondent was aware that, pursuant to Health & Safety Code section 10695,
19 subdivision (a), and section 10690, subdivision (a), it was unlawful for his X-ray Technicians to
20 perform DEXA bone scans without supervision by a Certified Supervisor or Operator who had
21 been issued such certification by the Radiologic Health Branch of the DPH. However, as noted
22 above, Respondent was not so certified.

23 28. In January, 2006, Respondent approached his colleague, Allen K. Chan, M.D. ("Dr.
24 Chan"), a vascular surgeon, and asked if Dr. Chan would be willing to loan Respondent his
25 Fluoroscopy X-ray Supervisor and Operator Permit No. RHC 160940 ("Fluoroscopy Permit"), in

26
27 patients of the HMOs.

28 ⁵ "DEXA" is an acronym for "Dual Energy X-ray Absorptiometry." DEXA scans
measure bone mineral density using two X-ray beams with differing energy levels.

1 return for payment of the sum of One Thousand Dollars (\$1,000.00). Dr. Chan agreed, accepted
2 the payment, and provided Respondent with a copy of his Fluoroscopy Permit. Dr. Chan's
3 Fluoroscopy Permit had an expiration date of February 28, 2007.

4 29. Respondent wrote, on a blank piece of paper, a purported handwritten "agreement,"
5 dated "1/06," which stated, "*I Alan [sic] Chan agree to be supervisor of DEXA for Prime*
6 *Partners Medical Group. Dr. Alan [sic] Chan has right to quit anytime if he wished to do [sic].*"
7 The document ("Agreement") was signed by Respondent and Dr. Chan.

8 30. Pursuant to section 30462 of Title 17 of the CCR, Dr. Chan's Fluoroscopy Permit did
9 not authorize him to perform, or supervise, DEXA bone densitometry scans.

10 31. Moreover, the Radiologic Health Branch of the DPH requires that facilities utilizing
11 the services of an *off-site* supervisor of X-ray services: (a) enter into a written agreement for said
12 supervisory services, (b) possess a written "X-ray Policy and Procedure Manual" approved by the
13 off-site supervisor, and (c) visit the site, on at least a quarterly basis, to observe the X-ray
14 procedures, and to inspect and review specified matters.

15 32. At the time of the Agreement, Dr. Chan had not been trained in the operation of, or
16 supervision of the operation of, DEXA bone densitometry scanning machines. Nor did he have
17 any experience in the operation of, or the supervision of the operation of, DEXA bone
18 densitometry scanning machines. After signing the Agreement and accepting the \$1,000.00
19 payment, Dr. Chan never actually supervised a single DEXA scan in Respondent's office, nor did
20 he perform any of the other duties of an off-site supervisor. Nevertheless, Respondent: (a)
21 displayed Dr. Chan's Fluoroscopy Permit in his office, falsely representing that Dr. Chan was, in
22 fact, serving as the off-site supervisor of the DEXA scans performed by Respondent's X-ray
23 Technicians, and (b) sent the Fluoroscopy Permit to KMS Strategic Services, a.k.a Hemet
24 Community Medical Group ("Hemet"), which was the management company for Prime Partners
25 IPA. Hemet was responsible for drafting Prime Partners IPA's contracts and for the credentialing
26 of physicians who contracted with Prime Partners IPA. By sending the Fluoroscopy Permit to
27 Hemet, Respondent falsely represented that his practice, Prime Partners Medical Group, which
28

1 was under contract to Prime Partners IPA, had a proper Supervisor/Medical Director in place to
2 supervise the DEXA scans Respondent was conducting.

3 33. On August 6, 2007, Respondent was contacted by Sophia Chang at Hemet, and was
4 asked to provide a copy of Respondent's radiology license for credentialing purposes. That same
5 day, Respondent sent a letter to Hemet, enclosing a copy of Dr. Chan's then-expired Fluoroscopy
6 Permit and stating, *inter alia*, "Attached is a copy of the supervising physicians certificate (Dr.
7 Allen Chan) for the Bone Density machine which is being operated in my office. A contract is in
8 place with Dr. Chan who has agreed to be the supervising physician pending the completion of
9 my passing the state supervisor test which is currently in the process. Please note that the
10 certificate is expired but the updated one will be faxed to you as soon as I receive it."

11 34. Shortly thereafter, Respondent, with the assistance of employee Cindy Estacio,
12 altered Dr. Chan's Fluoroscopy Permit, to make it appear that the permit was issued in
13 Respondent's name and was current through February 28, 2009. He asked employee Tanya Uribe
14 to fax the altered permit to Hemet, but she refused. Respondent tore the altered permit in half and
15 threw it at Ms. Uribe.

16 35. Approximately one week later, Respondent asked Ms. Uribe to sign an affidavit that
17 Respondent had prepared, purporting to have her state that Respondent did not alter Dr. Chan's
18 Fluoroscopy Permit. Ms. Uribe refused. Ms Uribe resigned from her employment with Prime
19 Partners Medical Group in November, 2007.

20 36. While employed by Respondent, between January, 2006 and November, 2007, Ms.
21 Uribe witnessed Respondent performing DEXA scans himself on numerous occasions.

22 37. On February 23, 2011, in an interview with Board Investigator Jennifer Doll and
23 others, Respondent falsely claimed that:

24 (a) Respondent never operated the DEXA machine himself;

25 (b) Dr. Chan's Fluoroscopy Permit qualified him to act as the Supervisor/Medical Director,
26 supervising Respondent's use of the DEXA scans;

27 (c) From January, 2006 through approximately July of 2008, when he "resigned," Dr. Chan
28 acted as the Supervisor/Medical Director of Respondent's practice;

1 (d) There is no legal requirement that a designated supervisor of DEXA scans must
2 actually ever show up and be present to supervise the operation of the machine by the X-ray
3 Technicians;

4 (e) Respondent did not pay Dr. Chan the \$1,000.00 in 2006 at the time he borrowed Dr.
5 Chan's Fluoroscopy Permit and wrote the Agreement; instead, he paid him the \$1,000.00 in 2007
6 after learning that that the Fluoroscopy Permit Dr. Chan provided Respondent in 2006, at the time
7 of the Agreement, had expired on February 28, 2007;

8 (f) The \$1,000.00 payment was partly to get a copy of Dr. Chan's then-current Fluoroscopy
9 Permit, partly in return for Dr. Chan's continued service as Supervisor/Medical Director, and
10 partly "out of appreciation of what he's been [sic] done for us";

11 (g) Dr. Chan's Fluoroscopy Permit was not altered by Respondent, nor was it altered at his
12 direction; instead, his employee, Cindy Estacio, made a copy of the document, replacing Dr.
13 Chan's name with Respondent's name, for the sole purpose of showing Respondent what his own
14 permit would look like if he obtained one, i.e., showing him that "this would be yours if you ever,
15 you know, get it certified on this and don't have to hassle with it"; and

16 (h) Respondent believes that Dr. Festus Dada, with whom he was having business disputes,
17 altered Dr. Chan's Fluoroscopy Permit and submitted it to Hemet "to try to got [sic] me in trouble
18 in some directions."

19 FACTS RE SUBMISSION OF FALSE INSURANCE CLAIMS

20 A. Claims for Interpretation of DEXA Scan Results.

21 38. Patients GG, WP, BA and YD⁶ were referred to Respondent, by their own treating
22 physicians, for DEXA bone densitometry scans. Upon such referrals, Respondent had his X-ray
23 technicians perform the scan and forward the written report of the scan results to the respective
24 patients' physicians for interpretation.

25
26
27 ⁶ To protect their privacy, all patients referenced in this Accusation will be identified by
28 their initials.

1 39. Despite the fact that Respondent did not provide any interpretation of the bone scan
2 results for patients GG, WP, BA or YD, Respondent knowingly, and falsely, billed said patients
3 respective health insurance providers and/or Medicare for interpretation of the bone scans.

4 B. Claims for Surgical Vein Procedures Not Performed.

5 40. In 2005 and 2006, Respondent performed non-surgical vein removal procedures in his
6 office, with a machine identified as a Cutera XEO, which utilized a laser beam. With the patient
7 under a local anesthesia applied to the surface of the skin, the procedure involves applying the
8 laser beam to the surface of the skin, heating the vein until the vein collapses.

9 41. In 2005 and 2006, Respondent performed non-surgical laser vein removal procedures
10 on over twenty (20) patients. For each of these procedures, Respondent, through his billing
11 contractor, Pinnacle Billing Service⁷, fraudulently billed Medicare and/or each patient's health
12 insurance provider three thousand dollars (\$3,000.00), for a total in excess of sixty-thousand
13 dollars (\$60,000.00) utilizing the erroneous CPT Codes⁸ "36478" and "36479."⁹

14 42. As a result of Respondent's fraudulent billing practices, as described in paragraph 40,
15 he wrongfully received in excess of thirty-five thousand dollars (\$35,000.00) in reimbursements.

16 43. Upon reviewing an insurance company check, payable to Respondent, for an amount
17 that appeared excessive, Respondent's employee, Tanya Uribe, researched the CPT Code utilized
18 by Respondent and determined that it was for a surgical vein procedure not performed by
19 Respondent. She printed out a description of the procedure and showed it to Respondent, who
20 looked at the printout and promptly threw it in the trash, without explanation.

21
22 ⁷ Complainant does not allege that Pinnacle Billing Service had any knowledge of
23 Respondent's fraudulent billing practices until July of 2008, when Pinnacle brought it to
24 Respondent's attention and terminated its contract with Respondent.

25 ⁸ "CPT" stands for "Current Procedural Terminology." These codes, developed by the
26 American Medical Association, describe every type of service a healthcare provider may provide
27 to a patient. They are used to make a list of those services, then to submit to insurance or
28 Medicare or another payer for reimbursement purposes.

⁹ CPT Codes 36478 and 36479 refer to surgical vein removal procedures which require
entry through the skin into the vein, and use ultrasound to monitor the vein collapse. CPT Code
36478 refers to the "first vein treated" on a particular patient. CPT Code 36479 refers to the
"second and subsequent veins treated in a single extremity" on that patient. These codes were
readily available to Respondent on the American Medical Association's website. Respondent is
not a vascular surgeon, and has never performed these procedures.

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THIRD CAUSE FOR DISCIPLINE

(Unprofessional Conduct: Dishonesty- Fraudulent Use of Another’s Radiology Certificate)

49. Respondent is subject to disciplinary action under section 2234, subdivision (e), of the Code in that he engaged in dishonest acts, to wit: the fraudulent use of another physician’s Radiology Certificate. The circumstances are set forth in paragraphs 20 through 33, which are incorporated by reference herein.

FOURTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct: Dishonesty- Fraudulent Creation of Documents)

50. Respondent is subject to disciplinary action under section 2234, subdivision (e), of the Code in that he engaged in dishonest acts, to wit: the fraudulent creation of a purported agreement, and subsequent correspondence, falsely representing that Dr. Chan was acting as Respondent’s off-site supervisor of Respondent’s DEXA bone densitometry scans. The circumstances are set forth in paragraphs 20 through 33, which are incorporated by reference herein.

FIFTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct: Dishonesty- Fraudulent Alteration of Another’s Radiology Certificate)

51. Respondent is subject to disciplinary action under section 2234, subdivision (e), of the Code in that he engaged in dishonest acts, to wit: the fraudulent alteration of another physician’s Fluoroscopy Certificate. The circumstances are set forth in paragraphs 20 through 35, which are incorporated by reference herein.

SIXTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct: Dishonesty)

(Submission of False Claims for Interpretation of DEXA Scans)

52. Respondent is subject to disciplinary action under section 2234, subdivision (e), of the Code in that he engaged in dishonest acts, to wit: the submission of false claims for interpretation of DEXA scans. The circumstances are set forth in paragraphs 38 and 39, which are incorporated by reference herein.

1 SEVENTH CAUSE FOR DISCIPLINE

2 (Unprofessional Conduct: Dishonesty)

3 (Submission of False Claims for Surgical Vein Procedures)

4 53. Respondent is subject to disciplinary action under section 2234, subdivision (e), of
5 the Code in that he engaged in dishonest acts, to wit: the submission of false claims for surgical
6 vein procedures which Respondent did not perform. The circumstances are set forth in
7 paragraphs 40 through 46, which are incorporated by reference herein.

8 EIGHTH CAUSE FOR DISCIPLINE

9 (Unprofessional Conduct: Dishonesty- Lying to Board re Use of DEXA Scans)

10 54. Respondent is subject to disciplinary action under section 2234, subdivision (e), of
11 the Code in that he engaged in dishonest acts, to wit: Respondent, on February 23, 2011, lied to
12 the Board re:

13 (i) His performing DEXA bone densitometry scans without proper certification and
14 authorization;

15 (ii) His fraudulent creation of a purported agreement and subsequent correspondence
16 fraudulently representing that Dr. Chan was acting as Respondent's off-site supervisor of
17 Respondent's DEXA bone densitometry scans;

18 (iii) His unlawful use of Dr. Chan's Fluoroscopy Permit; and

19 (iv) His fraudulent alteration of Dr. Chan's Fluoroscopy Permit

20 The circumstances are set forth in paragraphs 20 through 37, which are incorporated by
21 reference herein.

22 NINTH CAUSE FOR DISCIPLINE

23 (Unprofessional Conduct: Dishonesty)

24 (Lying to Board re Submission of False Claims for Surgical Vein Procedures)

25 55. Respondent is subject to disciplinary action under section 2234, subdivision (e), of
26 the Code in that he engaged in dishonest acts, to wit: he lied to the Board on February 23, 2011 re
27 his knowledge, prior to July, 2008, that he submitted erroneous billings for surgical vein
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1 procedures which Respondent did not perform. The circumstances are set forth in paragraphs 40
2 through 45, which are incorporated by reference herein.

3 DISCIPLINARY CONSIDERATIONS

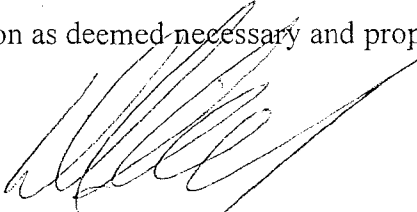
4 56. In a disciplinary action entitled "*In the Matter of Accusation Against Donald Woo*
5 *Lee, M.D.*," Case No. 17-2007-183005, the Board issued a Decision, effective May 11, 2011, in
6 which Respondent's Physician and Surgeon's Certificate was revoked. However, the revocation
7 was stayed and Respondent's Physician's and Surgeon's Certificate was placed on probation for a
8 period of five (5) years with certain terms and conditions. Respondent was disciplined for, *inter*
9 *alia*: altering the medical records of patient L.W. with fraudulent intent.

10 PRAYER

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

- 13 1. Revoking or suspending Physician and Surgeon's Certificate Number A 56294,
14 issued to Respondent;
- 15 2. Revoking, suspending or denying approval of Respondent's authority to supervise
16 physician's assistants, pursuant to section 3527 of the Code;
- 17 3. If placed on probation, ordering Respondent to pay the costs of probation monitoring;
18 and
- 19 4. Taking such other and further action as deemed necessary and proper.

20
21 DATED: October 13, 2011


22 LINDA K. WHITNEY
23 Executive Director
24 Medical Board of California
25 Department of Consumer Affairs
26 State of California
27 Complainant

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