

COMMONWEALTH OF MASSACHUSETTS  
BOARD OF REGISTRATION IN MEDICINE

MIDDLESEX, ss

Adjudicatory Case No. 2023-003  
(RM-23-0035)

In the Matter of

Tae Gyun Kim, M.D.

FINAL DECISION AND ORDER

This matter came before the Board for final disposition on the basis of the Administrative Magistrate's Recommended Decision, dated April 12, 2023, which found Tae Gyun Kim, M.D. (Respondent), in default. Neither party filed Objections to the Recommended Decision or Memoranda on Disposition. After full consideration of that Recommended Decision, which is attached hereto and incorporated by reference, the Board adopts the Recommended Decision and adds the following:

Findings of Fact

*Biographical Information*

1. The Respondent graduated from Yonsei University College of Medicine in 1998 and completed residency at the University of Pennsylvania in July 2018. He was licensed to practice medicine in Massachusetts under certificate number 235558 on June 4, 2008. The Respondent's Massachusetts medicine license lapsed on September 12, 2012.

*Factual Allegations*

2. The Respondent graduated from Yonsei University College of Medicine in 1998 and completed residency at the University of Pennsylvania in July 2018. He was licensed to practice medicine in Massachusetts under certificate number 235558 on June 4, 2008. The Respondent's Massachusetts medicine license lapsed on September 12, 2012.

3. Between approximately June 2016 and March 2019, the Respondent submitted and caused the submission of false and fraudulent claims to Medicare including a) seeking payment for administering injections into major joints when in fact, he did not

provide such injections; and b) seeking payment for administering injections into major joints with the assistance of ultrasound technology when in fact, he did not use ultrasound technology during those procedures.

4. In furtherance of the fraudulent scheme, Respondent submitted and caused to be submitted approximately \$421,293.00 in claims to Medicare for the aspiration from, or injection into, a major joint. In total, the Respondent was paid approximately \$314,512.63.

5. As a result of this fraudulent scheme, the Respondent was indicted by a federal grand jury in the US District Court for the Eastern District of New York ("New York federal court"), and subsequently pled guilty on July 29, 2021, to one count of Health Care Fraud in violation of 18 U.S.C. sec. 1347. He was sentenced to fourteen months in prison to be followed by one year of supervised release and ordered to pay \$314,512.63 in restitution.

6. The Respondent was licensed to practice medicine in New York at the time of his conviction.

7. Based on his guilty plea in the New York federal court, the NY Board summarily suspended the Respondent's NY License on June 22, 2022.

8. After a hearing on November 17, 2022, before the NY Board, the NY Board revoked the Respondent's NY License effective November 28, 2022.

#### Conclusions of Law

Since the matter was decided on the basis of a default at DALA, the Magistrate made no determinations as to Conclusions of Law. Based upon the facts set out in the Statement of Allegations, which facts are now admitted, the Board can properly conclude the following:

A. The Respondent was disciplined in another jurisdiction by the proper licensing authority for reasons substantially the same as those set forth in M.G.L. c. 112, §5 or 243 CMR 1.03(5). More specifically, the Respondent has:

- i. violated 243 CMR 1.03(5)(a)7, by being convicted of a crime;
- ii. violated 243 CMR 1.03(5)(a)10, by practicing medicine deceitfully, or engaging in conduct which has the capacity to deceive or defraud;

- iii. violated 243 CMR 1.03(5)(a)(18) by committing misconduct in the practice of medicine; and
- iv. violated 243 CMR 1.03(5)(a)(13) by violating 243 CMR 2.07(15) governing Medicare Payments.

B. Pursuant to G. L. c. 112, §5, eighth par. (g), the Respondent has been convicted of a criminal offense which reasonably calls into question his ability to practice medicine.

C. The Respondent has engaged in conduct that undermines the public confidence in the integrity of the medical profession. Levy v. Board of Registration in Medicine, 378 Mass. 519 (1979); Raymond v. Board of Registration in Medicine, 387 Mass. 708 (1982).

#### Sanction

When determining the appropriate sanction where there has been criminal conduct, the Board takes into consideration the nature of the offense, whether the criminal conduct occurred during the course of the practice of medicine or was related to the practice of medicine, the impact of the physician's misconduct and any mitigating or aggravating circumstances. The present matter involves a conviction for Medicaid Fraud. When the criminal charges have involved Medicare fraud, the Board has determined the appropriate sanction is revocation. See, In the Matter of Anna D. Steiner, M.D., Board of Registration in Medicine, Adjudicatory case No 2019-048 (Final Decision and Order, June 25, 2020) (Physician was indicted in US District Court in New York for participating in an alleged telemedicine scheme to submit fraudulent claims to Medicare and private insurance companies and receive kickbacks for prescribing and ordering durable medical equipment, prescription drugs and diagnostic tests that were neither medically necessary nor resulted from an examination or consultation with a physician. Physician's inchoate right to renew was revoked.), In the Matter of Paul M. Willette, M.D., Board of Registration in Medicine, Adjudicatory Case No. 2017-035 (Final Decision and Order, September 13, 2018) (Physician's license was revoked in New Mexico for fraudulent billing practices and failing to render adequate emergency services to 10 patients. Physician was defaulted at DALA in Massachusetts and subsequently had his inchoate right to a license revoked), and In the Matter of Joseph A. Zadrozny, MD.,

Board of Registration in Medicine, Adjudicatory Case No. 93-5-DALA (Final Decision and Order, June 8, 1994) (Board revoked physician's license where physician filed multiple false Medicaid claims for treatment he never provided.).

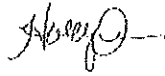
Where there has been a default, the Board has also historically imposed revocation as the sanction. In addition to submitting false and fraudulent claims to Medicare, the Respondent failed to respond to Board and DALA notices to defend himself against the allegations of impropriety raised by the Board. In situations such as this, the Board has revoked the licenses of such physicians. See, In the Matter of Daniel R. Nevarre, M.D., Board of Registration in Medicine, Adjudicatory Case No. 2019-022 (Final Decision and Order, October 24, 2019) (revocation of inchoate right to renew license for default judgment in Massachusetts and for pleading guilty to Medicare fraud and insurance fraud in Pennsylvania, resulting in voluntary surrender of medical license in that state); In the Matter of Paula M. Nelson, M.D., Board of Registration in Medicine, Adjudicatory Case No. 2018-041 (Final Decision and Order, June 28, 2019) (revocation for default in case involving revocation of inchoate right to renew in Maryland, where physician was found to have engaged in improper billing for care and improper care provided. DALA found "blatant disregard of DALA hearing process, Order to Show Cause, and the authority of the Board of Registration in Medicine."), and In the Matter of Gerardo Yanayaco, M.D., Board of Registration in Medicine, Adjudicatory Case No. 2008-047 (Final Decision and Order, June 16, 2010) (revocation for default involving criminal conviction for insurance fraud, grand larceny, offering a false instrument for filing, falsifying a business record, and participating in a scheme to defraud involving billing for services not provided, billing for medically unnecessary tests and for tests not performed, and upcoding);

For these reasons, the Board hereby REVOKES the Respondent's inchoate right to renew his license effective as of the date of this Final Decision and Order.

The Respondent shall provide a complete copy of this Final Decision and Order, with all exhibits and attachments within ten (10) days by certified mail, return receipt requested, or by hand delivery to the following designated entities: any in- or out-of-state hospital, nursing home, clinic, other licensed facility, or municipal, state, or federal facility at which he practices medicine; any in- or out-of-state health maintenance

organization with whom he has privileges or any other kind of association; any state agency, in- or out-of-state, with which he has a provider contract; any in- or out-of-state medical employer, whether or not he practices medicine there; the state licensing boards of all states in which he has any kind of license to practice medicine; the Drug Enforcement Administration – Boston Diversion Group; and the Massachusetts Department of Public Health Drug Control Program. The Respondent shall also provide this notification to any such designated entities with which he becomes associated for the duration of this revocation. The Respondent is further directed to certify to the Board within ten (10) days that he has complied with this directive. The Board expressly reserves the authority to independently notify, at any time, any of the entities designated above, or any other affected entity, of any action it has taken. The Respondent has the right to appeal this Final Decision and Order within thirty (30) days, pursuant to G.L. c. 30A, §§14 and 15, and G.L. c. 112, § 64.

Date: August 3, 2023



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Holly Oh, M.D.  
Vice Chair