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FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO Oct. 19, 2017
BY [Signature] ANALYST

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

11 **In the Matter of the Accusation and Petition**
12 **to Revoke Probation Against:**

Case No. 800-2017-037665

13 **DONALD WOO LEE, M.D.**
14 **42685 Calle Capistrano**
15 **Temecula, CA 92590**

ACCUSATION AND
PETITION TO REVOKE
PROBATION

16 **Physician's and Surgeon's Certificate**
17 **No. A 56294,**

Respondent.

18 Complainant alleges:

19 **PARTIES**

20 1. Kimberly Kirchmeyer ("Complainant") brings this Accusation and Petition to Revoke
21 Probation ("Accusation") solely in her official capacity as the Executive Director of the Medical
22 Board of California, Department of Consumer Affairs (Board).

23 2. On or about August 21, 1996, the Medical Board issued Physician's and Surgeon's
24 Certificate Number A56294 to Donald Woo Lee, M.D. ("Respondent"). The Physician's and
25 Surgeon's Certificate was in full force and effect at all times relevant to the charges brought
26 herein and will expire on August 31, 2018, unless renewed.

27 **JURISDICTION**

28 3. This Accusation is brought before the Board, under the authority of the following

1 laws. All section references are to the Business and Professions Code (Code) unless otherwise
2 indicated.

3 4. Section 2227 of the Code provides that a licensee who is found guilty under the
4 Medical Practice Act may have his or her license revoked, suspended for a period not to exceed
5 one year, placed on probation and required to pay the costs of probation monitoring, or such other
6 action taken in relation to discipline as the Board deems proper.

7 5. Section 2234 of the Code states:

8 “The board shall take action against any licensee who is charged with unprofessional
9 conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not
10 limited to, the following:

11 “(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the
12 violation of, or conspiring to violate any provision of this chapter.

13 “(b) Gross negligence.

14 “(c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or
15 omissions. An initial negligent act or omission followed by a separate and distinct departure from
16 the applicable standard of care shall constitute repeated negligent acts.

17 “(1) An initial negligent diagnosis followed by an act or omission medically appropriate
18 for that negligent diagnosis of the patient shall constitute a single negligent act.

19 “(2) When the standard of care requires a change in the diagnosis, act, or omission that
20 constitutes the negligent act described in paragraph (1), including, but not limited to, a
21 reevaluation of the diagnosis or a change in treatment, and the licensee’s conduct departs from the
22 applicable standard of care, each departure constitutes a separate and distinct breach of the
23 standard of care.

24 “(d) Incompetence.

25 “(e) The commission of any act involving dishonesty or corruption which is substantially
26 related to the qualifications, functions, or duties of a physician and surgeon.

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

28 “(g) The practice of medicine from this state into another state or country without meeting

1 the legal requirements of that state or country for the practice of medicine. Section 2314 shall not
2 apply to this subdivision. This subdivision shall become operative upon the implementation of the
3 proposed registration program described in Section 2052.5.

4 “(h) The repeated failure by a certificate holder, in the absence of good cause, to attend and
5 participate in an interview by the board. This subdivision shall only apply to a certificate holder
6 who is the subject of an investigation by the board.”

7 6. Section 2266 of the Code states: “The failure of a physician and surgeon to maintain
8 adequate and accurate records relating to the provision of services to their patients constitutes
9 unprofessional conduct.”

10 **FACTUAL ALLEGATIONS**

11 **Patient H.K.**

12 7. On or about January 29, 2014, Respondent, an internist, saw H.K.,¹ an 82-year-old
13 male and his primary care patient. H.K. had fallen, landed on his left hand, and lacerated the
14 anterior surface of his hand. Although Respondent addressed the laceration with sutures, he
15 failed to order x-rays of the left hand, and failed to refer the patient to an orthopedics specialist.
16 Respondent documented that he fixed a dislocation of H.K.’s fifth finger by pulling the finger and
17 popping it back into place. Respondent also ordered a seven-day supply of an antibiotic (Keflex)
18 for the patient.

19 8. On or about February 5, 2014, Respondent reassessed H.K. Although Respondent
20 wrote that the wound was healing well, he failed to assess the neuromuscular function of the
21 patient’s hand and/or failed to adequately document that he did so.

22 9. On or about February 12, 2014, Respondent removed the sutures on the patient’s left
23 hand. Again, Respondent failed to perform a neuromuscular examination of the hand and/or
24 failed to adequately document that he did so.

25 10. On or about February 24, 2014, H.K. called Respondent’s office, reported that his left
26 hand was swollen, and asked if he needed more antibiotics. Respondent then ordered a 10-day
27 supply of an antibiotic (Augmentin) for H.K. without examining the patient.

28 ¹ Patient initials are used based on privacy concerns.

1 fallen and injured his hand.

2 20. On or about January 29, 2014, and thereafter, Respondent was grossly negligent when
3 he failed to investigate and/or review the results of the x-rays he had ordered for H.K.

4 21. On or about January 29, 2014, and thereafter, Respondent was grossly negligent when
5 he failed to promptly refer H.K., an elderly patient with a hand injury, to an orthopedic surgeon.

6 **SECOND CAUSE FOR DISCIPLINE**

7 **(Repeated Negligent Acts)**

8 22. Respondent is subject to disciplinary action under Code section 2234, subdivision (c),
9 in that Respondent committed repeated negligent acts. The circumstances are as follows:

10 23. The allegations of the First Cause for Discipline are incorporated herein by reference
11 as if fully set forth.

12 24. Each of the alleged acts of gross negligence set forth above in the First Cause for
13 Discipline is also a negligent act.

14 **THIRD CAUSE FOR DISCIPLINE**

15 **(Failure to Maintain Adequate Medical Records)**

16 25. Respondent is subject to disciplinary action under Code section 2266 in that
17 Respondent failed to maintain adequate and accurate records related to the provision of medical
18 services to a patient. The circumstances are as follows:

19 26. The allegations of the First and Second Causes for Discipline, inclusive, are
20 incorporated herein by reference as if fully set forth.

21 27. In addition, Respondent failed to adequately document his medical care for H.K.

22 **FOURTH CAUSE FOR DISCIPLINE**

23 **(General Unprofessional Conduct)**

24 28. Respondent is subject to disciplinary action under Code section 2234, in that his
25 actions and/or omissions represent unprofessional conduct, generally. The circumstances are as
26 follows:

27 29. The allegations of the First, Second and Third Causes for Discipline are incorporated
28 herein by reference as if fully set forth.

1 **PETITION TO REVOKE PROBATION**

2 30. In a disciplinary action entitled, *In the Matter of the Accusation Against Donald Woo*
3 *Lee, M.D.*, Case No. 09-2010-205998, the Board issued a decision, effective November 2, 2012,
4 which placed Respondent's Physician's and Surgeon's Certificate on probation for six (6) years
5 with terms and conditions. A copy of The Board's Decision and Order in Case No. 09-2010-
6 205998 is incorporated herein by reference as if fully set forth. Respondent is in violation of the
7 terms and conditions of the disciplinary order in Case No. 09-2010-205998 as set forth below.

8 **FIRST CAUSE FOR PROBATION REVOCATION**

9 (Obey All Laws)

10 31. Term and condition number 6 of the disciplinary order states:

11 "Respondent shall obey all federal, state and local laws, all rules governing the
12 practice of medicine in California and remain in full compliance with any court ordered
13 criminal probation, payments, and other orders."

14 32. Respondent has violated term and condition number 6 by violating the Medical
15 Practice Act. The circumstances are as follows:

16 33. The allegations of the First, Second, Third and Fourth Causes for Discipline are
17 incorporated herein by reference as if fully set forth.

18 **DISCIPLINARY CONSIDERATIONS**

19 34. As set forth above, Respondent's Physician's and Surgeon's Certificate was placed on
20 probation for six (6) years with terms and conditions, in a decision, effective November 2, 2012,
21 in Case No. 09-2010-205998. Respondent was disciplined in that case in connection with, inter
22 alia: allegations of forgery and billing fraud.


23 35. In a disciplinary action entitled, *In the Matter of the Accusation Against Donald Woo*
24 *Lee, M.D.*, Case No. 17-2007-183005, the Board issued a Decision, effective December 7, 2012,
25 in which Respondent's Physician and Surgeon's Certificate was revoked. However, the
26 revocation was stayed and Respondent's Physician's and Surgeon's Certificate was placed on
27 probation for a period of three (3) years with certain terms and conditions. Respondent was
28 disciplined for, inter alia: altering the medical records of patient L.W. with fraudulent intent.

1 PRAYER

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

- 4 1. Revoking or suspending Physician's and Surgeon's Certificate Number A56294,
5 issued to Donald Woo Lee, M.D.;
- 6 2. Revoking, suspending or denying approval of Donald Woo Lee, M.D.'s authority to
7 supervise physician assistants, pursuant to section 3527 of the Code, and ordering him not to
8 supervise advanced practice nurses;
- 9 3. Ordering Donald Woo Lee, M.D., if placed on probation, to pay the Board the costs
10 of probation monitoring; and
- 11 4. Taking such other and further action as deemed necessary and proper.

12
13 DATED: October 19, 2017



14 KIMBERLY KIRCHMEYER
15 Executive Director
16 Medical Board of California
17 Department of Consumer Affairs
18 State of California
19 Complainant

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