

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

In the Matter of the Accusation )  
Against: )  
 )  
**GENE SHIRE BABBITT, M.D.** )  
 )  
Physician's and Surgeon's )  
Certificate No. G 55319 )  
 )  
Respondent. )  
\_\_\_\_\_ )

File No. 12-2007-183127

**DECISION**

The attached Stipulated Surrender of License is hereby adopted by the Medical Board of California, Department of Consumer Affairs, State of California as its Decision in the above entitled matter.

This Decision shall become effective at **5:00 p.m. on October 5, 2010.**

**IT IS SO ORDERED** September 28, 2010

  
\_\_\_\_\_  
Linda K. Whitney  
Executive Director

1 EDMUND G. BROWN JR.  
Attorney General of California  
2 JOSE R. GUERRERO  
Supervising Deputy Attorney General  
3 VIVIEN H. HARA  
Deputy Attorney General  
4 State Bar No. 84589  
455 Golden Gate Avenue, Suite 11000  
5 San Francisco, CA 94102-7004  
Telephone: (415) 703-5513  
6 Facsimile: (415) 703-5480  
E-mail: vivien.hara@doj.ca.gov  
7 *Attorneys for Complainant*

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:	Case No. 12 2007 183127
12 <b>GENE SHIRE BABBITT, M.D.</b>	OAH No. 2010060452
13 <b>Physician and Surgeon's Certificate No.</b>	<b>STIPULATED SURRENDER OF</b>
14 <b>G55319</b>	<b>LICENSE AND ORDER</b>
15 Respondent.	

16 In the interest of a prompt and speedy resolution of this matter, consistent with the public  
17 interest and the responsibility of the Medical Board of California of the Department of Consumer  
18 Affairs the parties hereby agree to the following Stipulated Surrender of License and Order which  
19 will be submitted to the Board for approval and adoption as the final disposition of the  
20 Accusation.

21 PARTIES

22 1. Linda K. Whitney (Complainant) is the Executive Director of the Medical Board of  
23 California. She brought this action solely in her official capacity and is represented in this matter  
24 by Edmund G. Brown Jr., Attorney General of the State of California, by Vivien H. Hara, Deputy  
25 Attorney General.

26 2. Respondent Gene Shire Babbitt, M.D. is representing himself in this proceeding and  
27 has chosen not to exercise his right to be represented by counsel.  
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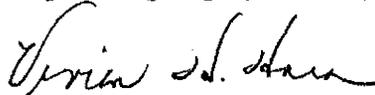
ENDORSEMENT

The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted for consideration by the Medical Board of California of the Department of Consumer Affairs.

Dated: September 10, 2010.

Respectfully submitted,

EDMUND G. BROWN JR.  
Attorney General of California  
JOSE R. GUERRERO  
Supervising Deputy Attorney General



VIVIEN H. HARA  
Deputy Attorney General  
*Attorneys for Complainant*

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Stipulation.rtf

**Exhibit A**

**Accusation No. 12 2007 183127**

1 EDMUND G. BROWN JR.  
Attorney General of California  
2 JOSE R. GUERRERO  
Supervising Deputy Attorney General  
3 VIVIEN H. HARA  
Deputy Attorney General  
4 State Bar No. 84589  
455 Golden Gate Avenue, Suite 11000  
5 San Francisco, CA 94102-7004  
Telephone: (415) 703-5513  
6 Facsimile: (415) 703-5480  
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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:

Case No. 12-2007-183127

12 **GENE SHIRE BABBITT, M.D.**

13 547 Montebello Drive  
Santa Rosa CA 95403  
14 Physician and Surgeon's Certificate No.  
G55319

**ACCUSATION**

15  
16 Respondent.

17 Complainant alleges:

18 **PARTIES**

19 1. Linda K. Whitney (Complainant) brings this Accusation solely in her official capacity  
20 as the Interim Executive Director of the Medical Board of California, Department of Consumer  
21 Affairs.

22 2. On or about July 16, 1985, the Medical Board of California issued Physician and  
23 Surgeon's Certificate Number G55319 to Gene Shire Babbitt, M.D. (respondent). Unless  
24 renewed, said Certificate will expire on February 28, 2011.

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JURISDICTION

3. This Accusation is brought before the Medical Board of California (Board)<sup>1</sup>, Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

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

5. Section 2234 of the Code states, in pertinent part:

"The Division of Medical Quality shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:

"(d) Incompetence."

6. Section 2292 of the Code states:

"(a) A licensee may be ordered to undergo a professional competency examination if, after investigation and review by a medical expert designated by the division or the Board of Podiatric Medicine, as applicable, there is reasonable cause to believe that the licensee is unable to practice medicine with reasonable skill and safety to patients. Reasonable cause shall be demonstrated by one or more of the following: (1) a single incident of gross negligence; (2) a pattern of inappropriate prescribing; (3) an act of incompetence or negligence causing death or serious bodily injury; or (4) a pattern of substandard care.

"(b) The results of a competency examination shall be admissible as direct evidence and may be considered relevant in any subsequent disciplinary or interim proceeding against the licensee taking it, and, assuming it is determined to be relevant, shall be considered together with other relevant evidence in making a final determination.

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<sup>1</sup> Any references to the Division of Medical Quality shall also be deemed to refer to the Medical Board of California. (Bus. & Prof. Code §2002)

1           (c) Upon referral from the division, the matter shall be drafted and presented by the Senior  
2 Assistant Attorney General of the Health Quality Enforcement Section or his or her designee by  
3 way of a written petition detailing the reasonable cause. The petition shall contain all conclusions  
4 and facts upon which the presumption of reasonable cause is based. A copy of the petition shall  
5 be served on the physician who shall have the opportunity to file written opposition to the petition  
6 within 30 days after service. Service of the petition and any orders shall be in accordance with  
7 the methods of service authorized by subdivision (c) of Section 11505 of the Government Code.

8           (d) A panel of the division shall review the petition and any opposition paper from the  
9 physician, or the panel of the division, or an administrative law judge to whom the petition is  
10 assigned by the division, may hold a hearing in accordance with the provisions of the  
11 Administrative Procedure Act to determine if reasonable cause exists, as specified in subdivision  
12 (a). The physician shall have the right to be represented at that hearing by the person of his or her  
13 choice. If the panel of the division or administrative law judge is satisfied that reasonable cause  
14 exists as to the circumstances specified in subdivision (a), the division or panel shall issue an  
15 order compelling the physician to undergo an examination of professional competency as  
16 measured by community standards. For purposes of this section, 'community standards' means  
17 the statewide standards of the community of licensees. Failure to comply with the order duly  
18 served on the physician shall constitute unprofessional conduct for purposes of disciplinary  
19 proceedings."

20           7. Section 2293 of the Code states:

21           (a) The professional competency examination shall be in the form of an oral clinical  
22 examination to be administered by three physician examiners selected by the division or its  
23 designee, who shall test for medical knowledge specific to the physician's specialty or specific  
24 suspected deficiency. The examination shall be tape recorded.

25           (b) A failing grade from two of the examiners shall constitute a failure of an examination.  
26 In the event of a failure, the board shall supply a true and correct copy of a tape of the  
27 examination to the unsuccessful examinee.



1 The Medical Board began an investigation into the matter, and the Board's radiology expert  
2 reviewed 28 cases and found that in 14 of the cases, respondent exhibited simple negligence,  
3 incompetence, or gross negligence.

4 10. Respondent was duly served with the Order Compelling Professional Competency  
5 Examination on August 20, 2009, and the Board retained three (3) Board-Certified Radiologists  
6 to design and conduct the examination. The examiners prepared clinical questions for  
7 respondent, directed at respondent's specialty and or specific suspected deficiency as identified.  
8 Each examiner was directed to score each of the questions separately with no discussion with the  
9 other examiners.

10 11. On November 9, 2009, respondent's Professional Competency Examination was  
11 conducted before the examiners in Sacramento, CA. The examination was recorded. Respondent  
12 had to achieve a score of 70/100 from at least two of the examiners to pass the examination.  
13 Respondent was given a failing score by all three (3) examiners with scores of 46, 59, and 67.  
14 Respondent was notified of the results of his professional competency examination and provided  
15 with a copy of the audio tape of the examination on December 3, 2009. Respondent has not  
16 requested a hearing pursuant to Business and Professions Code section 2293(c).

17 PRAYER

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

20 1. Revoking or suspending Physician and Surgeon's Certificate Number G55319, issued  
21 to Gene Shire Babbitt, M.D..

22 2. Revoking, suspending or denying approval of Gene Shire Babbitt, M.D.'s authority to  
23 supervise physician assistants, pursuant to section 3527 of the Code;

24 3. Ordering respondent to pay the costs of probation monitoring, if he is placed on  
25 probation; and

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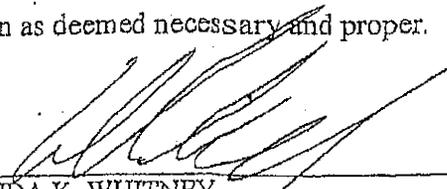
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4. Taking such other and further action as deemed necessary and proper.

DATED: February 22, 2010

  
LINDA K. WHITNEY  
Interim Executive Director  
Medical Board of California  
Department of Consumer Affairs  
State of California  
*Complainant*

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