

BEFORE THE ARIZONA MEDICAL BOARD

In the Matter of

KIUP A. KIM, M.D.

Holder of License No. 42708
For the Practice of Allopathic Medicine
In the State of Arizona.

**Case Nos. MD-19-0801A, MD-19-1166A,
MD-20-0087A**

**ORDER FOR DECREE OF CENSURE,
CIVIL PENALTY AND PROBATION;
AND CONSENT TO THE SAME**

Kiup A. Kim, M.D. ("Respondent") elects to permanently waive any right to a hearing and appeal with respect to this Order for Decree of Censure, Civil Penalty and Probation; admits the jurisdiction of the Arizona Medical Board ("Board"); and consents to the entry of this Order by the Board.

FINDINGS OF FACT

1. The Board is the duly constituted authority for the regulation and control of the practice of allopathic medicine in the State of Arizona.

2. Respondent is the holder of license number 42708 for the practice of allopathic medicine in the State of Arizona.

3. The Board initiated case numbers MD-19-0801A, MD-19-1166A and MD-20-0087A pursuant to the Board's Letter of Reprimand and Probation; and Consent to the Same issued on December 7, 2017 in Case numbers MD-15-0710A, MD15-1130A, MD15-1190A and MD-16-1121A. The Order requires Respondent undergo quarterly chart reviews with a Board-approved monitoring company.

4. In each of the cases referenced herein, the monitoring company found deficiencies in Respondent's documentation, and/or identified patients for whom Respondent failed to meet generally accepted standards of practice.

5. Based on concerns raised during the monitoring company's reviews in these cases, Board staff requested Medical Consultant ("MC") review to further address whether Respondent's treatment of the patients met generally accepted standards of care.

MD-19-0801A

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

6. An MC reviewed Respondent's care and treatment of three patients and identified standard of care or documentation deficiencies regarding two of them ("AS" "AB").

7. AS was an 89 year-old male with a non-healing ulcer on the bottom of his right foot. AS had a past medical history of deep vein thrombosis ("DVT"), left below the knee amputation ("BKA"), paraplegia from a motor vehicle accident, and was wheelchair bound. On examination, AS had no pedal pulses and a 2.5x2.5cm wound with exposed fat pad. A duplex scan showed a clot in the femoral vein and monophasic signals from the femoral artery distally. Respondent diagnosed an acute DVT and prescribed Eliquis. Respondent continued to see AS over the course of six months for treatment including four duplex venous and arterial examinations.

8. The standard of care requires a physician to perform testing that is clinically indicated. Respondent deviated from this standard of care by performing duplex studies on Patient AS that were not clinically indicated.

9. Actual patient harm was identified for Patient AS in that the patient's wounds showed no significant signs of healing despite eighteen office visits over six months.

10. AB was a 65 year-old female with varicose veins. AB's initial duplex scan confirmed the diagnosis and Respondent performed an endovenous ablation of her right greater saphenous vein ("GSV"). AB had multiple return visits for sclerotherapy.

11. With regard to Patient AB, the MC determined that Respondent failed to document the vein size, presence of reflux, or vein locations for the sclerotherapy procedures. The MC also noted that a treatment plan was not documented.

MD-19-1166A

12. An MC reviewed Respondent's care and treatment of four patients ("DR" "LG" "RM" and "MW") and identified deviations from the standard of care and/or documentation deficiencies regarding all of them.

Patient DR

13. DR was a 46 year-old female with leg pain, swelling and cramping with a history of bilateral leg ulcers and blisters. DR had a past medical history of hyperlipidemia and hypothyroidism. On examination of DR, Respondent noted bilateral lower extremity pedal pulses, edema, visible varicose veins, and hyperpigmentation. A bilateral lower extremity doppler ultrasound was performed the same day and showed 0.5 sec of reflux to the right GSV with no reflux to the right lesser Saphenous vein ("LSV"). The left GSV showed 3 sec of reflux. A duplicate left GSV showed 0.5 sec of reflux, and the left LSV showed 0.5 sec of reflux. There was no evidence of DVT to either lower extremity.

14. On April 16, 2019, a bilateral lower extremity arterial doppler ultrasound was performed and was normal. On May 22, 2019, Respondent performed an endovenous laser treatment ("EVLT") of the left GSV. A bilateral lower extremity ultrasound showed closure of the left GSV with no DVT.

15. On June 3, 2019, Respondent performed an ELVT on the right GSV. A bilateral lower extremity ultrasound was performed and showed bilateral GSV closure status-post ablation.

Patient LG

16. LG was a 65 year-old female with concerns of left lower extremity ulcers with pain and swelling for two years. LG had a past medical history of hypertension ("HTN") asthma, fatigue, hyperlipidemia, and varicose veins. On examination of LG, Respondent noted bilateral lower extremity edema, varicose veins, hyperpigmentation and venous ulcers

1 to the left leg with ulceration of 3x4 inches combined. Respondent placed an Unna Boot. A
2 bilateral lower extremity venous doppler ultrasound was performed and showed that the
3 right femoral vein showed no reflux and the right GSV showed evidence of "0.5 sec reflux
4 along the Saphenous femoral junction. The right LSV showed 0.5 seconds of reflux at the
5 right Saphenous popliteal junction. The left femoral vein showed no reflux. The left GSV
6 showed 1 sec of reflux, and the left LSV showed 1 sec of reflux.

7 17. On May 3, 2019, Respondent performed an EVLT of the left GSV.
8 Respondent performed bilateral ultrasounds after the unilateral procedure. On June 5,
9 2019, Respondent performed sclerotherapy of symptomatic right lower extremity varicose
10 veins with hypertonic saline solution.

11 18. On June 7, 2019, a repeat bilateral lower extremity venous insufficiency
12 ultrasound was performed that showed no DVT and the left GSV remained closed.

13 Patient RM

14 19. RM was a 43 year-old male with of varicose veins, leg swelling, and prior
15 venous ulcer. RM's past medical history included diabetes, HTN, and morbid obesity with
16 a weight of 428 pounds. RM's exam noted bilateral calf and ankle edema, visible varicose
17 veins, hyperpigmentation, and bilateral pedal pulses. A bilateral lower extremity venous
18 doppler was performed and showed no reflux to the right common femoral vein (FV) and 2
19 seconds of reflux to the right GSV along the right Saphenous femoral junction. The right
20 LSV showed 0.5 sec reflux at the right Saphenous popliteal junction. The left common FV
21 showed no reflux, with 1 sec reflux to the left GSV, and 3 sec of reflux to the left LSV. Dr.
22 Kim prescribed a home lymphedema pump.

23 20. On June 6, 2019, Respondent performed an EVLT to the right GSV. A
24 bilateral lower extremity ultrasound showed closure of the right GSV with no DVT and
25 unchanged left lower extremity findings.

1 Deviations from the Standard of Care

2 27. The standard of care prohibits a physician from performing an EVLT
3 procedure that is not clinically indicated. Respondent deviated from the standard of care
4 by performing EVLT procedures on DR, LG, RM and MW without clinical indication.

5 28. The standard of care requires a physician to perform testing that is clinically
6 indicated. Respondent deviated from the standard of care by performing ultrasounds on
7 DR, LG, RM and MW that were not clinically indicated.

8 29. There was potential for patient harm in that all patients were at risk for the
9 potential complications of the procedures performed.

10 **MD-20-0087A**

11 30. An MC reviewed Respondent's care and treatment of three patients ("RE"
12 "MA" and "RF") and identified deviations from the standard of care and/or documentation
13 deficiencies regarding all of them.

14 31. RE was a 55 year-old male with complaints of leg swelling and pain. RE had
15 a past medical history of morbid obesity (510 pounds) and HTN on multiple anti-
16 hypertensive medications. Respondent performed an arterial ultrasound.

17 32. MA was a 37 year-old female with leg swelling and pain. MA had a history of
18 an EVLT procedure to her left leg. A venous ultrasound of both legs was performed. On
19 August 8, 2019, Respondent performed an EVLT to MA's right GSV. A repeat ultrasound
20 was performed on both legs. On October 17, 2019, Respondent performed an EVLT to
21 MA's right LSV.

22 33. The standard of care requires a physician to perform blood pressure checks.
23 Respondent deviated from the standard of care for Patient RE by failing to perform blood
24 pressure checks.

ORDER

IT IS HEREBY ORDERED THAT:

1. Respondent is issued a Decree of Censure.
2. Respondent is assessed a \$5000.00 Civil Penalty. The Civil Penalty shall be paid, by certified funds, within 90 days of the effective date of this Order.
3. Respondent is placed on Probation for a period of 2 years with the following

terms and conditions:

a. Chart Reviews

Within 30 days of the effective date of this Order, Respondent shall enter into a contract with a Board-approved monitoring company to perform periodic chart reviews at Respondent's expense. The chart reviews shall involve current patients receiving venous treatment for care rendered after the date of this Order. Based upon the chart review, the Board retains jurisdiction to take additional disciplinary or remedial action.

b. Obey All Laws

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

c. Tolling

In the event Respondent should leave Arizona to reside or practice outside the State or for any reason should Respondent stop practicing medicine in Arizona, Respondent shall notify the Executive Director in writing within ten days of departure and return or the dates of non-practice within Arizona. Non-practice is defined as any period of time exceeding thirty days during which Respondent is not engaging in the practice of medicine. Periods of temporary or permanent residence or practice outside Arizona or of non-practice within Arizona, will not apply to the reduction of the probationary period.

d. Probation Termination

After 2 consecutive favorable chart reviews, Respondent may petition the Board to terminate the Probation. Respondent must submit a written request to the Board for release from the terms of this Order. Respondent's request for release will be placed on the next pending Board agenda, provided a complete submission is received by Board staff no less than 30 days prior to the Board meeting. Respondent's request for release must provide the Board with evidence establishing that he has successfully satisfied all of the terms and conditions of this Order. The Board has the sole discretion to determine whether all of the terms and conditions of this Order have been met or whether to take any other action that is consistent with its statutory and regulatory authority.

4. The Board retains jurisdiction and may initiate new action against Respondent based upon any violation of this Order. A.R.S. § 32-1401(27)(s)

DATED AND EFFECTIVE this 8th day of April, 2021.

ARIZONA MEDICAL BOARD

By Patricia E. McSorley
Patricia E. McSorley
Executive Director

CONSENT TO ENTRY OF ORDER

1. Respondent has read and understands this Consent Agreement and the stipulated Findings of Fact, Conclusions of Law and Order ("Order"). Respondent acknowledges he has the right to consult with legal counsel regarding this matter.

2. Respondent acknowledges and agrees that this Order is entered into freely and voluntarily and that no promise was made or coercion used to induce such entry.

1 3. By consenting to this Order, Respondent voluntarily relinquishes any rights to
2 a hearing or judicial review in state or federal court on the matters alleged, or to challenge
3 this Order in its entirety as issued by the Board, and waives any other cause of action
4 related thereto or arising from said Order.

5 4. The Order is not effective until approved by the Board and signed by its
6 Executive Director.

7 5. All admissions made by Respondent in this Order are solely for final
8 disposition of this matter and any subsequent related administrative proceedings or civil
9 litigation involving the Board and Respondent. Therefore, said admissions by Respondent
10 are not intended or made for any other use, such as in the context of another state or
11 federal government regulatory agency proceeding, civil or criminal court proceeding, in the
12 State of Arizona or any other state or federal court.

13 6. Notwithstanding any language in this Order, this Order does not preclude in
14 any way any other State agency or officer or political subdivision of this state from
15 instituting proceedings, investigating claims, or taking legal action as may be appropriate
16 now or in the future relating to this matter or other matters concerning Respondent,
17 including but not limited to, violations of Arizona's Consumer Fraud Act. Respondent
18 acknowledges that, other than with respect to the Board, this Order makes no
19 representations, implied or otherwise, about the views or intended actions of any other
20 state agency or officer or political subdivisions of the State relating to this matter or other
21 matters concerning Respondent.

22 7. Upon signing this agreement, and returning this document (or a copy thereof)
23 to the Board's Executive Director, Respondent may not revoke the consent to the entry of
24 the Order. Respondent may not make any modifications to the document. Any
25

1 modifications to this original document are ineffective and void unless mutually approved
2 by the parties.

3 8. This Order is a public record that will be publicly disseminated as a formal
4 disciplinary action of the Board and will be reported to the National Practitioner's Data
5 Bank and on the Board's web site as a disciplinary action.

6 9. If any part of the Order is later declared void or otherwise unenforceable, the
7 remainder of the Order in its entirety shall remain in force and effect.

8 10. If the Board does not adopt this Order, Respondent will not assert as a
9 defense that the Board's consideration of the Order constitutes bias, prejudice,
10 prejudgment or other similar defense.

11 11. Any violation of this Order constitutes unprofessional conduct and may result
12 in disciplinary action. A.R.S. § § 32-1401(27)(s) ("[v]iolating a formal order, probation,
13 consent agreement or stipulation issued or entered into by the board or its executive
14 director under this chapter.") and 32-1451.

15 12. Respondent acknowledges that, pursuant to A.R.S. § 32-2501(16), he
16 cannot act as a supervising physician for a physician assistant while his license is on
17 probation.

18 13. ***Respondent has read and understands the conditions of probation.***

19
20  8B15A765AD134F4...
21 _____ DATED: 3/30/2021
22 KIUP A. KIM, M.D. _____
23
24
25

1 EXECUTED COPY of the foregoing mailed
2 this 8th day of April, 2021 to:

3 Kiup A. Kim, M.D.
4 Address of Record

5 ORIGINAL of the foregoing filed
6 this 8th day of April, 2021 with:

7 Arizona Medical Board
8 1740 West Adams, Suite 4000
9 Phoenix, Arizona 85007

10 Michelle Kozes
11 Board staff
12
13
14
15
16
17
18
19
20
21
22
23
24
25