

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

In the Matter of the Accusation)
Against:)
)
YASHWANT BALGIRI GIRI, M.D.) Case No. 04-2011-214794
)
Physician's and Surgeon's)
Certificate No. C 51755)
)
Respondent)
_____)

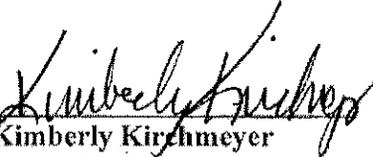
DECISION

The attached Stipulated Revocation of License 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 March 19, 2014 .

IT IS SO ORDERED March 19, 2014 .

MEDICAL BOARD OF CALIFORNIA

By: 
Kimberly Kirchmeyer
Executive Director

1 KAMALA D. HARRIS, Attorney General
of the State of California
2 ROBERT McKIM BELL
Supervising Deputy Attorney General
3 MICHEL W. VALENTINE
Deputy Attorney General [SBN 153078]
4 California Department of Justice
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Attorneys for Complainant
7

8 **BEFORE THE**
MEDICAL BOARD OF CALIFORNIA
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA
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12 In the Matter of the Accusation Against:
13 YASHWANT BALGIRI GIRI, M.D.
14 9727 Piazza Court
15 Cypress, California 90630
16 Physician's and Surgeon's Certificate C 51755
17

Case No.: 04-2011-214794

**STIPULATED REVOCATION OF
LICENSE AND ORDER**

18 IT IS HEREBY STIPULATED AND AGREED by and between the parties in this
19 proceeding that the following matters are true:

20 1. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical Board
21 of California. This action has at all times been maintained solely in the official capacity of the
22 Executive Director of the Medical Board of California, who is represented by Kamala D. Harris,
23 Attorney General of the State of California, by Michel W. Valentine, Deputy Attorney General.

24 2. Yashwant Balgiri Giri, M.D. (Respondent) is represented in this proceeding by Roger
25 W. Calton, Attorney at Law, 31371 Rancho Viejo Road, Suite 104, San Juan Capistrano,
26 California 92675.
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1 3. Respondent has received, read, discussed with counsel and understands the
2 Accusation which is presently on file and pending in case number 04-2011-214794 (the
3 "Accusation") a copy of which is attached as Exhibit A.

4 4. Respondent has carefully read, discussed with counsel and understands the charges
5 and allegations in the Accusation. Respondent also has carefully read, discussed with counsel
6 and understands the effects of this Stipulated Revocation of License and Order.

7 5. Respondent is fully aware of his legal rights in this matter, including the right to a
8 hearing on the charges and allegations in the Accusation; the right to be represented by counsel, at
9 his own expense; the right to confront and cross-examine the witnesses against him; the right to
10 present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel
11 the attendance of witnesses and the production of documents; the right to reconsideration and
12 court review of an adverse decision; and all other rights accorded by the California
13 Administrative Procedure Act and other applicable laws.

14 6. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
15 every right set forth above.

16 7. Respondent agrees that the Board has jurisdiction and cause to discipline his
17 physician's and surgeon's certificate by virtue of the allegations set forth in the Accusation.
18 Respondent understands that by signing this stipulation he enables the Board to issue an order
19 accepting the revocation of his Physician's and Surgeon's Certificate without further process.

20 8. Respondent understands and agrees this Stipulation for Revocation of License shall
21 be subject to the approval of the Board. Respondent understands and agrees that the Medical
22 Board's staff and counsel for complainant may communicate directly with the Board regarding
23 this stipulation and settlement, without notice to or participation by Respondent or his counsel.
24 By signing this stipulation, Respondent understands and agrees that he may not withdraw his
25 agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it.
26 In the event that this stipulation is rejected for any reason by the Board, it will be of no force or
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1 effect for either party. The Board will not be disqualified from further action in this matter by
2 virtue of its consideration of this stipulation.

3 9. Upon acceptance of this stipulation by the Board, Respondent understands that he
4 will no longer be permitted to practice as a physician and surgeon in California, and also agrees to
5 cause to be delivered to the Board any license and wallet certificate in his possession before the
6 effective date of the decision.

7 10. The admissions made by Respondent herein are only for the purposes of this
8 proceeding, or any other proceedings in which the Medical Board or other professional licensing
9 agency is involved, and shall not be admissible in any other criminal or civil proceeding.

10 11. In consideration of the foregoing admissions and stipulations, the parties agree that
11 the Board may, without further notice or formal proceeding, issue and enter the following Order:

12 **ORDER**

13 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. C 51755, issued
14 to Respondent YASHWANT BALGIRI GIRI, M.D., is revoked and accepted by the Medical
15 Board of California.

16 1. The revocation of Respondent's Physician's and Surgeon's Certificate and the
17 acceptance of the revoked license by the Board shall constitute the imposition of discipline
18 against Respondent. This stipulation constitutes a record of the discipline and shall become a part
19 of Respondent's license history with the Medical Board of California.

20 2. Respondent shall lose all rights and privileges as a physician in California as of the
21 effective date of the Board's Decision and Order.

22 3. Respondent shall cause to be delivered to the Board his pocket license and, if one
23 was issued, his wall certificate on or before the effective date of the Decision and Order.

24 4. Respondent fully understands and agrees that if he ever files an application for re-
25 licensure or reinstatement in the State of California, the Board shall treat it as a petition for
26 reinstatement, and Respondent must comply with all laws, regulations and procedures for
27 reinstatement of a revoked license in effect at the time the petition is filed. Information gathered
28 in connection with Accusation number 04-2011-214794 may be considered by the Board in

1 determining whether or not to grant the petition for reinstatement. For the purposes of the
2 reinstatement hearing, the allegations in Accusation number 04-2011-214794 shall be deemed to
3 be admitted by Respondent, and Respondent waives any and all defenses based on a claim of
4 laches or the statute of limitations.

5 12. The parties understand and agree that facsimile or electronic copies of this
6 Stipulated Revocation of License and Order, including facsimile or electronic signatures thereto,
7 shall have the same force and effect as the originals.

8 ACCEPTANCE

9 I have carefully read the above Stipulated Revocation of License and Order and have fully
10 discussed it with my attorney, Roger W. Calton. I enter into it freely and voluntarily and with full
11 knowledge of its force and effect on my Physician's and Surgeon's Certificate Number C 51755.
12 I enter into this Stipulated Revocation of License and Order voluntarily, knowingly, and
13 intelligently, and agree to be bound by the Decision and Order of the Medical Board of
14 California.

15 DATED: 3.3.14.

16
17 Yashwant B. Giri
18 YASHWANT BALGIRI GIRI, M.D.
Respondent

19 APPROVAL

20 I have fully discussed with Respondent Yashwant Balgiri Giri, M.D. the terms and
21 conditions and other matters contained in the above Stipulated Revocation of License and Order
22 and approve its form and content.

23 DATED: 3/5/14

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25 Roger W. Calton
26 ROGER W. CALTON
27 Attorney for Respondent
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ENDORSEMENT

The foregoing Stipulated Revocation of License and Order is hereby respectfully submitted for consideration by the Medical Board of California.

DATED: 3/11/14

KAMALA D. HARRIS., Attorney General
of the State of California



MICHEL W. VALENTINE
Deputy Attorney General

Attorneys for Complainant

EXHIBIT A

1 KAMALA D. HARRIS
Attorney General of California
2 ROBERT MCKIM BELL
Supervising Deputy Attorney General
3 MICHEL VALENTINE
Deputy Attorney General
4 State Bar No. 153078
California Department of Justice
5 300 South Spring Street
Los Angeles, California 90013
6 Telephone: (213) 897-1034
Facsimile: (213) 897-9395
7 *Attorneys for Complainant*

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO, CA, 12, 2012
BY W. D. [Signature] ANALYST

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

12
13 In the Matter of the Accusation Against:

Case No. 04-2011-214794

14 YASHWANT BALGIRI GIRI, M.D.
9727 Piazza Court
15 Cypress, California 90630

ACCUSATION

16 Physician's and Surgeon's Certificate No. C 51755

17 Respondent.

18
19 Complainant alleges:

20 **PARTIES**

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

23 2. On or about October 1, 2004, the Board issued Physician's and Surgeon's
24 Certificate number C 51755 to Yashwant Balgiri Giri, M.D. (Respondent). That license was in
25 full force and effect at all times relevant to the charges brought herein. The license expired on
26 October 31, 2012 and has not been renewed. On June 2, 2011, as a result of a Penal Code
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1 Section 23 bail restriction order, Respondent's practice was restricted pending the completion of
2 the criminal proceedings.

3 **JURISDICTION**

4 3. This Accusation is brought before the Medical Board of California (Board), under
5 the authority of the following laws. All section references are to the Business and Professions
6 Code unless otherwise indicated.

7 4. Section 2227 of the Code provides that a licensee who is found guilty under the
8 Medical Practice Act may have his or her license revoked, suspended for a period not to exceed
9 one year, placed on probation and required to pay the costs of probation monitoring, or such other
10 action taken in relation to discipline as the Division¹ deems proper.

11 5. Section 2232 of the Code states:

12 "(a) Except as provided in subdivisions (b), (c) , and (d), the board shall promptly revoke
13 the license of any person who, at any time after January 1, 1947, has been required to register as a
14 sex offender pursuant to the provisions of Section 290 of the Penal Code.

15 "(b) This section shall not apply to a person who is required to register as a sex offender
16 pursuant to Section 290 of the Penal Code solely because of a misdemeanor conviction under
17 Section 314 of the Penal Code.

18 "(c)(1) Five years after the effective date of the revocation and three years after successful
19 discharge from parole, probation, or both parole and probation if under simultaneous supervision,
20 an individual who after January 1, 1947, and prior to January 1, 2005, was subject to subdivision
21 (a), may petition the superior court, in the county in which the individual has resided for, at
22 minimum, five years prior to filing the petition, to hold a hearing within one year of the date of
23 the petition, in order for the court to determine whether the individual no longer poses a possible
24 risk to patients. The individual shall provide notice of the petition to the Attorney General and to
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26 ¹ California Business and Professions Code section 2002, as amended and effective
27 January 1, 2008, provides that, unless otherwise expressly provided, the term "Board" as used in
28 the State Medical Practice Act (Bus. & Prof. Code § 2000, et seq.) means the "Medical Board of
California," and references to the "Division of Medical Quality" and "Division of Licensing" in
the Act or any other provision of law shall be deemed to refer to the Board.

1 the board at the time of its filing. The Attorney General and the board may present written and
2 oral argument to the court on the merits of the petition.

3 “(2) If the court finds that the individual no longer poses a possible risk to patients, and
4 there are no other underlying reasons for which the board pursued disciplinary action, the court
5 shall order, in writing, the board to reinstate the individual's license within 180 days of the date of
6 the order. The board may issue a probationary license to a person subject to this paragraph subject
7 to terms and conditions, including, but not limited to, any of the conditions of probation specified
8 in Section 2221.

9 “(3) If the court finds that the individual continues to pose a possible risk to patients, the
10 court shall deny relief. The court's decision shall be binding on the individual and the board, and
11 the individual shall be prohibited from filing a subsequent petition under this section based on the
12 same conviction.

13 “(d) This section shall not apply to a person who has been relieved under Section 290.5 of
14 the Penal Code of his or her duty to register as a sex offender, or whose duty to register has
15 otherwise been formally terminated under California law.”

16 8. Section 2234 of the Code states:

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

20 “(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the
21 violation of, or conspiring to violate any provision of this chapter [Chapter 5, the Medical
22 Practice Act].

23 “(b) Gross negligence.

24 “(c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or
25 omissions. An initial negligent act or omission followed by a separate and distinct departure from
26 the applicable standard of care shall constitute repeated negligent acts.

27 “(1) An initial negligent diagnosis followed by an act or omission medically appropriate
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1 for that negligent diagnosis of the patient shall constitute a single negligent act.

2 “(2) When the standard of care requires a change in the diagnosis, act, or omission that
3 constitutes the negligent act described in paragraph (1), including, but not limited to, a
4 reevaluation of the diagnosis or a change in treatment, and the licensee's conduct departs from the
5 applicable standard of care, each departure constitutes a separate and distinct breach of the
6 standard of care.

7 “(d) Incompetence.

8 “(e) The commission of any act involving dishonesty or corruption which is substantially
9 related to the qualifications, functions, or duties of a physician and surgeon.

10 “(f) Any action or conduct which would have warranted the denial of a certificate.”

11 9. Section 2236 of the Code states:

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

16 “(b) The district attorney, city attorney, or other prosecuting agency shall notify the
17 Division of Medical Quality of the pendency of an action against a licensee charging a felony or
18 misdemeanor immediately upon obtaining information that the defendant is a licensee. The notice
19 shall identify the licensee and describe the crimes charged and the facts alleged. The prosecuting
20 agency shall also notify the clerk of the court in which the action is pending that the defendant is
21 a licensee, and the clerk shall record prominently in the file that the defendant holds a license as a
22 physician and surgeon.

23 “(c) The clerk of the court in which a licensee is convicted of a crime shall, within 48
24 hours after the conviction, transmit a certified copy of the record of conviction to the board. The
25 division may inquire into the circumstances surrounding the commission of a crime in order to fix
26 the degree of discipline or to determine if the conviction is of an offense substantially related to
27 the qualifications, functions, or duties of a physician and surgeon.

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1 violation of Section 289(d) of the Penal Code (sexual penetration by foreign object of an
2 unconscious victim), a felony, Yashwant Balgiri Giri did unlawfully commit an act of sexual
3 penetration upon Victim 2, who was at the time unconscious of the nature of the act, and the
4 defendant knew of Victim 2's condition.

5 C. "Count 3: On or about and between February 01, 2009 and February 28, 2009, in
6 violation of Section 289(h) of the Penal Code (sexual penetration by foreign object of a minor), a
7 felony, Yashwant Balgiri Giri did unlawfully participate in an act of sexual penetration with
8 Victim 2, who was a minor under eighteen (18) years of age and older than thirteen (13) years of
9 age.

10 D. "Count 4: On or about April 30, 2010, in violation of Section 243.4(c) of the Penal
11 Code (sexual battery by fraud), a Felony, Yashwant Balgiri Giri, for the purpose of the sexual
12 arousal, sexual gratification, and sexual abuse, did unlawfully touch an intimate part of Victim 3,
13 who was at the time unconscious of the nature of the act because the defendant fraudulently
14 represented that the touching served a professional purpose.

15 E. "Count 5: On or about April 30, 2010, in violation of Section 243.4 (e) (1) of the
16 Penal Code (sexual battery), a misdemeanor, Yashwant Balgiri Giri, for the purpose of sexual
17 arousal, sexual gratification; and sexual abuse, did unlawfully touch an intimate part of Victim 3
18 against his/her will.

19 F. "Count 6: On or about April 30, 2010 in violation of Section 289(d) of the Penal
20 Code (sexual penetration by a foreign object of an unconscious victim) a felony, Yashwant
21 Balgiri Giri did unlawfully commit an act of sexual penetration upon Victim 3 who was at the
22 time unconscious of the nature of the act, and the defendant knew of Victim 3's condition."

23 15. Imposition of sentence was suspended and the Respondent was placed on five
24 years' formal probation on numerous terms and conditions, among which was that he serve 180
25 days in jail, and that he register as a sex offender pursuant to Penal Code section 290.

26 16. As a result of his being ordered to register as a sex offender, Respondent's
27 Physician's and Surgeon's Certificate is subject to mandatory revocation pursuant to the
28 provisions of section 2232 of the Code.

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CAUSE FOR DISCIPLINE

(Conviction of Substantially Related Crimes)

17. By reason of the matters alleged above, Respondent is subject to disciplinary action under 2236, subdivision (a), of the Code in that he was convicted of crimes that are substantially related to the qualifications, functions and duties of a physician and surgeon.

PRAYER

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

1. Revoking or suspending Physician's and Surgeon's Certificate Number C 51755, issued to Yashwant Balgiri Giri, M.D.
2. Revoking, suspending or denying approval of his authority to supervise physician's assistants, pursuant to section 3527 of the Code;
3. If placed on probation, ordering him to pay the Medical Board of California the costs of probation monitoring; and
4. Taking such other and further action as deemed necessary and proper.

DATED: September 12, 2013



KIMBERLY KIRCHMEYER
Interim Executive Director
Medical Board of California
State of California

Complainant