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STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
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BY JAN PASON ANALYST

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

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

Case No. 800-2017-037665

13 **DONALD WOO LEE, M.D.**
14 **31812 Country View Rd.**
15 **Temecula, CA 92591-4004**

SECOND AMENDED
ACCUSATION AND
PETITION TO REVOKE
PROBATION

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

17 **Respondent.**

18 Complainant alleges:

19 **PARTIES**

20 1. Kimberly Kirchmeyer ("Complainant") brings this Second Amended Accusation and
21 Petition to Revoke Probation solely in her official capacity as the Executive Director of the
22 Medical 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, 2020, unless renewed.

27 **JURISDICTION**

28 3. This Second Amended Accusation and Petition to Revoke Probation ("Accusation")

1 is brought before the Board, under the authority of the following laws. All section references are
2 to the Business and Professions Code (Code) unless otherwise 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 INITIAL FACTUAL ALLEGATIONS

11 Patient A

12 7. On or about January 29, 2014, Respondent, an internist, saw Patient A,¹ an 82-year-
13 old male and his primary care patient. Patient A had fallen, landed on his left hand, and lacerated
14 the 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 Patient A’s fifth finger by pulling the finger
17 and popping it back into place. Respondent also ordered a seven-day supply of an antibiotic
18 (Keflex) for the patient.

19 8. On or about February 5, 2014, Respondent reassessed Patient A. Although
20 Respondent wrote that the wound was healing well, he failed to assess the neuromuscular
21 function of the 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, Patient A called Respondent’s office, reported that
26 his left hand was swollen, and asked if he needed more antibiotics. Respondent then ordered a
27 10-day supply of an antibiotic (Augmentin) for Patient A without examining the patient.

28 ¹ Patient initials are used based on privacy concerns.

1 with prescription scripts that had been pre-signed by him. Respondent's practice of pre-signing
2 prescriptions presented a risk to patients who could have received medications that had the
3 potential to be ineffective and/or harmful for them, including without limitation, as a result of
4 their issuance by his medical assistants.

5 **FIRST CAUSE FOR DISCIPLINE**

6 **(Gross Negligence)**

7 16. Respondent is subject to disciplinary action under Code section 2234, subdivision (b),
8 in that he committed gross negligence. The circumstances are as follows:

9 17. The allegations in paragraphs 7 through 15, inclusive, above are incorporated herein
10 by reference as if fully set forth.

11 18. On or about January 29, 2014, and thereafter, Respondent was grossly negligent when
12 he failed to either perform neuromuscular examinations on Patient A (who had been injured from
13 a fall), and/or failed to document that he performed such neuromuscular examinations.

14 19. On or about January 29, 2014, and thereafter, Respondent was grossly negligent when
15 he prescribed an antibiotic to Patient A before examining him.

16 20. On or about January 29, 2014, and thereafter, Respondent was grossly negligent when
17 he failed to order x-rays for Patient A during his first appointment with this elderly patient who
18 had fallen and injured his hand.

19 21. On or about January 29, 2014, and thereafter, Respondent was grossly negligent when
20 he failed to investigate and/or review the results of the x-rays he had ordered for Patient A.

21 22. On or about January 29, 2014, and thereafter, Respondent was grossly negligent when
22 he failed to promptly refer Patient A, an elderly patient with a hand injury, to an orthopedic
23 surgeon.

24 23. From at least in or around 2000 and thereafter, Respondent's practice of pre-signing
25 blank prescription scripts represents gross negligence, including without limitation, on or about
26 April 15, 2015, and July 29, 2015, when his medical assistant illicitly used Respondent's
27 pre-signed prescriptions, and October 8, 2015.

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1 **SECOND CAUSE FOR DISCIPLINE**

2 **(Gross Negligence - Patient C)**

3 24. Respondent is subject to disciplinary action under Code sections 2234,
4 subdivision (b), in that he committed gross negligence related to the provision of medical services
5 to Patient C. The circumstances are as follows:

6 **Patient C**

7 25. On or about January 30, 2016, Respondent saw Patient C, a 69-year-old woman with
8 symptomatic vein disease of the bilateral lower extremities with a history of hypothyroidism and
9 hypertension. Respondent failed to obtain an adequate history for Patient C, including her current
10 list of medications at this visit. A receptionist asked Patient C to fill out her name and insurance
11 information only. When she asked a member of his staff about HIPAA, the staff member seemed
12 "confused," and she was not provided any information regarding privacy rights or asked to sign a
13 form related to HIPAA. Initially, a nurse saw her and obtained minimal information from her. A
14 technician then performed an ultrasound of her leg veins. Afterwards, she was brought to another
15 room where Respondent and three other people were present and a table was set up to do a vein
16 procedure on each leg. At that point, she felt very uncomfortable and wished to speak with her
17 primary care physician before proceeding with the procedures. Respondent told her that other
18 doctors would not understand the vein procedures. Thereafter, the patient sought treatment from
19 a different doctor who performed bilateral greater saphenous vein ablations and a series of
20 separate sessions of sclerotherapy.

21 26. Respondent's records for Patient C fail to adequately document her past medical
22 history and/or surgical history. Respondent also failed to perform and/or document an adequate
23 physical exam, including examination of the patient's heart, lungs, abdomen and extremities as
24 related to veins. Respondent's certified records include an unsigned form acknowledging receipt
25 of privacy practices and a health questionnaire which was not filled out. During his interview
26 with an investigator of the Department of Consumer Affairs, Respondent stated that he did not
27 have much independent recollection of the patient, but that he did recall the unusual occurrence
28 that the patient initially stated that she had tried conservative therapy with stockings, but then

1 later stated that she had not tried stockings. Respondent stated he advised her to try conservative
2 therapy first. He also stated that he would not normally do vein procedures the same day as the
3 ultrasound and that he did not plan procedures on this patient at that initial visit.

4 27. Respondent's records for Patient C fail to document that the patient received any
5 notification of the office privacy practices. Further, they lack an adequately complete past
6 medical history for her. Respondent also failed to document that the patient had a history of
7 smoking and hypertension, and failed to record any vital signs for her. Her medications, allergies,
8 smoking history were all not documented as well. Risk factors for peripheral vascular disease
9 and cardiac disease are important for vein patients because this may influence treatment
10 decisions. If the patient has significant vascular disease it may harm them to ablate veins which
11 may be needed in the future for bypass surgery. The lower extremity pulses should also be
12 examined because an abnormal exam may also influence the choice of compression therapy and
13 decision to perform a procedure. A patient with abnormal peripheral pulses may not be a
14 candidate for compression therapy and/or ablation without further non-invasive testing.

15 28. On or about January 30, 2016, and thereafter, Respondent was grossly negligent when
16 he failed to provide and/or document the provision of office privacy practices to Patient C.

17 29. On or about January 30, 2016, and thereafter, Respondent was grossly negligent when
18 he failed to perform and/or document an adequately complete history and physical exam for
19 Patient C (a patient with vein disease).

20 **THIRD CAUSE FOR DISCIPLINE**

21 **(Repeated Negligent Acts)**

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

24 31. The allegations of the First Cause for Discipline are incorporated herein by reference
25 as if fully set forth.

26 32. Each of the alleged acts of gross negligence set forth above in the First and Second
27 Causes for Discipline is also a negligent act.

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1 **FOURTH CAUSE FOR DISCIPLINE**

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

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

6 34. The allegations of the First, Second and Third Causes for Discipline, inclusive, are
7 incorporated herein by reference as if fully set forth.

8 35. In addition, Respondent failed to adequately document his medical care for the .
9 patients alleged herein, including without limitation, Patients A and C.

10 **FIFTH CAUSE FOR DISCIPLINE**

11 **(General Unprofessional Conduct)**

12 36. Respondent is subject to disciplinary action under Code section 2234, in that his
13 actions and/or omissions represent unprofessional conduct, generally. The circumstances are as
14 follows:

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

17 **PETITION TO REVOKE PROBATION**

18 38. In a disciplinary action entitled, *In the Matter of the Accusation Against Donald Woo*
19 *Lee, M.D.*, Case No. 09-2010-205998, the Board issued a decision, effective November 2, 2012,
20 which placed Respondent's Physician's and Surgeon's Certificate on probation for six (6) years
21 with terms and conditions. A copy of The Board's Decision and Order in Case No. 09-2010-
22 205998 is incorporated herein by reference as if fully set forth. Respondent is in violation of the
23 terms and conditions of the disciplinary order in Case No. 09-2010-205998 as set forth below.

24 **FIRST CAUSE FOR PROBATION REVOCATION**

25 **(Obey All Laws)**

26 39. Term and condition number 6 of the disciplinary order states:

27 "Respondent shall obey all federal, state and local laws, all rules governing the
28 practice of medicine in California and remain in full compliance with any court ordered

1 criminal probation, payments, and other orders.”

2 40. Respondent has violated term and condition number 6 by violating the Medical
3 Practice Act. The circumstances are as follows:

4 41. The allegations of the First, Second, Third, Fourth and Fifth Causes for Discipline are
5 incorporated herein by reference as if fully set forth.

6 **DISCIPLINARY CONSIDERATIONS**

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

11 43. In a disciplinary action entitled, *In the Matter of the Accusation Against Donald Woo*
12 *Lee, M.D.*, Case No. 17-2007-183005, the Board issued a Decision, effective December 7, 2012,
13 in which Respondent’s Physician and Surgeon’s Certificate was revoked. However, the
14 revocation was stayed and Respondent’s Physician’s and Surgeon’s Certificate was placed on
15 probation for a period of three (3) years with certain terms and conditions. Respondent was
16 disciplined for, inter alia: altering the medical records of a patient with fraudulent intent.

17 **PRAYER**

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

20 1. Revoking the probation that was granted by the Board in Case No. 09-2010-205998
21 and imposing the disciplinary order that was stayed thereby revoking issued Physician’s and
22 Surgeon’s Certificate Number A56294 issued to Donald Woo Lee, M.D.;

23 2. Revoking or suspending Physician’s and Surgeon’s Certificate Number A56294,
24 issued to Donald Woo Lee, M.D.;


25 3. Revoking, suspending or denying approval of Donald Woo Lee, M.D.’s authority to
26 supervise physician assistants, pursuant to section 3527 of the Code, and ordering him not to
27 supervise advanced practice nurses;

28 4. Ordering Donald Woo Lee, M.D., if placed on probation, to pay the Board the costs

1 of probation monitoring; and

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

3
4 DATED: January 25, 2019


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

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