

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

**In the Matter of the Accusation )  
Against: )  
)  
)  
TONY TUNG-TAN KING, M.D. )  
)  
Physician's and Surgeon's )  
Certificate No. G31861 )  
)  
Respondent )  
\_\_\_\_\_ )**

**Case No. 800-2015-012062**

**DECISION**

**The attached Stipulated Settlement and Disciplinary Order is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.**

**This Decision shall become effective at 5:00 p.m. on June 2, 2017.**

**IT IS SO ORDERED: May 25, 2017.**

**MEDICAL BOARD OF CALIFORNIA**



\_\_\_\_\_  
**Jamie Wright, JD, Chair  
Panel A**

1 XAVIER BECERRA  
Attorney General of California  
2 E. A. JONES III  
Supervising Deputy Attorney General  
3 BENETH A. BROWNE  
Deputy Attorney General  
4 State Bar No. 202679  
California Department of Justice  
5 300 So. Spring Street, Suite 1702  
Los Angeles, CA 90013  
6 Telephone: (213) 897-7816  
Facsimile: (213) 897-9395  
7 *Attorneys for Complainant*

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

11  
12 In the Matter of the Accusation Against:

Case No. 800-2015-012062

13 **TONY TUNG-TAN KING, M.D.**  
14 **28202 Cabot Road, #300**  
**Laguna Niguel, CA 92677**

OAH No. 2016110917

15 **Physician's and Surgeon's Certificate No.**  
16 **G31861,**

**STIPULATED SETTLEMENT AND**  
**DISCIPLINARY ORDER**

17 Respondent.

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

21 PARTIES

22 1. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical Board  
23 of California (Board). She brought this action solely in her official capacity and is represented in  
24 this matter by Xavier Becerra, Attorney General of the State of California, by Beneth A. Browne,  
25 Deputy Attorney General.

26 2. Tony Tung-Tan King, M.D. (Respondent) is represented in this proceeding by  
27 attorney Vincent J. Labarbera, Jr., whose address is: 4100 Newport Place Drive, Suite 620,  
28 Newport Beach, CA 92660.



1 discipline and he agrees to be bound by the Board's probationary terms as set forth in the  
2 Disciplinary Order below.

3 CIRCUMSTANCES IN MITIGATION

4 11. Respondent has never been the subject of any disciplinary action. He is admitting  
5 responsibility at an early stage in the proceedings.

6 CONTINGENCY

7 12. This stipulation shall be subject to approval by the Medical Board of California.  
8 Respondent understands and agrees that counsel for Complainant and the staff of the Medical  
9 Board of California may communicate directly with the Board regarding this stipulation and  
10 settlement, without notice to or participation by Respondent or his counsel. By signing the  
11 stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek  
12 to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails  
13 to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary  
14 Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal  
15 action between the parties, and the Board shall not be disqualified from further action by having  
16 considered this matter.

17 13. The parties understand and agree that Portable Document Format (PDF) and facsimile  
18 copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile  
19 signatures thereto, shall have the same force and effect as the originals.

20 14. In consideration of the foregoing admissions and stipulations, the parties agree that  
21 the Board may, without further notice or formal proceeding, issue and enter the following  
22 Disciplinary Order:

23 DISCIPLINARY ORDER

24 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. G31861 issued  
25 to Respondent Tony Tung-Tan King, M.D. is revoked. However, the revocation is stayed and  
26 Respondent is placed on probation for four (4) years on the following terms and conditions.

27 1. CONTROLLED SUBSTANCES - ABSTAIN FROM USE. Respondent shall abstain  
28 completely from the personal use or possession of controlled substances as defined in the

1 California Uniform Controlled Substances Act, dangerous drugs as defined by Business and  
2 Professions Code section 4022, and any drugs requiring a prescription. This prohibition does not  
3 apply to medications lawfully prescribed to Respondent by another practitioner for a bona fide  
4 illness or condition.

5 Within 15 calendar days of receiving any lawfully prescribed medications, Respondent  
6 shall notify the Board or its designee of the: issuing practitioner's name, address, and telephone  
7 number; medication name, strength, and quantity; and issuing pharmacy name, address, and  
8 telephone number.

9 2. ALCOHOL - ABSTAIN FROM USE. Respondent shall abstain completely from the  
10 use of products or beverages containing alcohol.

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

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

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

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

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

12           5.     NOTICE OF EMPLOYER OR SUPERVISOR INFORMATION. Within seven (7)  
13 days of the effective date of this Decision, respondent shall provide to the Board the names,  
14 physical addresses, mailing addresses, and telephone numbers of any and all employers and  
15 supervisors. Respondent shall also provide specific, written consent for the Board, respondent's  
16 worksite monitor, and respondent's employers and supervisors to communicate regarding  
17 respondent's work status, performance, and monitoring.

18           For purposes of this section, "supervisors" shall include the Chief of Staff and Health or  
19 Well Being Committee Chair, or equivalent, if applicable, when the respondent has medical staff  
20 privileges.

21           6.     BIOLOGICAL FLUID TESTING. Respondent shall immediately upon return to the  
22 United States on June 2, 2017, and thereafter submit to biological fluid testing, at respondent's  
23 expense, upon request of the Board or its designee. "Biological fluid testing" may include, but is  
24 not limited to, urine, blood, breathalyzer, hair follicle testing, or similar drug screening approved  
25 by the Board or its designee. Respondent shall make daily contact with the Board or its designee  
26 to determine whether biological fluid testing is required. Respondent shall be tested on the date  
27 of the notification as directed by the Board or its designee. The Board may order a respondent to  
28 undergo a biological fluid test on any day, at any time, including weekends and holidays. Except

1 when testing on a specific date as ordered by the Board or its designee, the scheduling of  
2 biological fluid testing shall be done on a random basis. The cost of biological fluid testing shall  
3 be borne by the respondent.

4 During the first year of probation, respondent shall be subject to 52 to 104 random tests.  
5 During the second year of probation and for the duration of the probationary term, up to five (5)  
6 years, respondent shall be subject to 36 to 104 random tests per year. Only if there has been no  
7 positive biological fluid tests in the previous five (5) consecutive years of probation, may testing  
8 be reduced to one (1) time per month. Nothing precludes the Board from increasing the number  
9 of random tests to the first-year level of frequency for any reason.

10 Prior to practicing medicine, respondent shall contract with a laboratory or service,  
11 approved in advance by the Board or its designee, that will conduct random, unannounced,  
12 observed, biological fluid testing and meets all the following standards:

13 (a) Its specimen collectors are either certified by the Drug and Alcohol Testing  
14 Industry Association or have completed the training required to serve as a collector for the  
15 United States Department of Transportation.

16 (b) Its specimen collectors conform to the current United States Department of  
17 Transportation Specimen Collection Guidelines

18 (c) Its testing locations comply with the Urine Specimen Collection Guidelines  
19 published by the United States Department of Transportation without regard to the type of  
20 test administered.

21 (d) Its specimen collectors observe the collection of testing specimens.

22 (e) Its laboratories are certified and accredited by the United States Department of  
23 Health and Human Services.

24 (f) Its testing locations shall submit a specimen to a laboratory within one (1)  
25 business day of receipt and all specimens collected shall be handled pursuant to chain of  
26 custody procedures. The laboratory shall process and analyze the specimens and provide  
27 legally defensible test results to the Board within seven (7) business days of receipt of the  
28 specimen. The Board will be notified of non-negative results within one (1) business day

1 and will be notified of negative test results within seven (7) business days.

2 (g) Its testing locations possess all the materials, equipment, and technical  
3 expertise necessary in order to test respondent on any day of the week.

4 (h) Its testing locations are able to scientifically test for urine, blood, and hair  
5 specimens for the detection of alcohol and illegal and controlled substances.

6 (i) It maintains testing sites located throughout California.

7 (j) It maintains an automated 24-hour toll-free telephone system and/or a secure  
8 on-line computer database that allows the respondent to check in daily for testing.

9 (k) It maintains a secure, HIPAA-compliant website or computer system that  
10 allows staff access to drug test results and compliance reporting information that is  
11 available 24 hours a day.

12 (l) It employs or contracts with toxicologists that are licensed physicians and have  
13 knowledge of substance abuse disorders and the appropriate medical training to interpret  
14 and evaluate laboratory biological fluid test results, medical histories, and any other  
15 information relevant to biomedical information.

16 (m) It will not consider a toxicology screen to be negative if a positive result is  
17 obtained while practicing, even if the respondent holds a valid prescription for the  
18 substance.

19 Prior to changing testing locations for any reason, including during vacation or other travel,  
20 alternative testing locations must be approved by the Board and meet the requirements above.

21 The contract shall require that the laboratory directly notify the Board or its designee of  
22 non-negative results within one (1) business day and negative test results within seven (7)  
23 business days of the results becoming available. Respondent shall maintain this laboratory or  
24 service contract during the period of probation.

25 A certified copy of any laboratory test result may be received in evidence in any  
26 proceedings between the Board and respondent.

27 If a biological fluid test result indicates respondent has used, consumed, ingested, or  
28 administered to himself or herself a prohibited substance, the Board shall order respondent to



1 cease practice and instruct respondent to leave any place of work where respondent is practicing  
2 medicine or providing medical services. The Board shall immediately notify all of respondent's  
3 employers, supervisors and work monitors, if any, that respondent may not practice medicine or  
4 provide medical services while the cease-practice order is in effect.

5 A biological fluid test will not be considered negative if a positive result is obtained while  
6 practicing, even if the practitioner holds a valid prescription for the substance. If no prohibited  
7 substance use exists, the Board shall lift the cease-practice order within one (1) business day.

8 After the issuance of a cease-practice order, the Board shall determine whether the positive  
9 biological fluid test is in fact evidence of prohibited substance use by consulting with the  
10 specimen collector and the laboratory, communicating with the licensee, his or her treating  
11 physician(s), other health care provider, or group facilitator, as applicable.

12 For purposes of this condition, the terms "biological fluid testing" and "testing" mean the  
13 acquisition and chemical analysis of a respondent's urine, blood, breath, or hair.

14 For purposes of this condition, the term "prohibited substance" means an illegal drug, a  
15 lawful drug not prescribed or ordered by an appropriately licensed health care provider for use by  
16 respondent and approved by the Board, alcohol, or any other substance the respondent has been  
17 instructed by the Board not to use, consume, ingest, or administer to himself or herself.

18 If the Board confirms that a positive biological fluid test is evidence of use of a prohibited  
19 substance, respondent has committed a major violation, as defined in section 1361.52(a), and the  
20 Board shall impose any or all of the consequences set forth in section 1361.52(b), in addition to  
21 any other terms or conditions the Board determines are necessary for public protection or to  
22 enhance respondent's rehabilitation.

23 7. WORKSITE MONITOR FOR SUBSTANCE-ABUSING LICENSEE. Within thirty  
24 (30) calendar days of the effective date of this Decision, respondent shall submit to the Board or  
25 its designee for prior approval as a worksite monitor, the name and qualifications of one or more  
26 licensed physician and surgeon, other licensed health care professional if no physician and  
27 surgeon is available, or, as approved by the Board or its designee, a person in a position of  
28 authority who is capable of monitoring the respondent at work.

1 The worksite monitor shall not have a current or former financial, personal, or familial  
2 relationship with respondent, or any other relationship that could reasonably be expected to  
3 compromise the ability of the monitor to render impartial and unbiased reports to the Board or its  
4 designee. If it is impractical for anyone but respondent's employer to serve as the worksite  
5 monitor, this requirement may be waived by the Board or its designee, however, under no  
6 circumstances shall respondent's worksite monitor be an employee or supervisee of the licensee.

7 The worksite monitor shall have an active unrestricted license with no disciplinary action  
8 within the last five (5) years, and shall sign an affirmation that he or she has reviewed the terms  
9 and conditions of respondent's disciplinary order and agrees to monitor respondent as set forth by  
10 the Board or its designee.

11 Respondent shall pay all worksite monitoring costs.

12 The worksite monitor shall have face-to-face contact with respondent in the work  
13 environment on as frequent a basis as determined by the Board or its designee, but not less than  
14 once per week; interview other staff in the office regarding respondent's behavior, if requested by  
15 the Board or its designee; and review respondent's work attendance.

16 The worksite monitor shall verbally report any suspected substance abuse to the Board and  
17 respondent's employer or supervisor within one (1) business day of occurrence. If the suspected  
18 substance abuse does not occur during the Board's normal business hours, the verbal report shall  
19 be made to the Board or its designee within one (1) hour of the next business day. A written  
20 report that includes the date, time, and location of the suspected abuse; respondent's actions; and  
21 any other information deemed important by the worksite monitor shall be submitted to the Board  
22 or its designee within 48 hours of the occurrence.

23 The worksite monitor shall complete and submit a written report monthly or as directed by  
24 the Board or its designee which shall include the following: (1) respondent's name and  
25 Physician's and Surgeon's Certificate number; (2) the worksite monitor's name and signature; (3)  
26 the worksite monitor's license number, if applicable; (4) the location or location(s) of the  
27 worksite; (5) the dates respondent had face-to-face contact with the worksite monitor; (6) the  
28 names of worksite staff interviewed, if applicable; (7) a report of respondent's work attendance;

1 (8) any change in respondent's behavior and/or personal habits; and (9) any indicators that can  
2 lead to suspected substance abuse by respondent. Respondent shall complete any required  
3 consent forms and execute agreements with the approved worksite monitor and the Board, or its  
4 designee, authorizing the Board, or its designee, and worksite monitor to exchange information.

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

14 8. VIOLATION OF PROBATION CONDITION FOR SUBSTANCE-ABUSING  
15 LICENSEES. Failure to fully comply with any term or condition of probation is a violation of  
16 probation.

17 A. If respondent commits a major violation of probation as defined by section 1361.52,  
18 subdivision (a), of Title 16 of the California Code of Regulations, the Board shall take one or  
19 more of the following actions:

20 (1) Issue an immediate cease-practice order and order respondent to undergo a  
21 clinical diagnostic evaluation to be conducted in accordance with section 1361.5,  
22 subdivision (c)(1), of Title 16 of the California Code of Regulations, at respondent's  
23 expense. The cease-practice order issued by the Board or its designee shall state that  
24 respondent must test negative for at least a month of continuous biological fluid testing  
25 before being allowed to resume practice. For purposes of the determining the length of  
26 time a respondent must test negative while undergoing continuous biological fluid testing  
27 following issuance of a cease-practice order, a month is defined as thirty calendar (30) days.  
28 Respondent may not resume the practice of medicine until notified in writing by the Board

1 or its designee that he or she may do so.

2 (2) Increase the frequency of biological fluid testing.

3 (3) Refer respondent for further disciplinary action, such as suspension, revocation,  
4 or other action as determined by the Board or its designee.

5 B. If respondent commits a minor violation of probation as defined by section 1361.52,  
6 subdivision (c), of Title 16 of the California Code of Regulations, the Board shall take one or  
7 more of the following actions:

8 (1) Issue a cease-practice order;

9 (2) Order practice limitations;

10 (3) Order or increase supervision of respondent;

11 (4) Order increased documentation;

12 (5) Issue a citation and fine, or a warning letter;

13 (6) Order respondent to undergo a clinical diagnostic evaluation to be conducted in  
14 accordance with section 1361.5, subdivision (c)(1), of Title 16 of the California Code of  
15 Regulations, at respondent's expense;

16 (7) Take any other action as determined by the Board or its designee.

17 C. Nothing in this Decision shall be considered a limitation on the Board's authority to  
18 revoke respondent's probation if he or she has violated any term or condition of probation. If  
19 respondent violates probation in any respect, the Board, after giving respondent notice and the  
20 opportunity to be heard, may revoke probation and carry out the disciplinary order that was  
21 stayed. If an Accusation, Petition to Revoke Probation, or Interim Suspension Order is filed  
22 against respondent during probation, the Board shall have continuing jurisdiction until the matter  
23 is final, and the period of probation shall be extended until the matter is final.

24 9. NOTIFICATION. Within seven (7) days of the effective date of this Decision, the  
25 Respondent shall provide a true copy of this Decision and Accusation to the Chief of Staff or the  
26 Chief Executive Officer at every hospital where privileges or membership are extended to  
27 Respondent, at any other facility where Respondent engages in the practice of medicine,  
28 including all physician and locum tenens registries or other similar agencies, and to the Chief

1 Executive Officer at every insurance carrier which extends malpractice insurance coverage to  
2 Respondent. Respondent shall submit proof of compliance to the Board or its designee within 15  
3 calendar days.

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

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

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

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

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

15 13. GENERAL PROBATION REQUIREMENTS.

16 Compliance with Probation Unit

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

19 Address Changes

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

25 Place of Practice

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

1           License Renewal

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

4           Travel or Residence Outside California

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

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

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

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

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

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

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

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

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

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

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

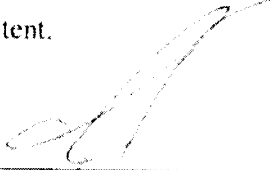
25 ACCEPTANCE

26 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully  
27 discussed it with my attorney, Vincent J. Labarbera, Jr., I understand the stipulation and the effect  
28 it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement

1 and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the  
2 Decision and Order of the Medical Board of California.

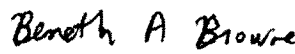
3  
4 DATED: 03/24/2017   
5 TONY TUNG-TAN KING, M.D.  
6 Respondent

7 I have read and fully discussed with Respondent TONY TUNG-TAN KING, M.D. the  
8 terms and conditions and other matters contained in the above Stipulated Settlement and  
9 Disciplinary Order. I approve its form and content.

10 DATED: 3/30/17   
11 VINCENT J. LABARBERA, JR.  
12 Attorney for Respondent

13 ENDORSEMENT

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

16 Dated: 4/4/2017 Respectfully submitted,  
17 XAVIER BECERRA  
18 Attorney General of California  
19 E. A. JONES III  
20 Supervising Deputy Attorney General  
21   
22 BENETH A. BROWNE  
23 Deputy Attorney General  
24 Attorneys for Complainant

24 LA2016500533  
25 62333557



**Exhibit A**

**Accusation No. 800-2015-012062**

1 KAMALA D. HARRIS  
Attorney General of California  
2 E. A. JONES III  
Supervising Deputy Attorney General  
3 BENETH A. BROWNE  
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7 *Attorneys for Complainant*

FILED  
STATE OF CALIFORNIA  
MEDICAL BOARD OF CALIFORNIA  
SACRAMENTO August 11, 2016  
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 Against:  
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14 **Physician's and Surgeon's Certificate**  
15 **No. G31861,**  
16 Respondent.

Case No. 800-2015-012062

**ACCUSATION**

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 (Board).

23 2. On or about June 21, 1976, the Medical Board issued Physician's and Surgeon's  
24 Certificate Number G31861 to Tony Tung-Tan King, 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 herein  
26 and will expire on September 30, 2017, 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 unless otherwise indicated.

2 4. Section 2229, subdivision (a), of the Code states:

3 “Protection of the public shall be the highest priority for the Division of Medical Quality,<sup>[1]</sup>  
4 the California Board of Podiatric Medicine, and administrative law judges of the Medical Quality  
5 Hearing Panel in exercising their disciplinary authority.”

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

10 6. Section 2234 of the Code states:

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

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

16 “. . .”

17 7. Section 2236 of the Code states:

18 “(a) The conviction of any offense substantially related to the qualifications, functions, or  
19 duties of a physician and surgeon constitutes unprofessional conduct within the meaning of this  
20 chapter [Chapter 5, the Medical Practice Act]. The record of conviction shall be conclusive  
21 evidence only of the fact that the conviction occurred.

22 “. . .

23 “(c) . . . The division may inquire into the circumstances surrounding the commission of a  
24 crime in order to fix the degree of discipline or to determine if the conviction is of an offense  
25 substantially related to the qualifications, functions, or duties of a physician and surgeon.

26 “(d) A plea or verdict of guilty or a conviction after a plea of nolo contendere is deemed to

27 <sup>1</sup> Pursuant to Business and Professions Code section 2002, the “Division of Medical  
28 Quality” or “Division” shall be deemed to refer to the Medical Board of California.

1 be a conviction within the meaning of this section and Section 2236.1. The record of conviction  
2 shall be conclusive evidence of the fact that the conviction occurred.”

3 8. California Code of Regulations, title 16, section 1360, states:

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

13 9. Section 490 of the Code provides, in pertinent part, that a board may suspend or  
14 revoke a license on the ground that the licensee has been convicted of a crime substantially related  
15 to the qualifications, functions, or duties of the business or profession for which the license was  
16 issued.

17 10. Section 493 of the Code states:

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

27 "As used in this section, 'license' includes 'certificate,' 'permit,' 'authority,' and 'registration.'"

28 11. Section 2239 of the Code states:



1 arrested and transported to the Santa Ana jail. He recalls that his blood alcohol content was 0.09  
2 percent. Respondent was convicted of driving under the influence of alcohol, placed on probation  
3 for five years and was required to attend a first offender program.<sup>2</sup>

4 2000 DUI Conviction

5 14. In or around December of 2000, Respondent was driving on the 5 Freeway near  
6 Laguna Hills or Laguna Niguel near the Crown Valley exit. He was pulled over by the California  
7 Highway Patrol for speeding and driving erratically at approximately 1:30 in the morning. He  
8 was impaired but he did not feel impaired at the time. His blood alcohol level was reportedly  
9 0.11%. He was convicted of driving under the influence of alcohol. He was required to attend an  
10 18 month program including attending weekly program meetings and biweekly classes.  
11 Additionally, he was required to attend six AA meetings and he was placed on probation for 10  
12 years.

13 2015 DUI Conviction

14 15. At or around 9 p.m. on Tuesday, February 17, 2015, Respondent drove to a sports bar  
15 in Huntington Beach and drank some beers. Later, early morning on Wednesday, February 18,  
16 2015, a California Highway Patrol officer and his partner in a clearly marked black and white  
17 CHP patrol vehicle, drove southbound on I-405. The officer observed Respondent's white Honda  
18 Accord ahead of him weave from side to side within its lane. The officer then observed  
19 Respondent's car weave left over the lane marker into the next lane and nearly collide with the  
20 right rear end of a car. Respondent's car then suddenly swerved back into its initial lane. There,  
21 it continued to weave within its lane, changed lanes left back to the lane of the near- accident,  
22 again weaved to the right over the lane marker and then changed lanes back into its initial lane.  
23 At that point, the CHP officer turned on its forward red lights and pulled Respondent over.

24 16. Respondent admitted to drinking two glasses of "Stella" beer at a bar in Westminster  
25 between 7 and 10 p.m. He stated he had last eaten at 12 p.m. He fumbled to obtain his driver's  
26

27 <sup>2</sup> In January of 2016, in interview with a Medical Board Central Investigation Unit  
28 investigator, Respondent admitted to the facts recited above in paragraphs 13 and 14 regarding  
convictions he received in 1995 and 2000.

1 license, dropping his wallet. He provided his AAA insurance card to the officer and advised that  
2 it was his driver's license. The officer asked Respondent to step out of the vehicle. Respondent  
3 staggered as he walked. His speech was slurred, eyes were bloodshot and he smelled strongly of  
4 alcohol. He was unable to successfully perform field sobriety tests that the officer demonstrated  
5 for him. From an evidentiary breath test, Respondent's blood alcohol content was reported as  
6 0.14% and 0.13%. Respondent was transported to the Orange County Jail, where he provided a  
7 blood sample and was booked into the jail at 3:26 a.m. As with his prior two DUI arrests,  
8 Respondent did not feel impaired.

9 17. On or about March 19, 2015, in *State of California vs. Tony Tung Tan King*, Orange  
10 County Superior Court Case Number 15WM03051, a complaint was filed against Respondent  
11 alleging two misdemeanor counts: (1) violation of Vehicle Code section 23152, subdivision (a)  
12 (driving under the influence of alcohol); and (2) violation of Vehicle Code section 23152,  
13 subdivision (b) (driving with blood alcohol 0.08% or more). Additionally, as to both counts, it  
14 was alleged that Vehicle Code section 23578 applied and Respondent's blood alcohol  
15 concentration had been 0.15% or more.<sup>3</sup> On or about April 28, 2015, Respondent's bail was set at  
16 \$10,000, to be posted by May 1, 2015.

17 18. On or about June 21, 2015, Respondent withdrew his plea of not guilty and entered  
18 plea of guilty to both counts. As the factual basis, he wrote, "On or about 2/18/15, in Orange  
19 County, I unlawfully drove a motor vehicle while under the influence of alcohol, and while my  
20 blood alcohol content was 0.08% or more; to wit, .14." He was convicted of both misdemeanors.  
21 Regarding count 2, the Court stayed the sentence pursuant to Penal Code 654. On count 1, the  
22 Court suspended imposition of sentence and placed Respondent on three years of informal  
23 probation subject to numerous terms and conditions. Among them, Respondent was required to  
24 attend and complete a three-month, level one, first-offender alcohol program, pay numerous fines  
25 and fees, and receive victim impact counseling. As Respondent recalls, until sometime in  
26 September of 2015, his driver's license was restricted to only permit him to drive to and from

27 <sup>3</sup> The right side of the caption of the complaint states "BC .16 BL," apparently indicating  
28 the result of Respondent's blood sample provided.

1 work and treatment.

2 Other Alcohol Use

3 19. Many years ago, Respondent estimated before 1996, once or twice he consumed  
4 alcohol during his lunch-break at a bar and returned to work while under the influence. He  
5 stopped doing that completely after he had a "wake-up call." As of February of 2015, Respondent  
6 drank about 50 alcoholic drinks per month and as of around January of 2016, he drank  
7 approximately 45 alcoholic drinks per month. Respondent does not believe he has any type of  
8 alcohol substance abuse issue or requires treatment. He continues to consume alcohol.

9 **SECOND CAUSE FOR DISCIPLINE**

10 **(Substantially Related Convictions)**

11 20. Respondent Tony Tung-Tan King, M.D. is subject to disciplinary action under  
12 sections 2236 and 490 in that he was convicted of offenses substantially related to the  
13 qualifications, functions, or duties of a physician and surgeon, thereby committing unprofessional  
14 conduct. The circumstances are as follows:

15 21. Paragraphs 13 through 20 are incorporated herein as if fully set forth.

16 **THIRD CAUSE FOR DISCIPLINE**

17 **(General Unprofessional Conduct)**

18 22. Respondent Tony Tung-Tan King, M.D. is subject to disciplinary action under section

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1 2234, subdivision (a), in that he committed general unprofessional conduct. The circumstances  
2 are as follows:

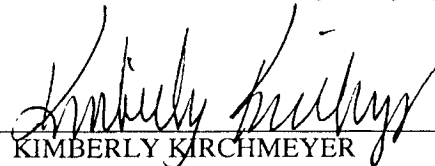
3 23. Paragraphs 13 through 22 are incorporated herein as if fully set forth.

4 **PRAYER**

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

- 7 1. Revoking or suspending Physician's and Surgeon's Certificate Number G31861,  
8 issued to Tony Tung-Tan King, M.D.;
- 9 2. Revoking, suspending or denying approval of Tony Tung-Tan King, M.D.'s authority  
10 to supervise physician assistants, pursuant to section 3527 of the Code;
- 11 3. Ordering Tony Tung-Tan King, M.D., if placed on probation, to pay the Board the  
12 costs of probation monitoring; and
- 13 4. Taking such other and further action as deemed necessary and proper.

14  
15 DATED: August 11, 2016

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

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