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UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

CR 12 00572

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.)
)
WHAN SIL KIM,)
 aka "Victoria Kim,")
)
Defendant.)
)
)
)
)
)

I N F O R M A T I O N

[42 U.S.C. § 1320a-7b: Illegal
Remunerations for Health Care
Referrals]

The United States Attorney charges:

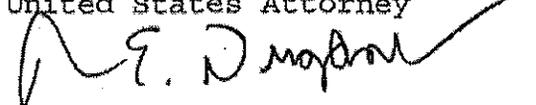
[42 U.S.C. § 1320a-7b(b)(1)]

On or about May 8, 2010, in Los Angeles County, within the
Central District of California, and elsewhere, defendant WHAN
SIL KIM, also known as "Victoria Kim," knowingly and willfully
received remuneration, that is, an \$800 check drawn on Wilshire
State Bank Account, account number xxxxx6527, from Hee Jung Mun,
owner of Greatcare Home Health, Inc. ("Greatcare"), in return
for referring individuals to Greatcare for home health services

7/2

1 for which payment could be made in whole and in part under a
2 Federal health care program, namely Medicare.

3
4 ANDRÉ BIROTTE JR.
United States Attorney

5 

6 ROBERT E. DUGDALE
7 Assistant United States Attorney
Chief, Criminal Division

8 RICHARD ROBINSON
9 Assistant United States Attorney
Chief, Major Frauds Section

10 CONSUELO S. WOODHEAD
11 Assistant United States Attorney
12 Deputy Chief, Major Frauds Section

13 KRISTEN A. WILLIAMS
14 Assistant United States Attorney
Major Frauds Section

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
CRIMINAL MINUTES -- CHANGE OF PLEA

Case No. CR 12-00572 DDP

Date: July 26, 2012

=====

PRESENT: HONORABLE DEAN D. PREGERSON, JUDGE

John A. Chambers
Courtroom Deputy

Maria Bustillos
Court Reporter

Kristen A. Williams
Asst. U.S. Attorney

=====

U.S.A. vs (Dfts listed below)

Attorneys for Defendants

1) WHAN SIL KIM
present on bond

1) Brian J. Hennigan
Lillie A. Werner
present retained

PROCEEDINGS: PLEA

Court and counsel confer re the plea of Guilty. Defendant moves to plea Guilty to the Information. Defendant now enters a plea of Guilty to the Single Count Information. The Court questions the defendant regarding the plea of Guilty and finds a factual and legal basis for the plea; waivers of constitutional rights are freely, voluntarily and intelligently made; plea is provident; plea is accepted and entered.

The Court refers the defendant to the Probation Office for the preparation of a presentence report and continues the matter to October 15, 2012 at 1:30 p.m., for sentencing. The Court vacates the court and/or jury trial date.

Counsel are notified that Federal Rule of Criminal Procedure 32(b)(6)(B) requires the parties to notify the Probation Officer, and each other, of any objections to the Presentence Report within fourteen (14) days of receipt. Alternatively, the Court will permit counsel to file such objections no later than twenty-one (21) days before Sentencing. The Court construes "objections" to include departure arguments. Requests for continuances shall be filed no later than twenty-one (21) days before Sentencing. Strict compliance with the above is mandatory because untimely filings impede the abilities of the Probation Office and of the Court to prepare for Sentencing. Failure to meet these deadlines is grounds for sanctions.

cc: P. O. & P. S. A. L. A.

United States District Court
Central District of California

UNITED STATES OF AMERICA vs.

Docket No.

CR 12-00572 DDP

Defendant WHAN SIL KIM

Social Security No. [REDACTED]

akas: Oh, Whan Sil; Moniker: Victoria

(Last 4 digits)

JUDGMENT AND PROBATION/COMMITMENT ORDER

In the presence of the attorney for the government, the defendant appeared in person

MONTH	DAY	YEAR
Dec.	13	2012

COUNSEL

Brian J. Hennigan and Lillie A. Werner

(Name of Counsel)

PLEA

GUILTY, and the court being satisfied that there is a factual basis for the plea.

**NOLO
CONTENDERE**

NOT GUILTY

FINDING

There being a finding/verdict of **GUILTY**, defendant has been convicted as charged of the offense(s) of:

Illegal Remunerations for Health Care Referrals [42 U.S.C. § 1320a-7b] as charged in the Single Count Information.

JUDGMENT
AND PROB/
COMM
ORDER

The Court asked whether there was any reason why judgment should not be pronounced. Because no sufficient cause to the contrary was shown, or appeared to the Court, the Court adjudged the defendant guilty as charged and convicted and ordered that: Pursuant to the Sentencing Reform Act of 1984, it is the judgment of the Court that the defendant is hereby committed to the custody of the Bureau of Prisons to be imprisoned for a term of:

Pursuant to the Sentencing Reform Act of 1984, it is the judgment of the Court that the defendant, Whan Sil Kim, is hereby committed on Count 1 of the Information to the custody of the Bureau of Prisons to be imprisoned for a term of 12 months and 1 day.

Upon release from imprisonment, the defendant shall be placed on supervised release for a term of three years under the following terms and conditions:

1. The defendant shall comply with the rules and regulations of the U. S. Probation Office, General Order 05-02, and General Order 01-05, including the three special conditions delineated in General Order 01-05;
2. During the period of community supervision the defendant shall pay the special assessment and restitution in accordance with this judgment's orders pertaining to such payment;
3. The defendant shall not be employed in any position that requires licensing and/or certification by any local, state or federal agency without prior approval of the Probation Officer;

USA vs. WHAN SIL KIM

Docket No.: CR 12-00572 DDP

4. The defendant shall cooperate in the collection of a DNA sample from the defendant; and,
5. The defendant shall apply all monies received from income tax refunds, lottery winnings, inheritance, judgements and any anticipated or unexpected financial gains to the outstanding court-ordered financial obligation.

The drug testing condition mandated by statute is suspended based on the Court's determination that the defendant poses a low risk of future substance abuse.

RESTITUTION: It is ordered that the defendant shall pay restitution pursuant to 18 U.S.C. § 3663 (A). Defendant shall pay restitution in the total amount of \$1,088,799.26 to victims as set forth in a separate victim list prepared by the probation office which this Court adopts and which reflects the Court's determination of the amount of restitution due to each victim. The victim list, which shall be forwarded to the fiscal section of the clerk's office, shall remain confidential to protect the privacy interests of the victims.

Restitution shall be due during the period of imprisonment, at the rate of not less than \$25 per quarter, and pursuant to the Bureau of Prisons' Inmate Financial Responsibility Program. If any amount of the restitution remains unpaid after release from custody, nominal monthly payments of at least 10 percent of defendant's gross monthly income, but not less than \$100, whichever is greater, during the period of supervised release and shall begin 30 days after the commencement of supervision. Nominal restitution payments are ordered as the Court finds that the defendant's economic circumstances do not allow for a greater amount ordered.

The defendant shall be held jointly and severally liable with the co-participants Hee Jung Mun, docket number CR 11-01169-DDP; Ji Hae Kim, docket number CR 11-01082-DDP; Seonweon Kim, docket number CR 12-00009-DDP; Jung Sook Lee, docket number CR 12-00015-DDP; Hwa Ja Kim, docket number CR 12-00059-DDP; Yeong Ja Lee, docket number CR 12-397-DDP; and Sang Whan Ahn, docket number CR 12-588-DDP, to the extent and for the amount that each is determined liable for the same victim losses. The victim's recovery is limited to the amount of its loss and the defendant's liability for restitution ceases if and when the victim receives full restitution.

Pursuant to 18 U.S.C. § 3612(f)(3)(A), interest on the restitution ordered is waived because the defendant does not have the ability to pay interest. Payments may be subject to penalties for default and delinquency pursuant to 18 U.S.C. § 3612(g). The defendant shall comply with General Order No. 01-05.

FINE: All fines are waived as it is found that the defendant does not have the ability to pay a fine in addition to restitution.

SPECIAL ASSESSMENT: It is ordered that the defendant shall pay to the United States a special assessment of \$100, which is due immediately. Any unpaid balance shall be due during the period of imprisonment, at the rate of not less than \$25 per quarter, and pursuant to the Bureau of Prisons' Inmate Financial Responsibility Program.

SENTENCING FACTORS: The sentence is based upon the factors set forth in 18 U.S.C. § 3553, including the applicable sentencing range set forth in the guidelines.

USA vs. WHAN SIL KIMDocket No.: CR 12-00572 DDP

The Court RECOMMENDS a BOP facility as close to the Southern California vicinity as possible.

The Court NOTES the defendant has medical conditions that require attention by the BOP.

IT IS ORDERED that the defendant shall self-surrender to the institution designated by the BOP on or before 12 noon, on February 13, 2013 and, on the absence of such designation, the defendant shall report on or before the same date and time, to the United States Marshal at 255 East Temple Street, Los Angeles, California, 90012.

In addition to the special conditions of supervision imposed above, it is hereby ordered that the Standard Conditions of Probation and Supervised Release within this judgment be imposed. The Court may change the conditions of supervision, reduce or extend the period of supervision, and at any time during the supervision period or within the maximum period permitted by law, may issue a warrant and revoke supervision for a violation occurring during the supervision period.

December 13, 2012

Date

Donald D. Peterson
United States District Judge

It is ordered that the Clerk deliver a copy of this Judgment and Probation/Commitment Order to the U.S. Marshal or other qualified officer.

Clerk, U.S. District Court

December 13, 2012

Filed Date

By John A. Chambers

Deputy Clerk

The defendant shall comply with the standard conditions that have been adopted by this court (set forth below).

STANDARD CONDITIONS OF PROBATION AND SUPERVISED RELEASE

While the defendant is on probation or supervised release pursuant to this judgment:

1. The defendant shall not commit another Federal, state or local crime;
2. the defendant shall not leave the judicial district without the written permission of the court or probation officer;
3. the defendant shall report to the probation officer as directed by the court or probation officer and shall submit a truthful and complete written report within the first five days of each month;
4. the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
5. the defendant shall support his or her dependents and meet other family responsibilities;
6. the defendant shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training, or other acceptable reasons;
7. the defendant shall notify the probation officer at least 10 days prior to any change in residence or employment;
8. the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any narcotic or other controlled substance, or any paraphernalia related to such substances, except as prescribed by a physician;
9. the defendant shall not frequent places where controlled substances are illegally sold, used, distributed or administered;
10. the defendant shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer;
11. the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view by the probation officer;
12. the defendant shall notify the probation officer within 72 hours of being arrested or questioned by a law enforcement officer;
13. the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court;
14. as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics, and shall permit the probation officer to make such notifications and to conform the defendant's compliance with such notification requirement;
15. the defendant shall, upon release from any period of custody, report to the probation officer within 72 hours;
16. and, for felony cases only: not possess a firearm, destructive device, or any other dangerous weapon.

USA vs. WHAN SIL KIM

Docket No.: CR 12-00572 DDP

The defendant will also comply with the following special conditions pursuant to General Order 01-05 (set forth below).

STATUTORY PROVISIONS PERTAINING TO PAYMENT AND COLLECTION OF FINANCIAL SANCTIONS

The defendant shall pay interest on a fine or restitution of more than \$2,500, unless the court waives interest or unless the fine or restitution is paid in full before the fifteenth (15th) day after the date of the judgment pursuant to 18 U.S.C. §3612(f)(1). Payments may be subject to penalties for default and delinquency pursuant to 18 U.S.C. §3612(g). Interest and penalties pertaining to restitution, however, are not applicable for offenses completed prior to April 24, 1996.

If all or any portion of a fine or restitution ordered remains unpaid after the termination of supervision, the defendant shall pay the balance as directed by the United States Attorney's Office. 18 U.S.C. §3613.

The defendant shall notify the United States Attorney within thirty (30) days of any change in the defendant's mailing address or residence until all fines, restitution, costs, and special assessments are paid in full. 18 U.S.C. §3612(b)(1)(F).

The defendant shall notify the Court through the Probation Office, and notify the United States Attorney of any material change in the defendant's economic circumstances that might affect the defendant's ability to pay a fine or restitution, as required by 18 U.S.C. §3664(k). The Court may also accept such notification from the government or the victim, and may, on its own motion or that of a party or the victim, adjust the manner of payment of a fine or restitution-pursuant to 18 U.S.C. §3664(k). See also 18 U.S.C. §3572(d)(3) and for probation 18 U.S.C. §3563(a)(7).

Payments shall be applied in the following order:

1. Special assessments pursuant to 18 U.S.C. §3013;
2. Restitution, in this sequence:
 - Private victims (individual and corporate),
 - Providers of compensation to private victims,
 - The United States as victim;
3. Fine;
4. Community restitution, pursuant to 18 U.S.C. §3663(c); and
5. Other penalties and costs.

SPECIAL CONDITIONS FOR PROBATION AND SUPERVISED RELEASE

As directed by the Probation Officer, the defendant shall provide to the Probation Officer: (1) a signed release authorizing credit report inquiries; (2) federal and state income tax returns or a signed release authorizing their disclosure and (3) an accurate financial statement, with supporting documentation as to all assets, income and expenses of the defendant. In addition, the defendant shall not apply for any loan or open any line of credit without prior approval of the Probation Officer.

The defendant shall maintain one personal checking account. All of defendant's income, "monetary gains," or other pecuniary proceeds shall be deposited into this account, which shall be used for payment of all personal expenses. Records of all other bank accounts, including any business accounts, shall be disclosed to the Probation Officer upon request.

The defendant shall not transfer, sell, give away, or otherwise convey any asset with a fair market value in excess of \$500 without approval of the Probation Officer until all financial obligations imposed by the Court have been satisfied in full.

These conditions are in addition to any other conditions imposed by this judgment.

USA vs. WHAN SIL KIM

Docket No.: CR 12-00572 DDP

RETURN

I have executed the within Judgment and Commitment as follows:

Defendant delivered on _____ to _____

Defendant noted on appeal on _____

Defendant released on _____

Mandate issued on _____

Defendant's appeal determined on _____

Defendant delivered on _____ to _____

at _____

the institution designated by the Bureau of Prisons, with a certified copy of the within Judgment and Commitment.

United States Marshal

_____ By _____
 Date Deputy Marshal

CERTIFICATE

I hereby attest and certify this date that the foregoing document is a full, true and correct copy of the original on file in my office, and in my legal custody.

Clerk, U.S. District Court

_____ By _____
 Filed Date Deputy Clerk

FOR U.S. PROBATION OFFICE USE ONLY

Upon a finding of violation of probation or supervised release, I understand that the court may (1) revoke supervision, (2) extend the term of supervision, and/or (3) modify the conditions of supervision.

These conditions have been read to me. I fully understand the conditions and have been provided a copy of them.

(Signed) _____ Date _____
 Defendant

_____ Date _____
 U. S. Probation Officer/Designated Witness

1 KAMALA D. HARRIS
Attorney General of California
2 JUDITH T. ALVARADO
Supervising Deputy Attorney General
3 State Bar No. 155307
California Department of Justice
4 300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
5 Telephone: (213) 576-7149
Facsimile: (213) 897-9395
6 *Attorneys for Complainant*

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

10 In the Matter of the Accusation Against,
11 **VICTORIA WHANSIL KIM, M.D.**
12 **5042 Wilshire Boulevard, #620**
Los Angeles, CA 90036
13 **Physician's and Surgeon's Certificate**
No. A 35061,

Case No. 11-2013-229621

DEFAULT DECISION
AND ORDER

[Gov. Code, §11520]

14 Respondent.
15

16 FINDINGS OF FACT

17 1. On or about February 3, 2015, Complainant Kimberly Kirchmeyer, in her official
18 capacity as the Executive Director of the Medical Board of California, Department of Consumer
19 Affairs, filed Accusation No. 11-2013-229621 against Victoria Whansil Kim, M.D. (Respondent)
20 before the Medical Board of California.

21 2. On or about March 27, 1980, the Medical Board of California (Board) issued
22 Physician's and Surgeon's Certificate No. A 35061 to Respondent. The Physician's and Surgeon's
23 Certificate expired on July 31, 2013, and has not been renewed. A true and correct copy of a
24 Certificate of Licensure for Respondent is Attached hereto as Exhibit A and incorporated herein
25 by reference.

26 3. Business and Professions Code section 118 states, in pertinent part:

27 "(b) The suspension, expiration, or forfeiture by operation of law of a license issued by a
28 board in the department, or its suspension, forfeiture, or cancellation by order of the board or by

1 order of a court of law, or its surrender without the written consent of the board, shall not, during
2 any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its
3 authority to institute or continue a disciplinary proceeding against the licensee upon any ground
4 provided by law or to enter an order suspending or revoking the license or otherwise taking
5 disciplinary action against the license on any such ground."

6 4. On or about February 3, 2015, Richard M. Acosta, an employee of the Complainant
7 Agency, served by Certified and First Class Mail a copy of the Accusation No. 11-2013-229621,
8 Statement to Respondent, Notice of Defense, Request for Discovery, and Government Code
9 sections 11507.5, 11507.6, and 11507.7 to Respondent's address of record with the Board, which
10 was and is 5042 Wilshire Boulevard #620, Los Angeles, CA 90036. True and correct copies of
11 the Accusation, the related documents, and Declaration of Service are attached as Exhibit B, and
12 are incorporated herein by reference.

13 5. Service of the Accusation was effective as a matter of law under the provisions of
14 Government Code section 11505, subdivision (c).

15 6. On or about February 17, 2015, the aforementioned documents were returned by the
16 U.S. Postal Service marked "Return to Sender, Attempted -Not Known, Unable to Forward." A
17 true and correct copy of the envelope returned by the post office is attached as Exhibit C, and is
18 incorporated herein by reference.

19 7. On or about April 12, 2016, a Courtesy Notice of Default was sent via First Class
20 Mail to Respondent to her address of record with the Board. A true and correct copy of the
21 Courtesy Notice of Default is attached as Exhibit D and incorporated herein by reference.

22 8. Government Code section 11506 states, in pertinent part:

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

27 9. A Notice of Defense in answer to the Accusation was due from Respondent within 15
28 day after service of the Accusation. To date, Respondent has not submitted a Notice of Defense

1 to the Board, Complainant or her counsel of record in this matter. Respondent has, therefore,
2 waived her right to a hearing on the merits of Accusation No. 11-2013-229621.

3 10. The Declaration of Judith T. Alvarado attesting to the foregoing facts is attached
4 hereto as Exhibit E and is incorporated herein by reference.

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

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

9 12. Pursuant to its authority under Government Code section 11520, the Board finds
10 Respondent is in default. The Board will take action without further hearing and, based on
11 Respondent's express admissions by way of default and the evidence before it, contained in
12 exhibits A, B, C, D, E and F, finds that the allegations in Accusation No. 11-2013-229621 are
13 true.

14 DETERMINATION OF FINDINGS

15 1. Based on the foregoing findings of fact, Respondent Victoria Whansil Kim, M.D. has
16 subjected her Physician's and Surgeon's Certificate No. A 35061 to discipline.

17 2. Pursuant to the authority under Government Code section 11520, and based upon the
18 evidence before it, the Board hereby finds that the charges and allegations contained in
19 Accusation No. 11-2013-229621, and the Findings of Fact contained in paragraphs 1 through 12,
20 above, and each of them, separately and severally, are true. A true and correct copy of
21 Accusation No. 11-2013-229621, and the related documents and Declaration of Service are
22 attached as Exhibit B.

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

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

26 a. Criminal Conviction: The Respondent's license is subject to disciplinary action
27 pursuant to Business and Professions Code section 2236, in that she sustained a felony criminal
28 conviction on or about December 13, 2012, by way of a plea of guilty, for the crime of illegal

1 remunerations for health care referrals, a felony, as charged in the single count Information [42
2 U.S.C. § 1320a-7b]. (See Exhibit F.)

3 b. Respondent was sentenced on December 13, 2012, to serve twelve months and
4 one day in federal prison. Respondent was ordered to pay restitution to the victims pursuant to 18
5 U.S.C. § 3663 subdivision (A), in the total amount of \$1,088,799.26. Respondent was held
6 jointly and severally liable with co-participants in the illegal remuneration scheme, to the extent
7 and for the amount that each is determined liable for the same victim losses. Respondent was
8 further ordered to three years supervised probation upon release from prison. As part of
9 Respondent's criminal probation she is ordered to not be employed in any position that requires
10 licensing and/or certification by any local, state or federal agency without prior approval from her
11 Probation Officer. Respondent is also to submit a DNA sample and to pay a special assessment.
12 (See Exhibit F.)

13 c. On April 29, 2013, Respondent surrendered herself to the Bureau of Prisons.
14 She was incarcerated at the Federal Medical Center-Carswell in Fort Worth, Texas. An
15 Automatic Suspension Order (ASO) was issued against Respondent's physician's and surgeon's
16 certificate on August 14, 2013. A true and correct copy of the ASO and all corresponding
17 exhibits are attached collectively as Exhibit F and incorporated herein by reference.

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FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO February 3, 2015
BY ANALYST

1 KAMALA D. HARRIS
Attorney General of California
2 JUDITH T. ALVARADO
Supervising Deputy Attorney General
3 State Bar No. 155307
California Department of Justice
4 300 South Spring Street, Suite 1702
Los Angeles, California 90013
5 Telephone: (213) 576-7149
Facsimile: (213) 897-9395
6 *Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:

Case No. 11-2013-229621

12 VICTORIA WHANSIL KIM, M.D.

13 5042 Wilshire Boulevard, #620
14 Los Angeles, CA 90036

ACCUSATION

15 Physician's and Surgeon's Certificate
No. A 35061,

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

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

23 2. On or about March 27, 1980, the Medical Board of California (Board) issued
24 Physician's and Surgeon's Certificate number A 35061 to Victoria Whansil Kim, M.D., aka, "Wan
25 Sil Kim," (Respondent). That certificate was retired on August 8, 2012, and expired on July 31,
26 2013.

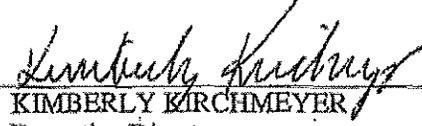
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4. Taking such other and further action as deemed necessary and proper.

DATED: February 3, 2015



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