

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

In the Matter of the Petition to)
Revoke Probation Against:)

JASVANT N. MODI, M.D.)

Case No. 800-2014-010278

Physician's and Surgeon's)
Certificate No. A 39818)

Respondent)
_____)

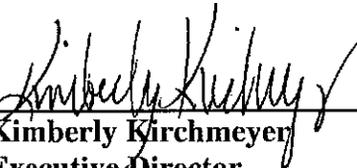
DECISION

The attached Stipulated Surrender of License and 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 March 22, 2016

IT IS SO ORDERED March 15, 2016 .

MEDICAL BOARD OF CALIFORNIA

By: 

Kimberly Kirchmeyer
Executive Director

1 KAMALA D. HARRIS
Attorney General of California
2 ROBERT MCKIM BELL
Supervising Deputy Attorney General
3 RANDALL R. MURPHY
Deputy Attorney General
4 State Bar No. 165851
California Department of Justice
5 300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
6 Telephone: (213) 897-2493
Facsimile: (213) 897-9395
7 *Attorneys for Complainant*

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

12 In the Matter of the Petition to Revoke
Probation Against:

13 JASVANT N. MODI, M.D.
1100 Sunset Boulevard, #B
Los Angeles, California 90012

14 Physician's and Surgeon's Certificate No. A
15 39818,

16 Respondent.

Case No. 800-2014-010278

OAH No. 2015070589

17 **STIPULATED SURRENDER OF**
18 **LICENSE AND ORDER**

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

20 PARTIES

21 1. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical Board
22 of California. She brought this action solely in her official capacity and is represented in this
23 matter by Kamala D. Harris, Attorney General of the State of California, by Randall R. Murphy,
24 Deputy Attorney General.

25 2. Jasvant N. Modi, M.D. (Respondent) is represented in this proceeding by attorney
26 Peter Osinoff, whose address is: 3699 Wilshire Blvd., 10th Floor, Los Angeles, California 90010-
27 2719.

28 //

1 to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails
2 to adopt this stipulation as its Decision and Order, the Stipulated Surrender and Disciplinary
3 Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal
4 action between the parties, and the Board shall not be disqualified from further action by having
5 considered this matter.

6 14. The parties understand and agree that Portable Document Format (PDF) and facsimile
7 copies of this Stipulated Surrender of License and Order, including Portable Document Format
8 (PDF) and facsimile signatures thereto, shall have the same force and effect as the originals.

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

11 **ORDER**

12 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 39818, issued
13 to Respondent Jasvant N. Modi, M.D., is surrendered and accepted by the Medical Board of
14 California.

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

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

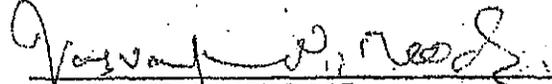
21 3. Respondent shall cause to be delivered to the Board his pocket license and, if one was
22 issued, his wall certificate on or before the effective date of the Decision and Order.

23 4. If Respondent ever files an application for licensure or a petition for reinstatement in
24 the State of California, the Board shall treat it as a petition for reinstatement. Respondent must
25 comply with all the laws, regulations and procedures for reinstatement of a revoked license in
26 effect at the time the petition is filed, and the First Cause for Discipline contained in Petition to
27 Revoke Probation No. 800-2014-010278 shall be deemed to be true, correct and admitted by
28 Respondent when the Board determines whether to grant or deny the petition.

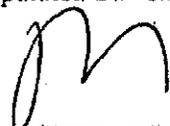
1 5. If Respondent should ever apply or reapply for a new license or certification, or
2 petition for reinstatement of a license, by any other health care licensing agency in the State of
3 California, and the First Cause for Discipline contained in Petition to Revoke Probation No. 800-
4 2014-010278 shall be deemed to be true, correct, and admitted by Respondent for the purpose of
5 any Statement of Issues or any other proceeding seeking to deny or restrict licensure.

6 ACCEPTANCE

7 I have carefully read the above Stipulated Surrender of License and Order and have fully
8 discussed it with my attorney, Peter Osinoff. I understand the stipulation and the effect it will
9 have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Surrender of
10 License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the
11 Decision and Order of the Medical Board of California.

12
13 DATED: 2-14-16 
14 JASVANT N. MODI, M.D.
Respondent

15 I have read and fully discussed with Respondent Jasant N. Modi, M.D. the terms and
16 conditions and other matters contained in this Stipulated Surrender of License and Order. I
17 approve its form and content.

18 DATED: 2/16/16 
19 PETER OSINOFF
Attorney for Respondent

20 //
21 //
22 //
23 //
24 //
25 //
26 //
27 //
28 //

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
26
27
28

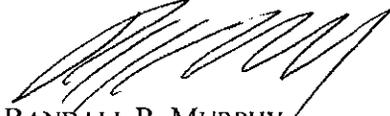
ENDORSEMENT

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:

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
ROBERT MCKIM BELL
Supervising Deputy Attorney General



RANDALL R. MURPHY
Deputy Attorney General
Attorneys for Complainant

LA2014615591
61882779.doc

Exhibit A

Petition to Revoke Probation No. 800-2014-010278

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO May 19 2012
BY D. Richards ANALYST

1 KAMALA D. HARRIS
Attorney General of California
2 ROBERT MCKIM BELL
Supervising Deputy Attorney General
3 RANDALL R. MURPHY
Deputy Attorney General
4 State Bar No. 165851
California Department of Justice
5 300 South Spring Street, Suite 1702
Los Angeles, California 90013
6 Telephone: (213) 897-2493
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 In the Matter of the Petition to Revoke
12 Probation Against,

Case No. 800-2014-010278

13 JASVANT N. MODI, M.D.

PETITION TO REVOKE PROBATION

14 1100 Sunset Boulevard, #B
15 Los Angeles, California 90012

16 Physician's and Surgeon's Certificate A 39818,

17 Respondent.

18
19 Complainant alleges:

20 **PARTIES**

21 1. Kimberly Kirchmeyer (Complainant) brings this Petition to Revoke Probation solely
22 in her official capacity as the Executive Director of the Medical Board of California ("Board").

23 2. On May 9, 1983, the Board issued Physician's and Surgeon's Certificate number A
24 39818 to Jasvant N. Modi, M.D. (Respondent). That license was in effect at all times relevant to
25 the charges brought herein and will expire on April 30, 2015, unless renewed.

26 3. In a disciplinary action entitled *In the Matter of the Accusation and Petition to*
27 *Revoke Probation against Against Jasvant N. Modi, M.D.*, Case No D1-2006-177596, the Board
28 issued a decision, effective October 24, 2013, in which Respondent's Physician's and Surgeon's

1 Certificate was revoked. However, the revocation was stayed and Respondent's license was
2 placed on probation for a period of five years with certain terms and conditions. A copy of that
3 decision is attached as Exhibit A and is incorporated by reference.

4 **JURISDICTION**

5 4. This Petition to Revoke Probation is brought before the Board under the authority of
6 the following laws. All section references are to the California Business and Professions Code
7 ("Code") unless otherwise indicated.

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

12 6. Section 822 of the Code states:

13 "If a licensing agency determines that its licentiate's ability to practice his or her
14 profession safely is impaired because the licentiate is mentally ill, or physically ill affecting
15 competency, the licensing agency may take action by any one of the following methods:

16 "(a) Revoking the licentiate's certificate or license.

17 "(b) Suspending the licentiate's right to practice.

18 "(c) Placing the licentiate on probation.

19 "(d) Taking such other action in relation to the licentiate as the licensing agency in its
20 discretion deems proper.

21 "The licensing agency shall not reinstate a revoked or suspended certificate or license
22 until it has received competent evidence of the absence or control of the condition which caused
23 its action and until it is satisfied that with due regard for the public health and safety the person's
24 right to practice his or her profession may be safely reinstated."

25 //

26 //

27 //

28 //

1 **FIRST CAUSE TO REVOKE PROBATION**

2 (Failure to Successfully Complete Clinical Training and Evaluation Program)

3 7. At all times after the effective date of Respondent's probation, Condition 3 of the
4 Decision in Case Number D1-2006-177596 (the "Decision") stated:

5 "3. Clinical Training Program.

6 "No later than 60 calendar days of the effective date of this Decision, Respondent shall
7 enroll in a clinical training or educational program equivalent to the Physician Assessment and
8 Clinical Education Program (PACE) offered at the University of California -San Diego School of
9 Medicine ("Program"). Respondent shall successfully complete the Program not later than six (6)
10 months after Respondent's initial enrollment unless the Board or its designee agrees in writing to
11 an extension of that time.

12 "The Program shall consist of a Comprehensive Assessment program comprised of a two-
13 day assessment of Respondent's physical and mental health; basic clinical and communication
14 skills common to all clinicians; and medical knowledge, skill and judgment pertaining to
15 Respondent's area of practice in which Respondent was alleged to be deficient, and at minimum,
16 a 40-hour program of clinical education in the area of practice in which Respondent was alleged
17 to be deficient and which takes into account data obtained from the assessment, Decision(s),
18 Accusation(s), and any other information that the Board or its designee deems relevant.
19 Respondent shall pay all expenses associated with the clinical training program.

20 "Based on Respondent's performance and test results in the assessment and clinical
21 education, the Program will advise the Board or its designee of its recommendation(s) for the
22 scope and length of any additional educational or clinical training, treatment for any medical
23 condition, treatment for any psychological condition, or anything else affecting Respondent's
24 practice of medicine. Respondent shall comply with Program recommendations.

25 At the completion of any additional educational or clinical training, Respondent shall
26 submit to and pass an examination. Determination as to whether Respondent successfully
27
28

1 completed the examination or successfully completed the program is solely within the program's
2 jurisdiction.

3 Respondent shall not practice medicine until Respondent has successfully completed the
4 Program and has been so notified by the Board or its designee in writing, except that Respondent
5 may practice in a clinical training program approved by the Board or its designee. Respondent's
6 practice of medicine shall be restricted only to that which is required by the approved training
7 program.

8 8. Respondent's probation is subject to revocation, because he failed to comply with
9 Probation Condition 3, referenced above. The facts and circumstances regarding this violation
10 are as follows:

11 A. On or about October 24, 2013, the Decision, adopting a Stipulated Settlement and
12 Disciplinary Order, went into effect requiring Respondent to enroll in a Clinical Training
13 Program (PACE) and to successfully complete it within six months of enrollment. (Decision pp.
14 4-5.) Respondent participated in the two-day preliminary assessment required by the Decision on
15 April 14-15, 2014. His performance on a cognitive screening exam was sufficient to allow him to
16 move into Phase II of the PACE program.

17 B. Respondent enrolled in and completed Phase II of the PACE program from August
18 18-22, 2014. Phase II is entirely clinically oriented, and the participating physician undergoes
19 assessment of his/her clinical competence by direct questioning based on actual clinical scenarios
20 observed in clinic or the hospital; observed participation in educational opportunities (e.g.,
21 rounds, faculty supervision, teaching sessions, etc.); and participation in a battery of standardized
22 patient examinations (SPE). Furthermore, Phase II of the PACE program focuses on a
23 physician's ability to examine and evaluate patients, correctly analyze and synthesize clinical
24 data, generate a sound differential diagnosis of the likely clinical possibilities, formulate a
25 reasonable and safe diagnostic workup, and ultimately provide safe and sound recommendations
26 for treatment.

27 C. The results of Respondent's Phase II of the PACE program were deficient and
28 incompatible with safe patient care.

1 D. Respondent's neuropsychological evaluation results are suggestive of a degenerative
2 process affecting the frontal lobe networks of the brain. Respondent's evaluations, simply put,
3 indicate that he is suffering from degenerative brain issues requiring further evaluation. This
4 means that Respondent was determined by the PACE program to be incompetent, unsafe to
5 practice, and a danger to his patients. Although the outcome of "fail" was arrived at after careful
6 consideration of all elements of his assessment, his most egregious issue was the
7 neuropsychological examination. Therefore, Respondent is not currently safe to practice
8 medicine.

9 **SECOND CAUSE TO REVOKE PROBATION**

(Failure to Obey all Laws Governing the Practice of Medicine)

10 9. Paragraphs 1 through 8, above, are hereby incorporated by reference as though fully
11 set forth.

12 10. At all times after the effective date of Respondent's probation, Condition 8 of the
13 Decision stated:

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

17 11. Respondent has failed to cease the practice of medicine within 72 hours after being
18 notified by the Board or its designee that Respondent failed to successfully complete the clinical
19 training program.

20 12. Respondent's failure to abide by the Decision constitutes a failure to obey "other
21 orders" governing his practice of medicine in California and is cause to revoke his probation.

22 **DISCIPLINE CONSIDERATIONS**

23 13. To determine the degree of discipline, if any, to be imposed on Respondent,
24 Complainant alleges that Respondent has been previously disciplined on two separate occasions
25 preceding the discipline on which this Petition is based. On or about July 28, 2008, a Decision of
26 the Board (11-2004-157231) became effective, placing Respondent on probation for four years,
27 with additional terms and conditions. That matter's underlying Accusation alleged that
28

1 Respondent had committed acts of gross negligence, repeated negligence acts, and had failed to
2 maintain adequate records.

3 In the second disciplinary proceeding, a Decision of the Board which took effect on January
4 20, 2010, (17-2006-177596), extended Respondent's probationary period for one year. That
5 matter's underlying Accusation alleged that Respondent had committed acts of gross negligence,
6 repeated negligence acts, and that he was incompetent.

7 Lastly, in the current matter, despite being advised in writing on or about December 3, 2014
8 that he failed the PACE course, Respondent continues to practice medicine in violation of the
9 disciplinary order.

10 **PRAYER**

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

- 13 1. Revoking the probation that was granted by the Medical Board of California in Case
14 No. D1-2006-177596 and imposing the disciplinary order that was stayed thereby revoking
15 Physician's and Surgeon's Certificate No. A 39818 issued to Jasvant N. Modi, M.D.;
- 16 2. Revoking or suspending his Physician's and Surgeon's Certificate;
- 17 3. Revoking, suspending or denying approval of his authority to supervise physician
18 assistants, pursuant to section 3527 of the Code;
- 19 4. Ordering him to pay the Medical Board of California, if placed on probation, the costs
20 of probation monitoring;
- 21 5. Taking such other and further action as deemed necessary and proper.

22 DATED: May 19, 2015


23 KIMBERLY KIRCHMEYER
24 Executive Director
25 Medical Board of California
26 Department of Consumer Affairs
27 State of California

28 *Complainant*

LA2014615591
61565155.docx

Exhibit A

Decision and Order

Medical Board of California Case No. D1-2006-177596

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

In the Matter of the Accusation and)
Petition to Revoke Probation Against:)

JASVANT N. MODI, M.D.)

Case No. D1-2006-177596)

Physician's and Surgeon's)
Certificate No. A 39818)

Respondent.)
_____)

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Medical Board of California, Department of Consumer Affairs, State of California, as its Decision in this matter.

This Decision shall become effective at 5:00 p.m. on October 24, 2013.

IT IS SO ORDERED September 24, 2013.

MEDICAL BOARD OF CALIFORNIA

By: 
Dev Gnanadev, M.D., Vice Chairman
Panel B

1 KAMALA D. HARRIS
Attorney General of California
2 ROBERT MCKIM BELL
Supervising Deputy Attorney General
3 RANDALL R. MURPHY
Deputy Attorney General
4 State Bar No. 165851
California Department of Justice
5 300 South Spring Street, Suite 1702
Los Angeles, California 90013
6 Telephone: (213) 897-2493
Facsimile: (213) 897-9395
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 and Petition to
12 Revoke Probation Against:

13 JASVANT N. MODI, M.D.,
14 1100 Sunset Boulevard, # B,
Los Angeles, California 90012

15 Physician's and Surgeon's Certificate No. A-
16 39818,

17 Respondent.

Case No. D1-2006-177596
19-2010-208176

OAH No. 2012110358

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

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

23 **PARTIES**

24 1. Kimberly Kirchmeyer (Complainant) is the Interim Executive Director of the Medical
25 Board of California. She brought this action solely in her official capacity and is represented in
26 this matter by Kamala D. Harris, Attorney General of the State of California, by Randall R.
27 Murphy, Deputy Attorney General.
28

1 IT IS HEREBY ORDERED that Physicians and Surgeons Certificate No. A-39818, issued
2 to Jasvant N. Modi, M.D. (Respondent) is revoked. However, the revocation is stayed and
3 Respondent is placed on probation for five (5) years on the following terms and conditions.

4 1. ACTUAL SUSPENSION. As part of probation, Respondent is suspended from the
5 practice of medicine for 90 days beginning the sixteenth (16th) day after the effective date of this
6 decision.

7 2. MEDICAL RECORD KEEPING COURSE. Within 60 calendar days of the effective
8 date of this Decision, Respondent shall enroll in a course in medical record keeping equivalent to
9 the Medical Record Keeping Course offered by the Physician Assessment and Clinical Education
10 Program, University of California, San Diego School of Medicine (Program), approved in
11 advance by the Board or its designee. Respondent shall provide the program with any information
12 and documents that the Program may deem pertinent. Respondent shall participate in and
13 successfully complete the classroom component of the course not later than six (6) months after
14 Respondent's initial enrollment. Respondent shall successfully complete any other component of
15 the course within one (1) year of enrollment. The medical record keeping course shall be at
16 Respondent's expense and shall be in addition to the Continuing Medical Education (CME)
17 requirements for renewal of licensure.

18 A medical record keeping course taken after the acts that gave rise to the charges in the
19 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board
20 or its designee, be accepted towards the fulfillment of this condition if the course would have
21 been approved by the Board or its designee had the course been taken after the effective date of
22 this Decision.

23 Respondent shall submit a certification of successful completion to the Board or its
24 designee not later than 15 calendar days after successfully completing the course, or not later than
25 15 calendar days after the effective date of the Decision, whichever is later.

26 3. CLINICAL TRAINING PROGRAM. No later than 60 calendar days of the effective
27 date of this Decision, Respondent shall enroll in a clinical training or educational program
28 equivalent to the Physician Assessment and Clinical Education Program (PACE) offered at the

1 University of California - San Diego School of Medicine ("Program"). Respondent shall
2 successfully complete the Program not later than six (6) months after Respondent's initial
3 enrollment unless the Board or its designee agrees in writing to an extension of that time.

4 The Program shall consist of a Comprehensive Assessment program comprised of a two-
5 day assessment of Respondent's physical and mental health; basic clinical and communication
6 skills common to all clinicians; and medical knowledge, skill and judgment pertaining to
7 Respondent's area of practice in which Respondent was alleged to be deficient, and at minimum,
8 a 40 hour program of clinical education in the area of practice in which Respondent was alleged
9 to be deficient and which takes into account data obtained from the assessment, Decision(s),
10 Accusation(s), and any other information that the Board or its designee deems relevant.
11 Respondent shall pay all expenses associated with the clinical training program.

12 Based on Respondent's performance and test results in the assessment and clinical
13 education, the Program will advise the Board or its designee of its recommendation(s) for the
14 scope and length of any additional educational or clinical training, treatment for any medical
15 condition, treatment for any psychological condition, or anything else affecting Respondent's
16 practice of medicine. Respondent shall comply with Program recommendations.

17 At the completion of any additional educational or clinical training, Respondent shall
18 submit to and pass an examination. Determination as to whether Respondent successfully
19 completed the examination or successfully completed the program is solely within the program's
20 jurisdiction.

21 Respondent shall not practice medicine until Respondent has successfully completed the
22 Program and has been so notified by the Board or its designee in writing, except that Respondent
23 may practice in a clinical training program approved by the Board or its designee. Respondent's
24 practice of medicine shall be restricted only to that which is required by the approved training
25 program.

26 4. MONITORING - PRACTICE/BILLING. Within 30 calendar days of the effective
27 date of this Decision, Respondent shall submit to the Board or its designee for prior approval as a
28 practice monitor(s), the name and qualifications of one or more licensed physicians and surgeons

1 whose licenses are valid and in good standing, and who are preferably American Board of
2 Medical Specialties (ABMS) certified. A monitor shall have no prior or current business or
3 personal relationship with Respondent except that the monitor can have previously monitored
4 Respondent as part of his prior probationary status, or other relationship that could reasonably be
5 expected to compromise the ability of the monitor to render fair and unbiased reports to the
6 Board, including but not limited to any form of bartering, shall be in Respondent's field of
7 practice, and must agree to serve as Respondent's monitor. Respondent shall pay all monitoring
8 costs.

9 The Board or its designee shall provide the approved monitor with copies of the Decision(s)
10 and Accusation(s), and a proposed monitoring plan. Within 15 calendar days of receipt of the
11 Decision(s), Accusation(s), and proposed monitoring plan, the monitor shall submit a signed
12 statement that the monitor has read the Decision(s) and Accusation(s), fully understands the role
13 of a monitor, and agrees or disagrees with the proposed monitoring plan. If the monitor disagrees
14 with the proposed monitoring plan, the monitor shall submit a revised monitoring plan with the
15 signed statement for approval by the Board or its designee.

16 Within 60 calendar days of the effective date of this Decision, and continuing throughout
17 the first four years of probation, Respondent's practice shall be monitored by the approved
18 monitor. Respondent shall make all records available for immediate inspection and copying on
19 the premises by the monitor at all times during business hours and shall retain the records for the
20 entire term of probation.

21 If Respondent fails to obtain approval of a monitor within 60 calendar days of the effective
22 date of this Decision, Respondent shall receive a notification from the Board or its designee to
23 cease the practice of medicine within three (3) calendar days after being so notified. Respondent
24 shall cease the practice of medicine until a monitor is approved to provide monitoring
25 responsibility.

26 Within 60 calendar days of the effective date of this Decision, and continuing throughout
27 the first four years of probation, Respondent's practice shall be monitored by the approved
28 monitor. Respondent shall make all records available for immediate inspection and copying on

1 the premises by the monitor at all times during business hours, and shall retain the records for the
2 entire term of probation.

3 The monitor(s) shall submit a quarterly written report to the Board or its designee which
4 includes an evaluation of Respondent's performance, indicating whether Respondent's practices
5 are within the standards of practice of medicine and billing, and whether Respondent is practicing
6 medicine safely, billing appropriately or both. It shall be the sole responsibility of Respondent to
7 ensure that the monitor submits the quarterly written reports to the Board or its designee within
8 10 calendar days after the end of the preceding quarter.

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

17 5. SOLO PRACTICE PROHIBITION. Respondent is prohibited from engaging in the
18 solo practice of medicine. Prohibited solo practice includes, but is not limited to, a practice
19 where: 1) Respondent merely shares office space with another physician but is not affiliated for
20 purposes of providing patient care, or 2) Respondent is the sole physician practitioner at that
21 location.

22 If Respondent fails to establish a practice with another physician or secure employment in
23 an appropriate practice setting within 60 calendar days of the effective date of this Decision,
24 Respondent shall receive a notification from the Board or its designee to cease the practice of
25 medicine within three (3) calendar days after being so notified. The Respondent shall not resume
26 practice until an appropriate practice setting is established.

27 If, during the course of the probation, the Respondent's practice setting changes and the
28 Respondent is no longer practicing in a setting in compliance with this Decision, the Respondent

1 shall notify the Board or its designee within 5 calendar days of the practice setting change. If
2 Respondent fails to establish a practice with another physician or secure employment in an
3 appropriate practice setting within 60 calendar days of the practice setting change, Respondent
4 shall receive a notification from the Board or its designee to cease the practice of medicine within
5 three (3) calendar days after being so notified. The Respondent shall not resume practice until an
6 appropriate practice setting is established.

7 6. NOTIFICATION. Within seven (7) days of the effective date of this Decision, the
8 Respondent shall provide a true copy of this Decision and Accusation to the Chief of Staff or the
9 Chief Executive Officer at every hospital where privileges or membership are extended to
10 Respondent, at any other facility where Respondent engages in the practice of medicine,
11 including all physician and locum tenens registries or other similar agencies, and to the Chief
12 Executive Officer at every insurance carrier which extends malpractice insurance coverage to
13 Respondent. Respondent shall submit proof of compliance to the Board or its designee within 15
14 calendar days.

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

16 7. SUPERVISION OF PHYSICIAN ASSISTANTS. During probation, Respondent is
17 prohibited from supervising physician assistants.

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

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

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

26 10. GENERAL PROBATION REQUIREMENTS.

27 Compliance with Probation Unit

28 Respondent shall comply with the Board's probation unit and all terms and conditions of

1 this Decision.

2 Address Changes

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

8 Place of Practice

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

12 License Renewal

13 Respondent shall maintain a current and renewed California physician's and surgeon's
14 license.

15 Travel or Residence Outside California

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

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

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

25 12. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or
26 its designee in writing within 15 calendar days of any periods of non-practice lasting more than
27 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is
28 defined as any period of time Respondent is not practicing medicine in California as defined in

1 Business and Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month
2 in direct patient care, clinical activity or teaching, or other activity as approved by the Board. All
3 time spent in an intensive training program which has been approved by the Board or its designee
4 shall not be considered non-practice. Practicing medicine in another state of the United States or
5 Federal jurisdiction while on probation with the medical licensing authority of that state or
6 jurisdiction shall not be considered non-practice. A Board-ordered suspension of practice shall
7 not be considered as a period of non-practice.

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

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

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

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

17 13. COMPLETION OF PROBATION. Respondent shall comply with all financial
18 obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the
19 completion of probation. Upon successful completion of probation, Respondent's certificate shall
20 be fully restored.

21 14. VIOLATION OF PROBATION. Failure to fully comply with any term or condition
22 of probation is a violation of probation. If Respondent violates probation in any respect, the
23 Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and
24 carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke Probation,
25 or an Interim Suspension Order is filed against Respondent during probation, the Board shall have
26 continuing jurisdiction until the matter is final, and the period of probation shall be extended until
27 the matter is final.

28 15. LICENSE SURRENDER. Following the effective date of this Decision, if

1 Respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy
2 the terms and conditions of probation, Respondent may request to surrender his or her license.
3 The Board reserves the right to evaluate Respondent's request and to exercise its discretion in
4 determining whether or not to grant the request, or to take any other action deemed appropriate
5 and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent
6 shall within 15 calendar days deliver Respondent's wallet and wall certificate to the Board or its
7 designee and Respondent shall no longer practice medicine. Respondent will no longer be subject
8 to the terms and conditions of probation. If Respondent re-applies for a medical license, the
9 application shall be treated as a petition for reinstatement of a revoked certificate.

10 16. PROBATION MONITORING COSTS. Respondent shall pay the costs associated
11 with probation monitoring each and every year of probation, as designated by the Board, which
12 may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of
13 California and delivered to the Board or its designee no later than January 31 of each calendar
14 year.

15 ACCEPTANCE

16 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
17 discussed it with my attorney, Rebecca Blackstone Lowell. I understand the stipulation and the
18 effect it will have on my Physicians and Surgeons Certificate. I enter into this Stipulated
19 Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be
20 bound by the Decision and Order of the Medical Board of California.

21 DATED: 9/30/13 Jasvant N. Modi, M.D.
22 JASVANT N. MODI, M.D.
23 Respondent

24 I have read and fully discussed with Respondent Jasvant N. Modi, M.D. the terms and
25 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
26 I approve its form and content.

27 DATED: 9/3/13 Rebecca Blackstone Lowell
28 Rebecca Blackstone Lowell
Attorney for Respondent

///

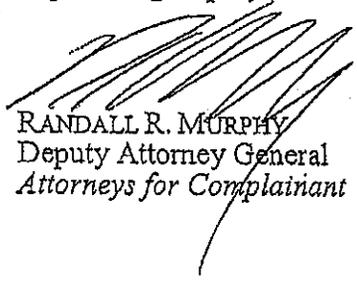
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ENDORSEMENT

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

Dated:
September 4, 2013

Respectfully submitted,
KAMALA D. HARRIS
Attorney General of California
ROBERT MCKIM BELL
Supervising Deputy Attorney General



RANDALL R. MURPHY
Deputy Attorney General
Attorneys for Complainant

LA2012604648
61083371.docx

Exhibit A

Accusation and Petition to Revoke Probation No. D1-2006-177596

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO *October 5, 2012*
BY *[Signature]* ANALYST

1 KAMALA D. HARRIS
Attorney General of California
2 ROBERT MCKIM BELL
Supervising Deputy Attorney General
3 RANDALL R. MURPHY
Deputy Attorney General
4 State Bar No. 165851
California Department of Justice
5 300 South Spring Street, Suite 1702
Los Angeles, California 90013
6 Telephone: (213) 897-2493
Facsimile: (213) 897-9395
7 *Attorneys for Complainant*

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

11 In the Matter of the Accusation and Petition to
12 Revoke Probation Against:

Case No. D1-2006-177596

13 JASVANT N. MODI, M.D.,
14 1100 Sunset Boulevard, # B,
Los Angeles, California 90012

**ACCUSATION AND PETITION TO
REVOKE PROBATION**

15 Physician's and Surgeon's Certificate No. A-
16 39818,

17 Respondent.

18 Complainant alleges:

19 **PARTIES**

20 1. Linda K. Whitney (Complainant) brings this Accusation and Petition to Revoke
21 Probation solely in her official capacity as the Executive Director of the Medical Board of
22 California (Board).
23

24 **DISCIPLINARY HISTORY**

25 2. In two disciplinary actions, both entitled *In the Matter of the Accusation and Petition*
26 *to Revoke Probation Against Jasvant N. Modi, M.D.*, Case Number 11-2004-157231 and Case
27 Number 17-2006-177596, the Board issued Decisions and Orders, effective July 28, 2008 and
28 January 20, 2010, respectively. In Case Number 11-2004-157231, Respondent's Physician's and

1 Surgeon's Certificate was placed on probation for a period of four (4) years with certain terms and
2 conditions. In Case Number 17-2006-177596, Respondent's probation was extended for one (1)
3 year to continue until on or about July 28, 2013. True and correct copies of those decisions are
4 attached as Exhibit "A" and "B" and are incorporated herein by reference.

5 JURISDICTION

6 3. This Accusation and Petition to Revoke Probation is brought before the Board under
7 the authority of the following laws and in accordance with the Board's Decisions and Orders in
8 Case Numbers 11-2004-157231 and 17-2006-177596.

9 4. Business and Professions Code section 2227 provides that a licensee who is found
10 guilty under the Medical Practice Act may have his or her certificate revoked, suspended for a
11 period not to exceed one year, placed on probation and required to pay the costs of probation
12 monitoring, or such other action taken in relation to discipline as the Board deems proper. This
13 Accusation and Petition to Revoke Probation is brought before the Medical Board of California
14 (Board), Department of Consumer Affairs, under the authority of the following laws. All section
15 references are to the Business and Professions Code unless otherwise indicated.

16 5. 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.

22 "(b) Gross negligence.

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

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

28

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
26
27
28

(c) On or about August 12, 2010 Respondent documented that B.B. was shaking when walking, had leg weakness, abdominal distension, left eye pain, and right eye laser intervention for diabetes on July 12, 2010. Respondent ordered B.B. transferred to Temple Community Hospital (Temple) for diverticulitis,² weakness, and lower extremity shakiness.

(d) On or about August 12, 2010, and continuing thereafter, Respondent provided substandard care in the treatment of patient B.B. before and during the patient's hospitalization at Temple. First, there was no acute indication for hospitalization, intravenous fluids, or intravenous antibiotics, which were all ordered by Respondent. The evaluation and management of the patient's complaints could have been completed in the outpatient setting. The patient refused to sign a consent form for admission and medical procedures. There was no documentation that either the patient's family or primary care physician was informed of the direct admission into Temple.

(e) Despite a 3-day hospitalization, the reported complaints of eye pain and leg weakness on admission were not fully evaluated. The primary discharge diagnosis was diverticulitis. There was no evidence for diverticulitis or other active infection, and 3 days of empiric intravenous antibiotic treatment in a penicillin allergic patient was not justified.

(f) Chronic conditions of diabetes, chronic obstructive pulmonary disease (COPD), schizophrenia and seizure disorder were not appropriately managed. B.B.'s outpatient anti-seizure medication and bronchodilator³ therapy were not continued during the hospitalization. There was a change in the patient's anti-psychotic medication for chronic schizophrenia with no documentation

symptom is heartburn.

² Diverticulitis is a common digestive disease particularly found in the large intestine.
³ A bronchodilator is a substance that dilates the bronchi and bronchioles, decreasing resistance in the respiratory airway and increasing airflow to the lungs.

1 regarding the indication or informed consent for the change. Although the
2 patient was hospitalized for 3 days with extensive laboratory tests and
3 radiographic studies, Respondent failed to address abnormalities that were
4 noted during this period of observation. These included episodes of
5 bradycardia,⁴ an abnormal chest x-ray, and abnormal laboratory tests.

6 (g) Among other issues, the patient's diabetes should have been managed with diet
7 requirements, blood glucose monitoring, and insulin coverage for
8 hyperglycemia.⁵ B.B. should have been continued on his long-standing anti-
9 seizure medication. Abrupt discontinuation of Keppra⁶ put B.B. at risk for a
10 breakthrough seizure. B.B. has had a long history of psychosis including
11 several inpatient psychiatric hospitalizations. There was no documentation
12 explaining the change in the patient's anti-psychotic treatment from Seroquel⁷
13 to Perphenazine⁸ at discharge. This change should have involved the patient or
14 his durable power of attorney for healthcare, Dr. Anuntiyu. Informed consent
15 for this change was not documented. Changes in chronic psychotropics in an
16 elderly patient with schizophrenia, dementia and depression, especially during
17 an acute hospitalization put B.B. at risk for exacerbation of his psychiatric
18 illnesses.

19
20
21 ⁴ Bradycardia (heart slowness), in the context of adult medicine, is the resting heart rate of
22 under 60 beats per minute, though it is seldom symptomatic until the rate drops below 50
23 beat/min. It may cause cardiac arrest in some patients, because those with bradycardia may not be
24 pumping enough oxygen to their heart. It sometimes results in fainting, shortness of breath, and if
25 severe enough, death.

26 ⁵ Hyperglycemia, or high blood sugar, is a condition in which an excessive amount of
27 glucose circulates in the blood plasma. Chronic high levels can produce organ damage.

28 ⁶ Keppra (Levetiracetam) is an anticonvulsant medication used to treat epilepsy and other
seizure disorders.

⁷ Seroquel is an atypical antipsychotic used in the treatment of schizophrenia, bipolar I
mania and depression, bipolar II depression, and for a variety of other purposes, including
insomnia and anxiety disorders.

⁸ Perphenazine is a typical antipsychotic drug that is roughly five times as potent as
chlorpromazine and is considered a medium-potency antipsychotic.

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
26
27
28

(h) Hospitalized medical patients with risk factors for the development of venous thromboembolism⁹ require prophylaxis.¹⁰ The patient's age at the time of admission put him at risk for a thromboembolic event. Although Respondent signed the Temple deep vein thrombosis prophylaxis assessment which places B.B. at a moderate risk based on age, no treatment was ordered. There were no contraindications to prophylaxis documented. Failure to provide either mechanical or pharmacologic prevention for thromboembolism in a patient assessed as moderate risk falls below standard of care.

(i) Respondent provided care for B.B. during his hospitalization at Temple, Westlake Skilled Nursing Facility (Westlake) and transition back to Vista. There were multiple medication changes during this time period including a change in the patient's chronic antipsychotic agent, discontinuation of antidepressant therapy and discontinuation of anti-seizure medications. There was no documentation indicating the justification for these changes. There was no documented communication with the patient's family or Primary Care Physician regarding hospitalization or Skilled Nursing Facility events. B.B. refused to sign the Temple hospitalization consent form. It is not clear if B.B. had the capacity to make informed decisions. Inappropriate hospitalization, substandard hospital care, and poor transition of care by Respondent put patient B.B. at risk for readmission, hospitalization risks, diagnostic testing related complications, exacerbation of previously stable chronic medical

⁹ Thromboembolism is the combination of thrombosis and its main complication, embolism. Thrombosis is the formation of a blood clot inside a blood vessel, obstructing the flow of blood through the circulatory system. If the clotting is too severe and the clot breaks free, the traveling clot is now known as an embolus. An embolism is the event of lodging of an embolus into a narrow capillary vessel of an arterial bed which causes a blockage (vascular occlusion) in a distant part of the body.

¹⁰ Prophylaxis is any medical or public health procedure whose purpose is to prevent, rather than treat or cure a disease.

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
26
27
28

conditions, exacerbation of chronic psychiatric illness, adverse medication side effects and medication errors.

8. Respondent's hospital management of patient B.B. constitutes negligence amounting to unprofessional conduct. Respondent failed to fully evaluate the chief complaint of eye pain, abdominal pain, and back pain. Respondent failed to manage chronic conditions of diabetes, schizophrenia and seizure disorder. Respondent failed to obtain informed consent for hospital treatment, and failed to obtain informed consent for a change in psychotropics, and failed to provide prophylaxis for venous thromboembolism in a hospitalized at-risk medical patient.

9. Patient B.B.'s medical record documents an abnormal physical exam with wheezing, a long history of tobacco abuse, recent chest CT revealing emphysematous changes and an abnormal arterial blood gas suggesting chronic hypoxemia. B.B. was treated with supplemental oxygen and bronchodilators, however no other interventions were ordered.

10. Respondent's substandard care of L.B. constitutes negligence amounting to unprofessional conduct.

11. Patient E.B.

(a) E.B. is a 69-year-old female who was admitted to Vista on November 11, 1997. Dr. Anuntiyo, M.D., was listed as the Primary Care Physician and T.B. was listed as the family contact. The patient's past medical history includes coronary artery disease, pancreatitis¹¹, paranoid schizophrenia, a prior motor vehicle accident, dementia, dyslipidemia,¹² and tobacco abuse. An ophthalmology evaluation by Dr. W. Christie on January 11, 2007 notes cataracts and hypertensive changes. The patient's medications included aspirin, Haldol,¹³ pancreatic enzyme, Aricept,¹⁴ and Simvastatin.¹⁵ In 2005,

¹¹ Pancreatitis Pancreatitis is inflammation of the pancreas that can occur in two very different forms. Acute pancreatitis is sudden while chronic pancreatitis "is characterized by recurring or persistent abdominal pain with or without steatorrhea or diabetes mellitus.
¹² Dyslipidemia is an abnormal amount of lipids (e.g. cholesterol and/or fat) in the blood.
¹³ Haldol is an older antipsychotic used in the treatment of schizophrenia and, more acutely, in the treatment of acute psychotic states and delirium.
¹⁴ Aricept is used for temporary cognitive improvement in patients with Alzheimer's disease.

1 she was also on a diuretic and angiotensin-converting enzyme (ACE) inhibitor
 2 for hypertension.

3 (b) The medical records document monthly evaluations for her chronic medical
 4 conditions from November 14, 2008 through June 5, 2010 by Dr. Anuntiyo,
 5 while E.B. was a resident in Vista. Blood pressure was documented as normal
 6 during this time period without medications.

7 (c) On or about July 8, 2010, E.B., underwent a psychological assessment.
 8 Diagnostic impressions included paranoid schizophrenia, Alzheimer's Disease,
 9 developmental delay with thought processes of a small child. She was noted to
 10 be minimally oriented to time with some confusion.

11 (d) On July 8, 2010, E.B. was sent to Temple for high blood pressure, multiple
 12 rashes, and severe abdominal pain. At the time of the admission, Respondent's
 13 notes indicate that an attempt to notify E.B.'s son was unsuccessful. Dr.
 14 Anuntiyo's progress note of July 10, 2010 indicates that the patient was
 15 transferred without his knowledge. Respondent called in phone orders to
 16 Temple at 9:00 p.m. on July 10, 2010. Respondent's admission diagnosis was
 17 listed as uncontrolled hypertension and abdominal pain. Extensive laboratory
 18 tests and radiographic studies were ordered. She was placed on a low sodium
 19 diet, intravenous fluids and , intravenous antibiotics. The admission's physical
 20 exam indicated bradycardia, a blood pressure of 115/67, and a normal
 21 abdominal examination. Intravenous antibiotics were started on July 9, 2010.

22 (e) During her stay at Temple multiple laboratory and radiological studies were
 23 performed on E.B. Those studies revealed several abnormalities including ne
 24 culture revealed Klebsiella¹⁶ that was sensitive to multiple oral antibiotics.

25

26 ¹⁵ Simvastatin is a hypolipidemic drug used to control elevated cholesterol, or
 hypercholesterolemia.

27 ¹⁶ Klebsiella is a genus of bacteria that are widely distributed in nature and commonly
 28 found in the intestinal tract. They are a frequent cause of nosocomial urinary and pulmonary
 infections and wound infections, and can be related to respiratory issues.

1 The chest x-ray demonstrated aortic calcification, and a wedge deformity in the
2 spine. An infectious disease consultation was obtained from Steven Hwang,
3 M.D., to evaluate rash, abdominal pain, and diarrhea. His examination
4 revealed that E.B., was afebrile and alert, but had questionable orientation.
5 She was described as nontoxic appearing, in no acute distress and comfortable.
6 Dr. Hwang noted a benign abdominal exam and no rash. He felt that if an
7 infectious etiology was present it was mild at best, although he agreed with the
8 antibiotics for the time being.

9 (f) The discharge summary was dictated on July 15, 2010 by Lucy Barrios and
10 cosigned by Respondent. The discharge diagnosis included urinary tract
11 infection, acute gastroenteritis, hypertension, rash, and hyperlipidemia.¹⁷

12 Although E.B. had been admitted for abdominal pain, there was no abdominal
13 pain documented. E.B. was discharged to Westlake on July 11, 2010 under the
14 care of Meera Modi, M.D.

15 (g) On or about January 10, 2011, E.B. was admitted to Temple from Westlake for
16 headache and neck pain. The patient history and physical were performed by
17 Nils Tanaka, M.D., and cosigned by Respondent. Past medical history lists
18 hypertension, hyperlipidemia, chronic slurred speech, rash, osteopenia,¹⁸
19 GERD, varicose veins, and urinary tract infection. She was admitted to the
20 medical floor, given intravenous fluids and intravenous antibiotics. The
21 nursing admission assessment documents that the reason for admission was,
22 according to E.B., "To get a check up and see the doctor . . ." The patient
23 denied any pain on the nursing assessment. Neither did the patient sign a
24 consent for treatment. After numerous tests, she was discharged to Westlake
25 on January 13, 2011 under the care of Meera Modi, MD.

26 ¹⁷ Hyperlipidemia is the condition of abnormally elevated levels of any or all lipids and/or
27 lipoproteins in the blood, and is commonly referred to as cholesterol levels.

28 ¹⁸ Osteopenia is a condition where bone mineral density is lower than normal. It is
considered by many doctors to be a precursor to osteoporosis.

1 12. The standard of care for the management of hospitalized patients is to evaluate acute
2 illnesses, address abnormalities discovered during the hospitalization and appropriately manage a
3 patient's chronic conditions. For hospitalized medical patients, the standard of care is to provide
4 prophylaxis for venous thromboembolism in patients that are at risk. Informed consent is
5 required for hospitalization and treatment.

6 13. Respondent's admission orders on July 8, 2010 were below the required standard.
7 Respondent failed to manage the patient's admission diagnosis of uncontrolled hypertension.
8 E.B. had a past history of hypertension requiring treatment. She was also on a psychotropic agent
9 putting her at risk for neuroleptic malignant syndrome, a rare but life threatening complication to
10 anti-psychotic use. In addition to close blood pressure monitoring, Respondent should have
11 ordered an antihypertensive agent to be given as needed for severe hypertension. He also failed
12 to address several abnormal laboratory results discovered during the patient's hospitalization such
13 as an elevated glucose, antinuclear antibodies,¹⁹ and an elevated sedimentation rate. The medical
14 record documents that E.B. underwent a psychological assessment at Vista, prior to transfer to
15 Temple. Diagnostic impressions included paranoid schizophrenia, Alzheimers dementia, and
16 developmental delay with the thought processes of a small child. She was noted to be minimally
17 oriented to time with some confusion. E.B. may not have had the capacity to give informed
18 consent for hospitalizations. Respondent's failure to involve the patient's son or her primary care
19 physician in the decision to hospitalize and treat falls below the standard of care and constitutes
20 negligence.

21 14. Respondent's hospital management of E.B. on July 8, 2010 was negligent in that he
22 failed to manage the chief complaint; failed to address laboratory abnormalities, and failed to
23 obtain informed consent for hospitalization and treatment. Respondent's substandard care of E.B.
24 constitutes negligence amounting to unprofessional conduct.

25 ¹⁹ Antinuclear antibody (ANA) is an autoantibody directed against nuclear antigens.
26 Antinuclear antibodies are found in the blood serum of patients with rheumatoid arthritis,
27 systemic lupus erythematosus, Sjögren's syndrome, polymyositis, scleroderma, Raynaud's
28 disease, mixed connective tissue disease, and a number of nonrheumatic disorders ranging from
lymphomas, leukemias, primary biliary cirrhosis, thyroiditis, chronic active hepatitis, and adverse
drug reactions.

1 15. When E.B. was admitted to Temple on or about January 10, 2011, no informed
2 consent for hospitalization or treatment was done. Respondent's failure to get a consent for
3 hospitalization and treatment constitutes negligence amounting to unprofessional conduct.

4
5
6 16. Patient L.B.

7 a) L.B. is a 67 year old male with a history of chronic lymphocytic leukemia for
8 which he underwent chemotherapy in 2009, COPD, obstructive sleep apnea,
9 on nightly CPAP,²⁰ previous respiratory failure requiring intubation, and
10 congestive heart failure. The patient also underwent a right knee patellar
11 replacement, which was then removed due to infection leaving him, basically,
12 without a right knee. The patient also had a history of GERD, diabetes,
13 chronic atrial fibrillation, erectile dysfunction, decompensated liver disease,
14 alcohol dependency in remission, and decubital ulcers.²¹

15 (a) L.B. was admitted to Vista on April 3, 2010 from Country Villa Nursing
16 Center with Dr. Jeremy Anuntiyo, M.D. listed as the primary attending
17 physician. Dr. Anuntiyo performed a history and physical on April 10, 2010.
18 The medical record documents monthly visits from Dr. Anuntiyo from April
19 2010 through August 2010, managing L.B.'s chronic medical conditions. A
20 bone marrow biopsy was performed on April 12, 2009 which showed B-cell
21 chronic lymphocytic leukemia/small lymphocytic lymphoma with markers
22 associated with an unfavorable prognosis. A follow up laboratory analysis on
23 May 18, 2010 showed related liver function abnormalities and chronic renal
24 failure.

25
26 ²⁰ CPAP is the standard abbreviation for "continuous positive airway pressure." This is a
27 method of positive pressure ventilation used with patients who are breathing spontaneously, done
28 to keep the alveoli open at the end of exhalation and thus increase oxygenation and reduce the
work of breathing.

²¹ Commonly referred to as bedsores.

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
26
27
28

(b) L.B. was admitted to Temple on September 28, 2010. The history and physical were dictated by Ovid Mercene, M.D., and cosigned by Respondent on September 28, 2010. The chief complaint noted upon admission was shortness of breath, and L.B. was described to be in moderate respiratory distress. A pulmonary examination revealed wheezing. However, no vital signs were recorded. The admission diagnosis was acute shortness of breath, possible exacerbation of COPD or sleep apnea, morbid obesity, arteriosclerotic heart disease, hyperlipidemia, possible chronic renal failure and diabetes. Upon admission Respondent ordered several specialty consultations. However, no consent for hospitalization and treatment was signed. The laboratory evaluations revealed the same issues as the patient's medical history indicated. Notably, the patient's right knee was x-rayed because Respondent had noted that he had issues with his right knee, and the notes reflect that there was no fracture. That is particularly interesting considering the patient's right knee medical history, as noted above.

(c) A bone marrow biopsy was performed on September 29, 2010, despite the patient's charts indicating a pre-existing leukemiatic condition. L.B. was discharged on October 1, 2010 to Westlake under the care of Respondent.

(d) Medical records document that the patient requested to be discharged to Vista on October 18, 2010 and he was discharged back to Vista on October 29, 2010. L.B. was subsequently readmitted to Westlake on October 30, 2010 for uncontrolled diabetes under the care of Meera Modi, M.D. At no time was his primary care physician or family members informed of any of these transfers.

(e) On January 11, 2011, L.B. was again admitted to Temple. The history and physical were performed by Yvonne Alanes, M.D., and cosigned by Respondent on January 12, 2011. The chief complaint listed on admission was hypertension and diabetes. The past medical history listed diabetes,

1 hypertension, atrial fibrillation and right knee replacement (which replacement
2 was subsequently removed).

3 (f) Numerous tests were performed on E.B., which revealed significant laboratory
4 abnormalities. The patient was discharged on January 15, 2011 to Westlake
5 under the care of Meera Modi, M.D.

6 17. Respondent provided substandard care for patient L.B., during his transition from
7 Temple to Westlake in October 2010. He failed to manage the patient's COPD, obstructive sleep
8 apnea, and poorly controlled diabetes. At discharge from acute hospitalization, Respondent
9 should have assessed the patient's need for continued supplemental oxygen, respiratory therapy,
10 bronchodilators and CPAP. L.B. was previously on higher insulin doses. His blood sugar levels
11 indicate poor diabetes control. The medical record demonstrates blood sugar levels in the 300 -
12 400 range requiring daily sliding scale insulin coverage. Failure to adjust the patient's insulin or
13 add oral hypoglycemics in a timely manner is substandard and negligent care. L.B. had a number
14 of laboratory abnormalities documented during his acute hospitalization that were not stable and
15 required close follow up, none of which occurred amounting to negligence.

16 18. The standard of care for the management of hospitalized patients is to evaluate acute
17 illnesses, address abnormalities discovered during the hospitalization and appropriately manage a
18 patient's chronic conditions. For hospitalized medical patients, the standard of care is to provide
19 prophylaxis for venous thromboembolism in patients that are at risk. Informed consent is
20 required for hospitalization and treatment.

21 19. Respondent's substandard management put L.B. at risk for COPD exacerbation,
22 hypoxemia, complications of poorly controlled diabetes, progressive renal failure, bleeding
23 complications due to thrombocytopenia and digoxin toxicity. Respondent also failed to manage
24 L.B.'s COPD/Obstructive Sleep Apnea and his poorly controlled diabetes. Respondent also failed
25 to follow-up laboratory abnormalities. Respondent's substandard care of L.B. constitutes
26 negligence amounting to unprofessional conduct.

27 20. Medical Record Keeping.
28

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
26
27
28

(a) The standard of medical practice is to provide accurate and complete medical records. The documentation from Respondent for the Temple hospitalizations for patients B.B., E.B., and L.B. was below the standard of care. There were deficiencies in the admission history and physical information and in the discharge summaries. Omissions were noted in the patients' past medical history, psychiatric history and outpatient medication lists. B.B. had allergies to penicillin and ACE inhibitors that were not noted. The discharge summaries did not address significant abnormal physical findings, abnormal laboratory tests and radiographic results discovered during hospitalization. The discharge medication reconciliation was incomplete.

21. Respondent's medical record keeping represents a departure from the standard of care for failure to provide complete and accurate medical records. Respondent's substandard record keeping constitutes unprofessional conduct.

FIRST CAUSE FOR DISCIPLINE
(Unprofessional Conduct)

22. Respondent is subject to disciplinary action under section 2234(c) of the Code in that Respondent committed repeated negligent acts or omissions from the applicable standard of care amounting to unprofessional conduct., as more particularly alleged hereinafter.

23. Paragraphs 7 through 21, above, are hereby incorporated by reference and realleged as if fully set forth hereinafter.

SECOND CAUSE FOR DISCIPLINE
(Medical Record Keeping)

24. Respondent is subject to disciplinary action under sections 2227 and 2234, as defined by section 2266 of the Code, in that he failed to maintain adequate and accurate records relating to his care and treatment of patients B.B., E.B., and L.B., as more particularly alleged hereinafter.

25. Paragraphs 7 through 21, above, are hereby incorporated by reference and realleged as if fully set forth hereinafter.

1 Respondent violates probation in any respect, the Board after giving Respondent notice and the
2 opportunity to be heard, may revoke probation and carry out the disciplinary order that was
3 stayed. If an Accusation, Petition to Revoke Probation, or an Interim Suspension order is filed
4 against Respondent during probation, the Board shall have continuing jurisdiction until the matter
5 is final, and the period of probation shall be extended until the matter is final.”

6 31. At all times after the effective date of Respondent’s probation, the Stipulated
7 Settlement and Disciplinary Order in Case Number 17-2006-177596, Disciplinary Order,
8 paragraph number nine (9) stated:

9 “Failure to fully comply with any term or condition of probation is a violation
10 of Probation and may be deemed unprofessional conduct and form the basis for new
11 disciplinary charges. If respondent violates probation in any respect, the Board after
12 giving respondent notice and the opportunity to be heard, may revoke probation and
13 carry out the disciplinary order that was stayed. If an Accusation, Petition to
14 Revoke Probation, or an Interim Suspension order is filed against respondent during
15 probation, the Board shall have continuing jurisdiction until the matter is final, and
16 the period of probation shall be extended until the matter is final.”

17 32. Respondent’s probation is subject to revocation because he failed to comply with the
18 Stipulated Settlement and Disciplinary Order in Case Number 11-2004-157231, Disciplinary
19 Order, paragraph number seventeen (17) and the Stipulated Settlement and Disciplinary Order in
20 Case Number 17-2006-177596, Disciplinary Order, paragraph number nine (9), in that
21 Respondent has failed to comply with all of the terms and conditions of probation, as more
22 particularly described in paragraphs 6 through 28, above, which are hereby incorporated by
23 reference and realleged as if fully set forth hereinafter.

24 **DISCIPLINE CONSIDERATIONS**

25 33. To determine the degree of discipline, if any, to be imposed on Respondent,
26 Complainant alleges that on or about June 26, 2008 the Medical Board of California issued a
27 Decision adopting a Stipulated Settlement and Disciplinary in Case Number 11-2004-157231
28 placing Respondent on probation for 4 years and otherwise imposing discipline on his license.

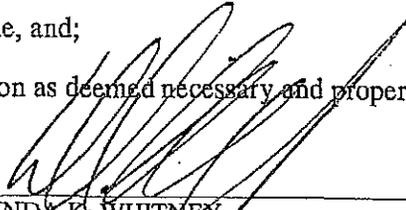
1 Complainant further alleged that on or about, December 21, 2009, in a second prior action, the
2 Medical Board of California issued a Decision adopting a Stipulated Settlement and Disciplinary
3 Order in Case Number 17-2006-177596, extending Respondent's probation for an additional
4 year: Those actions are now final and are incorporated by reference as if fully set forth
5 hereunder.

6 **PRAYER**

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

- 9 1. Revoking Respondent's Physician's and Surgeon's Certificate No. A-39818;
- 10 2. Ordering Respondent to pay the Medical Board of California all of the costs of
11 probation monitoring, if placed on probation;
- 12 3. Revoking, suspending or denying approval of his authority to supervise physician's
13 assistants, pursuant to section 3527 of the Code, and;
- 14 4. Taking such other and further action as deemed necessary and proper.

15 DATED: October 5, 2012


16 LINDA K. WHITNEY
17 Executive Director
18 Medical Board of California
19 Department of Consumer Affairs
20 State of California
21 Complainant

22 LA2012604648
23 60861238.docx
24
25
26
27
28

EXHIBIT A

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 PAUL C. AMENT
Supervising Deputy Attorney General
3 ESTHER P. KIM, State Bar No. 225418
Deputy Attorney General
4 300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
5 Telephone: (213) 897-2872
Facsimile: (213) 897-9395
6
7 Attorneys for Complainant

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

10 In the Matter of the First Amended Accusation
Against:
11 JASVANT N. MODI, M.D.
12 711 North Alvarado St., Ste. 112
13 Los Angeles, California 90026
14 Physician's & Surgeon's Certificate No. A39818
15 Respondent.

Case No. 11-2004-157231
OAH No. 2007050037

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

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

19 **PARTIES**

- 20 1. Barbara Johnston (Complainant) is the Executive Director of the Medical
21 Board of California. She brought this action solely in her official capacity and is represented in
22 this matter by Edmund G. Brown Jr., Attorney General of the State of California, by Esther P.
23 Kim, Deputy Attorney General,
24 2. Respondent Jasvant N. Modi, M.D. (Respondent) is represented in this
25 proceeding by attorney Leon Small, whose address is 16530 Ventura Blvd., Suite 306
26 Encino, CA. 91436.
27 3. On or about May 9, 1983, the Medical Board of California (Board) issued
28 Physician's & Surgeon's Certificate No. A39818 to Respondent. The Physician's & Surgeon's

1 Certificate was in full force and effect at all times relevant to the charges brought in the First
2 Amended Accusation No. 11-2004-157231 and will expire on April 30, 2009, unless renewed.

3 JURISDICTION

4 4. First Amended Accusation No. 11-2004-157231 was filed before the
5 Medical Board of California, and is currently pending against Respondent. The First Amended
6 Accusation and all other statutorily required documents were properly served on Respondent on
7 November 29, 2007. Respondent timely filed his Notice of Defense contesting the Accusation.
8 A copy of First Amended Accusation No. 11-2004-157231 is attached as exhibit A and
9 incorporated herein by reference.

10 ADVISEMENT AND WAIVERS

11 5. Respondent has carefully read, fully discussed with counsel, and
12 understands the charges and allegations in First Amended Accusation No. 11-2004-157231.
13 Respondent has also carefully read, fully discussed with counsel, and understands the effects of
14 this Stipulated Settlement and Disciplinary Order.

15 6. Respondent is fully aware of his legal rights in this matter, including the
16 right to a hearing on the charges and allegations in the First Amended Accusation; the right to be
17 represented by counsel at his own expense; the right to confront and cross-examine the witnesses
18 against him; the right to present evidence and to testify on his own behalf; the right to the
19 issuance of subpoenas to compel the attendance of witnesses and the production of documents;
20 the right to reconsideration and court review of an adverse decision; and all other rights accorded
21 by the California Administrative Procedure Act and other applicable laws.

22 7. Respondent voluntarily, knowingly, and intelligently waives and gives up
23 each and every right set forth above.

24 CULPABILITY

25 8. Respondent does not contest that, at an administrative hearing,
26 complainant could establish a prima facie case with respect to the charges and allegations
27 contained in First Amended Accusation No. 11-2004-157231 and that he has thereby subjected
28 his license to disciplinary action.

1 is stayed and Respondent is placed on probation for four (4) years on the following terms and
2 conditions.

3 1. ETHICS COURSE Within 60 calendar days of the effective date of this
4 Decision, respondent shall enroll in a course in ethics, at Respondent's expense, approved in
5 advance by the Board or its designee. Failure to successfully complete the course during the first
6 year of probation is a violation of probation.

7 An ethics course taken after the acts that gave rise to the charges in the
8 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board
9 or its designee, be accepted towards the fulfillment of this condition if the course would have
10 been approved by the Board or its designee had the course been taken after the effective date of
11 this Decision.

12 Respondent shall submit a certification of successful completion to the Board or
13 its designee not later than 15 calendar days after successfully completing the course, or not later
14 than 15 calendar days after the effective date of the Decision, whichever is later.

15 2. CLINICAL TRAINING PROGRAM Based on information submitted by
16 Respondent, Respondent shall receive credit for the clinical training program requirement.

17 3. MEDICAL RECORD KEEPING COURSE Based on information
18 submitted by Respondent, Respondent shall receive credit for the medical record keeping course
19 requirement.

20 4. EDUCATION COURSE Based on information submitted by Respondent,
21 Respondent shall receive credit for the education course requirement.

22 5. MONITORING - PRACTICE/BILLING In lieu of a private
23 practice/billing monitor, the Board shall utilize the case review program performed by the
24 Quality and Risk Management Committee at Temple Community Hospital in Los Angeles,
25 California. Within 30 calendar days of the effective date of this Decision, Respondent shall
26 submit to the Board or its designee, the name and qualifications of one or more licensed
27 physicians and surgeons who will conduct the case review for the Quality and Risk Management
28 Committee at Temple Community Hospital. A monitor shall have no prior or current business or

1 personal relationship with Respondent, or other relationship that could reasonably be expected to
2 compromise the ability of the monitor to render fair and unbiased reports to the Board, including,
3 but not limited to, any form of bartering, shall be in Respondent's field of practice, and must
4 agree to serve as Respondent's monitor. Respondent shall pay all monitoring costs, if any.

5 The Board or its designee shall provide the approved monitor with copies of the
6 Decision and First Amended Accusation, and a proposed monitoring plan. Within 15 calendar
7 days of receipt of the Decision, First Amended Accusation, and proposed monitoring plan, the
8 monitor shall submit a signed statement that the monitor has read the Decision and First
9 Amended Accusation, fully understands the role of a monitor, and agrees or disagrees with the
10 proposed monitoring plan. If the monitor disagrees with the proposed monitoring plan, the
11 monitor shall submit a revised monitoring plan with the signed statement.

12 Within 60 calendar days of the effective date of this Decision, and continuing
13 throughout probation, Respondent's practice shall be monitored by the approved monitor
14 utilizing the case review program performed by the Quality and Risk Management Committee at
15 Temple Community Hospital. Respondent shall make all records available for immediate
16 inspection and copying on the premises by the monitor at all times during business hours, and
17 shall retain the records for the entire term of probation.

18 The monitor(s) shall submit a quarterly written report to the Board or its designee
19 which includes an evaluation of Respondent's performance, indicating whether Respondent's
20 practices are within the standards of practice of medicine or billing, or both, and whether
21 Respondent is practicing medicine safely, billing appropriately or both. The monitor(s) shall also
22 submit any and all reports, data, and/or information relevant to the case review program.

23 It shall be the sole responsibility of Respondent to ensure that the monitor submits
24 the quarterly written reports to the Board or its designee within 10 calendar days after the end of
25 the preceding quarter.

26 If the monitor resigns or is no longer available, Respondent shall, within 5
27 calendar days of such resignation or unavailability, submit to the Board or its designee, for prior
28 approval, the name and qualifications of a replacement monitor who will be assuming that

1 responsibility within 15 calendar days. If Respondent fails to obtain approval of a replacement
2 monitor within 60 days of the resignation or unavailability of the monitor, Respondent shall be
3 suspended from the practice of medicine until a replacement monitor is approved and prepared to
4 assume immediate monitoring responsibility. Respondent shall cease the practice of medicine
5 within 3 calendar days after being so notified by the Board or designee.

6 If the case review program performed by the Quality and Risk Management
7 Committee at Temple Community Hospital is no longer available or ceases to provide
8 monitoring for Respondent, Respondent shall, within 5 calendar days of such unavailability,
9 submit to the Board or its designee, for prior approval, the name and qualifications of a
10 replacement monitor who will be assuming the responsibility equivalent to one outlined by the
11 Quality and Risk Management Committee at Temple Community Hospital, within 15 calendar
12 days. If Respondent fails to obtain approval of a replacement monitor within 60 days of the
13 resignation or unavailability of the monitor, Respondent shall be suspended from the practice of
14 medicine until a replacement monitor is approved and prepared to assume immediate monitoring
15 responsibility. Respondent shall cease the practice of medicine within 3 calendar days after
16 being so notified by the Board or designee.

17 Failure to maintain all records, or to make all appropriate records available for
18 immediate inspection and copying on the premises, or to comply with this condition as outlined
19 above is a violation of probation.

20 6. SOLO PRACTICE Respondent is prohibited from engaging in the solo
21 practice of medicine. However, this requirement is waived with the case review program
22 performed by the Quality and Risk Management Committee at Temple Community Hospital in
23 place.

24 7. RESTRICTIONS IN PRACTICE Respondent shall perform
25 gastrointestinal procedures only at Temple Community Hospital for the duration of probation.
26 Respondent is prohibited from performing gastrointestinal procedures at any other hospital,
27 clinic, and/or medical facility without prior approval from the Board. Should Respondent seek
28 approval from the Board to perform gastrointestinal procedures at any other hospital, clinic,

1 and/or medical facility, Respondent shall, as to that hospital, clinic, and/or medical facility,
2 comply with procedures equivalent to those outlined in the Monitoring - Practice/Billing
3 condition, above.

4 8. NOTIFICATION Prior to engaging in the practice of medicine, the
5 Respondent shall provide a true copy of the Decision and First Amended Accusation to the Chief
6 of Staff or the Chief Executive Officer at every hospital where privileges or membership are
7 extended to Respondent, at any other facility where respondent engages in the practice of
8 medicine, including all physician and locum tenens registries or other similar agencies, and to the
9 Chief Executive Officer at every insurance carrier which extends malpractice insurance coverage
10 to Respondent. Respondent shall submit proof of compliance to the Board or its designee within
11 15 calendar days.

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

14 9. SUPERVISION OF PHYSICIAN ASSISTANTS During probation,
15 respondent is prohibited from supervising physician assistants.

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

19 11. QUARTERLY DECLARATIONS Respondent shall submit quarterly
20 declarations under penalty of perjury on forms provided by the Board, stating whether there has
21 been compliance with all the conditions of probation. Respondent shall submit quarterly
22 declarations not later than 10 calendar days after the end of the preceding quarter.

23 12. PROBATION UNIT COMPLIANCE Respondent shall comply with the
24 Board's probation unit. Respondent shall, at all times, keep the Board informed of Respondent's
25 business and residence addresses. Changes of such addresses shall be immediately
26 communicated in writing to the Board or its designee. Under no circumstances shall a post office
27 box serve as an address of record, except as allowed by Business and Professions Code section
28 2021, subdivision (b).

1 Respondent shall not engage in the practice of medicine in Respondent's place of
2 residence. Respondent shall maintain a current and renewed California physician and surgeon's
3 certificate.

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

7 13. INTERVIEW WITH THE BOARD, OR ITS DESIGNEE Respondent
8 shall be available in person for interviews either at Respondent's place of business or at the
9 probation unit office, with the Board or its designee, upon request at various intervals, and either
10 with or without prior notice throughout the term of probation.

11 14. RESIDING OR PRACTICING OUT-OF-STATE In the event
12 Respondent should leave the State of California to reside or to practice, Respondent shall notify
13 the Board or its designee in writing 30 calendar days prior to the dates of departure and return.
14 Non-practice is defined as any period of time exceeding 30 calendar days in which Respondent is
15 not engaging in any activities defined in Sections 2051 and 2052 of the Business and Professions
16 Code.

17 All time spent in an intensive training program outside the State of California
18 which has been approved by the Board or its designee shall be considered as time spent in the
19 practice of medicine within the State. A Board-ordered suspension of practice shall not be
20 considered as a period of non-practice. Periods of temporary or permanent residence or practice
21 outside California will not apply to the reduction of the probationary term. Periods of temporary
22 or permanent residence or practice outside California will relieve respondent of the responsibility
23 to comply with the probationary terms and conditions with the exception of this condition and
24 the following terms and conditions of probation: Obey All Laws and Probation Unit
25 Compliance.

26 Respondent's license shall be automatically canceled if Respondent's periods of
27 temporary or permanent residence or practice outside California total two years. However,
28 Respondent's license shall not be canceled as long as Respondent is residing and practicing

1 medicine in another state of the United States and is on active probation with the medical
2 licensing authority of that state, in which case the two year period shall begin on the date
3 probation is completed or terminated in that state.

4 15. FAILURE TO PRACTICE MEDICINE - CALIFORNIA RESIDENT

5 In the event Respondent resides in the State of California and for any reason Respondent stops
6 practicing medicine in California, Respondent shall notify the Board or its designee in writing
7 within 30 calendar days prior to the dates of non-practice and return to practice. Any period of
8 non-practice within California, as defined in this condition, will not apply to the reduction of the
9 probationary term and does not relieve Respondent of the responsibility to comply with the terms
10 and conditions of probation. Non-practice is defined as any period of time exceeding 30 calendar
11 days in which Respondent is not engaging in any activities defined in sections 2051 and 2052 of
12 the Business and Professions Code.

13 All time spent in an intensive training program which has been approved by the
14 Board or its designee shall be considered time spent in the practice of medicine. For purposes of
15 this condition, non-practice due to a Board-ordered suspension or in compliance with any other
16 condition of probation, shall not be considered a period of non-practice.

17 Respondent's license shall be automatically canceled if Respondent resides in
18 California and for a total of two years, fails to engage in California in any of the activities
19 described in Business and Professions Code sections 2051 and 2052.

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

24 17. VIOLATION OF PROBATION Failure to fully comply with any term or
25 condition of probation is a violation of probation. If Respondent violates probation in any
26 respect, the Board, after giving Respondent notice and the opportunity to be heard, may revoke
27 probation and carry out the disciplinary order that was stayed. If an Accusation, Petition to
28 Revoke Probation, or an Interim Suspension Order is filed against Respondent during probation,

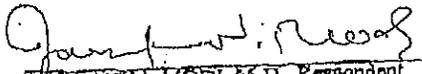
1 the Board shall have continuing jurisdiction until the matter is final, and the period of probation
2 shall be extended until the matter is final.

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

14 19. PROBATION MONITORING COSTS Respondent shall pay the costs
15 associated with probation monitoring each and every year of probation, as designated by the
16 Board, and which may be adjusted on an annual basis. Such costs shall be payable to the
17 Medical Board of California and delivered to the Board or its designee no later than January 31st
18 of each calendar year. Failure to pay costs within 30 calendar days of the due date is a violation
19 of probation.

20 ACCEPTANCE

21 I have carefully read the above Stipulated Settlement and Disciplinary Order and
22 have fully discussed it with my attorney, Leon Small. I understand the stipulation and the effect
23 it will have on my Physician's & Surgeon's Certificates. I enter into this Stipulated Settlement and
24 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the
25 Decision and Order of the Board.

26 DATED: 5/6/08 
27 JASVANT N. MODI, M.D., Respondent
28

1 I have read and fully discussed with Respondent Jasvant N. Modi, M.D., the
2 terms and conditions and other matters contained in the above Stipulated Settlement and
3 Disciplinary Order. I approve its form and content.

4 DATED: 5/9/08


LEON SMALL, Attorney for Respondent

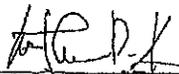
7 ENDORSEMENT

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

10 DATED: 5/9/08

12 EDMUND G. BROWN JR., Attorney General
of the State of California

13 PAUL C. AMENT
14 Supervising Deputy Attorney General

16 
17 ESTHER P. KIM
Deputy Attorney General
18 Attorneys for Complainant

20 50246043.wpd

Exhibit A

First Amended Accusation No. 11-2004-157231

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 PAUL C. AMENT
Supervising Deputy Attorney General
3 ESTHER KIM, State Bar No. 225418
Deputy Attorney General
4 California Department of Justice
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2872
6 Facsimile: (213) 897-9395
7 Attorneys for Complainant

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO *November 29, 2007*
BY *Paul C. Ament*

8
9 **BEFORE THE**
10 **DIVISION OF MEDICAL QUALITY**
11 **MEDICAL BOARD OF CALIFORNIA**
12 **DEPARTMENT OF CONSUMER AFFAIRS**
13 **STATE OF CALIFORNIA**

14 In the Matter of the Accusation Against:

Case No. 11-2004-157231

15 **JASVANT N. MODI, M.D.**

OAH No. 2007050037

16 711 North Alvarado Street, Suite 112
17 Los Angeles, California 90026

FIRST AMENDED ACCUSATION

18 Physician and Surgeon's Certificate No. A 39818

19 Respondent.

20 Complainant alleges:

21 **PARTIES**

22 1. Barbara Johnston (Complainant) brings this First Amended Accusation
23 solely in her official capacity as the Executive Director of the Medical Board of California
24 (Board), Department of Consumer Affairs, State of California.

25 2. On or about May 9, 1983, the Board issued Physician and Surgeon's
26 Certificate No. A 39818 to Jasvant N. Modi, M.D. (Respondent). The Physician and Surgeon's
27 Certificate was in full force and effect at all times relevant to the charges brought herein and will
28 expire on April 30, 2009, unless renewed.

1 J.A.¹ The circumstances are as follows:

2 8. On or about January 29, 2003, patient J.A., who was thirty-seven years old
3 at the time, was admitted to Temple Community Hospital with complaints of abdominal pain and
4 bloody bowel movements. A CT scan of his abdomen was performed and found to be negative.

5 9. On or about January 30, 2003, Respondent performed an upper endoscopy
6 with biopsy on patient J.A. Respondent's operative summary indicated that the patient presented
7 with epigastric and abdominal pain, stool guaiac² positive, loss of appetite, and loss of weight.
8 Respondent's findings were severe gastritis³ and hiatal hernia⁴. The pathology report was
9 negative. There was no indication for an upper endoscopy as all the symptoms were lower
10 gastrointestinal symptoms.

11 10. On or about January 30, 2003, Respondent was grossly negligent in the
12 care and treatment of patient J.A. by performing an upper endoscopy, a procedure which was
13 unnecessary and for which there were no medical indications under the circumstances.

14 SECOND CAUSE FOR DISCIPLINE

15 (Gross Negligence - Patient E.D.)

16 11. Respondent is subject to disciplinary action under section 2234,
17 subdivision (b), of the Code in that he was grossly negligent in the care and treatment of patient
18 E.D. The circumstances are as follows:

19 12. On or about September 10, 2002, E.D., who was thirty-seven years old at
20 the time and a resident of a board and care facility, was admitted to Temple Community Hospital
21 with complaints of a sore throat, coughing, severe episodes of nausea and vomiting, and diarrhea.
22 It was noted that there was no history of any recurrent abdominal pain. The physical examination
23 revealed a flat and soft abdomen with no rebound or guarding. The rectal examination revealed

- 24
-
- 25 1. The names of patients are kept confidential to protect their privacy.
26 2. A test to detect blood in the stool.
27 3. Inflammation of the stomach lining.
28 4. Upper part of the stomach protrudes through the diaphragm into the chest.

1 no blood on the examining finger. A CT scan of the abdomen and pelvis was performed which
2 showed bilateral pleural thickening.

3 13. On or about September 11, 2002, Respondent performed an upper
4 endoscopy with biopsy on patient E.D. Respondent's operative summary indicated that the
5 patient presented with epigastric and abdominal pain, stool guaiac positive, loss of appetite, and
6 loss of weight. His findings were severe gastritis and hiatal hernia. There was no indication for
7 an upper endoscopy as the patient was admitted with possible upper respiratory infection.

8 14. On or about September 11, 2002, Respondent was grossly negligent in the
9 care and treatment of patient E.D. by performing an upper endoscopy, a procedure which was
10 unnecessary and for which there were no medical indications under the circumstances.

11 THIRD CAUSE FOR DISCIPLINE

12 (Gross Negligence - Patient M.R.)

13 15. Respondent is subject to disciplinary action under section 2234,
14 subdivision (b), of the Code in that he was grossly negligent in the care and treatment of patient
15 M.R. The circumstances are as follows:

16 16. On or about September 17, 2003, M.R., who was twenty-six years old at
17 the time, presented to Physician Healthcare Services with complaints of lower abdominal and
18 pelvic pain. A history and physical was completed by the primary physician and a referral was
19 made to Respondent.

20 17. On or about September 18, 2003, Respondent performed an upper
21 endoscopy on patient M.R. Respondent's operative summary indicated that the patient presented
22 with constant epigastric and abdominal pain, heartburn, and reflux. His findings were gastritis
23 and biopsies were obtained which demonstrated H. Pylori⁵. Respondent also described
24 gastroesophageal reflux disease and stated that it was non-erosive. Hiatal hernia and further
25 gastroenterology work up was noted. There was no indication for an upper endoscopy as the

26 _____
27 5. Helicobacter pylori is a type of bacteria that is a major cause of stomach and upper
28 small intestine ulcers.

1 symptoms were associated with an acute onset of gastrointestinal symptoms, possibly with an
2 acute onset of H. Pylori disease.

3 18. Respondent was grossly negligent in the care and treatment of patient
4 M.R. by:

5 A. Performing an upper endoscopy on or about September 18, 2003,
6 without medical indication; and

7 B. Ordering further gastroenterology work up without medical
8 indication.

9 **FOURTH CAUSE FOR DISCIPLINE**

10 (Repeated Negligent Acts)

11 19. Respondent is subject to disciplinary action under section 2234,
12 subdivision (c), of the Code in that he committed repeated negligent acts in the care and
13 treatment of his patients. The circumstances are as follows:

14 **Patient J.A.**

15 20. Paragraphs 8 through 9 above are incorporated here by reference as if fully
16 set forth.

17 21. On or about January 30, 2003, Respondent was negligent in the care and
18 treatment of patient J.A. by performing an upper endoscopy, a procedure which was unnecessary
19 and for which there were no medical indications under the circumstances.

20 **Patient E.D.**

21 22. Paragraphs 12 and 13 above are incorporated here by reference as if fully
22 set forth.

23 23. On or about September 11, 2002, Respondent was negligent in the care
24 and treatment of patient E.D. by performing an upper endoscopy, a procedure which was
25 unnecessary and for which there were no medical indications under the circumstances.

26 **Patient M.R.**

27 24. Paragraphs 16 and 17 above are incorporated here by reference as if fully
28 set forth.

1 25. On or about September 18, 2003, Respondent was negligent in the care
2 and treatment of patient M.R. by performing an endoscopy, a procedure which was unnecessary
3 and for which there were no medical indications under the circumstances, and ordering further
4 gastroenterology work up without medical indication.

5 Patient E.M.

6 26. On or about July 9, 2002, patient E.M., who was forty-two years old at the
7 time with an unspecified mental disorder, was admitted to Temple Community Hospital with
8 complaints of abdominal pain after eating. In the patient's recorded history and physical
9 examination, there was no description of the type and location of the abdominal pain and no
10 mention of blood in the stool. A rectal examination was not performed. A CT scan of abdomen
11 was performed and found to be negative. The patient's liver enzymes were normal, and his
12 Amylase and Lipase (which diagnose pancreatic diseases) were minimally elevated.

13 27. On or about July 10, 2002, Respondent performed an upper endoscopy
14 with biopsy on patient E.M. Respondent's operative summary indicated that the patient
15 presented with epigastric and abdominal pain related to food. His findings were gastritis, bile
16 reflux, and hiatal hernia. Biopsies revealed negative findings. Respondent diagnosed the patient
17 with pancreatitis. There was no indication for an upper endoscopy where pancreatitis was
18 evident.

19 28. On or about July 11, 2002, Respondent performed a colonoscopy and
20 biopsy for abdominal pain, constipation, and blood in the stool. His findings were a suboptimal
21 examination, sigmoid⁶ inflammation and internal hemorrhoids. There was no indication for a
22 colonoscopy when the patient's only complaint was abdominal pain.

23 29. It was noted that the patient's aunt gave consent for the colonoscopy, but
24 no written consent was documented in the patient's chart.

25 30. Respondent was negligent in the care and treatment of patient E.M.

26 by:

27

28 6. Large intestine.

- 1 A. Performing an endoscopy on or about October 8, 2002, without
2 medical indication;
- 3 B. Performing a colonoscopy on or about October 9, 2002, without
4 medical indication; and
- 5 C. Failing to properly obtain an informed consent from the patient for
6 the procedures on or about October 8 and 9, 2002.

7 Patient J.R.

8 36. On or about November 26, 2002, patient J.R., who was fifty-one years old
9 at the time, was admitted to Temple Community Hospital for headache, decreasing left vision,
10 and neck pain. The patient suffered from aphasia,⁸ but the Respondent noted that the patient
11 complained of abdominal pain. A rectal examination was not performed until the next day by a
12 consultant, who found that the examination was negative for occult blood.

13 37. On or about November 30, 2002, Respondent performed an upper
14 endoscopy with biopsy. His operative summary indicated that the patient presented with
15 epigastric and abdominal pain, stool guaiac positive, loss of appetite, and loss of weight. His
16 finding was severe gastritis. Biopsies revealed negative findings.

17 38. On or about November 30, 2002, Respondent performed a colonoscopy
18 and polypectomy for severe epigastric and abdominal distress. His findings were a descending
19 colon polyp, which was removed, suboptimal examination, and colitis. Respondent did not
20 document the size, location and method of removal of the polyp. Biopsies revealed negative
21 findings.

22 39. It is unclear how Respondent obtained consents to perform these
23 procedures as the patient suffered from aphasia.

24 40. Respondent was negligent in the care and treatment of patient J.R. by
25 failing to properly obtain an informed consent from the patient for the procedures on or about
26 November 30, 2002.

27

28 8. Language problems due to brain damage.

1 Patient J.L.

2 41. On or about March 7, 2002, patient J.L., who was fifty years old at the
3 time, and had end stage renal disease, was admitted to Queen of Angels Hollywood Presbyterian
4 Hospital (Queen of Angels) with complaints of epigastric abdominal pain and vomiting of coffee
5 ground-like material. On or about March 13, 2002, Respondent performed an upper endoscopy.
6 Respondent's findings were hiatal hernia, multiple superficial gastric erosions and ulcerations,
7 gastritis and duodenitis.⁹ The patient's hemoglobin was 11.8.

8 42. On or about May 19, 2002, patient J.L. was admitted to Queen of Angels
9 for shortness of breath and chest pain. On or about May 22, 2002, Respondent performed an
10 upper endoscopy with biopsy. His operative summary indicated that the patient presented with
11 epigastric abdominal pain and low hemoglobin. His findings were multiple gastric erosions,
12 ulcerations, gastritis, and duodenitis. The biopsy of the antrum¹⁰ was negative. On or about May
13 22, 2002, the laboratory report indicated the stool specimen was negative for occult blood.

14 43. On or about May 23, 2002, Respondent performed a colonoscopy and
15 biopsy for epigastric abdominal pain, stool guaiac positive, and low hemoglobin. His findings
16 were colitis and blood clots. The evaluation was noted to be suboptimal, and a barium enema
17 was ordered. The pathology report of the colon biopsy was negative.

18 44. On or about November 11, 2002, patient J.L. was admitted to Queen of
19 Angels for abdominal pain, vomiting, dizziness, and weakness. Respondent noted that the rectal
20 examination, chest x-ray, and abdominal series were "unremarkable."

21 45. The records for patient J.L. indicate that on November 16 and 17, 2002,
22 the patient refused to take the preparation for the colonoscopy and refused to have the
23 colonoscopy.

24 46. On or about November 18, 2002, Respondent performed a colonoscopy
25 and biopsy for epigastric abdominal pain with nausea, vomiting, and positive stool guaiac. His
26

27 9. Irritation of the small intestine.

28 10. Upper portion of the stomach.

1 findings were internal hemorrhoids and colitis.

2 47. On or about November 20, 2002, Respondent performed an upper
3 endoscopy with biopsy for abdominal pain and anemia. His findings were gastritis and hiatal
4 hernia.

5 48. On or about April 14, 2004, Respondent saw patient J.L. in his office for
6 constipation, intermittent blood in the stool, and epigastric pain. Her hemoglobin was 11.4. On
7 or about April 19, 2004, Respondent performed an upper endoscopy for epigastric and abdominal
8 pain, intermittent nausea and vomiting, heartburn, and food regurgitation. His findings were
9 hiatal hernia, a mild degree of gastroesophageal reflux, and antral inflammation.

10 49. On or about April 26, 2004, Respondent performed a colonoscopy and
11 biopsy for blood in the stool, change in bowel habits, constipation, and weight loss. His findings
12 were internal hemorrhoids, diverticulosis,¹¹ and sigmoid area inflammation which was biopsied.
13 The pathology report indicated that a cecal biopsy was examined.

14 50. Respondent was negligent in the care and treatment of patient J.L. by
15 performing excessive upper endoscopies (on or about March 13, 2002; May 22, 2002; November
16 20, 2002; and April 19, 2004) and colonoscopies (on or about May 23, 2002; November 18,
17 2002; and April 26, 2004) over a two-year period without medical indication.

18 Patient R.T.

19 51. On or about November 20, 2002, R.T., who was nineteen years old at the
20 time, was admitted to Temple Community Hospital with complaints of vomiting, diarrhea, and
21 headaches for three days. There was no documentation of any abdominal pain upon physical
22 examination. The patient refused a rectal examination. A CT examination of her abdomen and
23 pelvis was ordered on an outpatient basis.

24 52. On or about November 21, 2002, Respondent performed an upper
25 endoscopy with biopsy. His operative summary indicated that the patient presented with
26

27 _____
28 11. Condition in which pouches called diverticula form in the wall of the large intestine.

1 epigastric and abdominal pain, stool guaiac positive, loss of appetite, and loss of weight. His
2 finding was severe gastritis. Biopsies revealed negative findings.

3 53. On or about November 21, 2002, Respondent performed a colonoscopy
4 and polypectomy for severe epigastric and abdominal distress. His findings were internal
5 hemorrhoids, sigmoid colon polyp, and colitis. He did not document the size, location and
6 method of removal of the polyp. There was no mention of the polyp in the pathology report.
7 Although a KUB¹² showed evidence of stool in the colon, Respondent did not document this in
8 the colonoscopy report.

9 54. Respondent was negligent in the care and treatment of patient R.T. by:

10 A. Performing an upper endoscopy on or about November 21, 2002,
11 without medical indication;

12 B. Performing a colonoscopy on or about November 21, 2002,
13 without medical indication;

14 C. Failing on or about November 21, 2002, to properly document the
15 gastrointestinal work-up for the patient including size and method of removal of the
16 polyp;

17 D. Failing on or about November 21, 2002, to submit the polyp for
18 evaluation by a pathologist; and

19 E. Failing on or about November 21, 2002, to document in the
20 colonoscopy report the presence of stool which was found on the KUB.

21 **FIFTH CAUSE FOR DISCIPLINE**

22 **(Failure to Maintain Adequate Records)**

23 55. Respondent is subject to disciplinary action under section 2266 of the
24 Code in that he failed to maintain adequate and accurate records relating to the provision of
25 services to his patients. The circumstances are as follows:

26 A. Paragraphs 7 through 54 above are incorporated here by reference

27
28 12. Abdominal x-ray.

1 as if set forth in full.

2 PRAYER

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

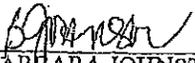
5 1. Revoking or suspending Physician and Surgeon's Certificate Number A
6 39818 issued to Jasvant N. Modi, M.D.;

7 2. Revoking, suspending or denying approval of his authority to supervise
8 physician's assistants, pursuant to section 3527 of the Code;

9 3. Ordering him to pay the Board, if placed on probation, the costs of
10 probation monitoring;

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

12
13 DATED: November 29, 2007

14
15 
16 _____
17 BARBARA JOHNSTON
18 Executive Director
19 Medical Board of California
20 Department of Consumer Affairs
21 State of California
22 Complainant

23
24
25
26
27
28
50198870.wpd

EXHIBIT B

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

In the Matter of the First Amended
Accusation Against:

JASVANT N. MODI, M.D.

Physician's and Surgeon's
Certificate No. A-39818

Respondent.

Case No. 17-2006-177596

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 January 20, 2010.

IT IS SO ORDERED December 21, 2009.

MEDICAL BOARD OF CALIFORNIA

By: 
Hedy Chang, Chair
Panel B

1 EDMUND G. BROWN JR.
Attorney General of California
2 STEVEN V. ADLER
Supervising Deputy Attorney General
3 DOUGLAS LEE
Deputy Attorney General
4 State Bar No. 222806
110 West "A" Street, Suite 1100
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 645-2580
7 Facsimile: (619) 645-2883
Attorneys for Complainant

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

12 In the Matter of the First Amended Accusation
Against:

Case No. 17-2006-177596

13 JASVANT N. MODI, M.D.
14 1100 Sunset Boulevard, #B
Los Angeles, CA 90012
15

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

16 Physician's and Surgeon's Certificate
No. A 39818
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. Barbara Johnston (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 Douglas Lee, Deputy
25 Attorney General.

26 2. Respondent JASVANT N. MODI, M.D. (Respondent) is represented in this
27 proceeding by attorney Alexander W. Kirkpatrick, Esq., whose address is 790 East Colorado
28 Boulevard, Suite 907, Pasadena, CA 91101.

1 3. QUARTERLY DECLARATIONS Respondent shall submit quarterly declarations
2 under penalty of perjury on forms provided by the Board, stating whether there has been
3 compliance with all the conditions of probation. Respondent shall submit quarterly declarations
4 not later than 10 calendar days after the end of the preceding quarter.

5 4. PROBATION UNIT COMPLIANCE Respondent shall comply with the Board's
6 probation unit. Respondent shall, at all times, keep the Board informed of respondent's business
7 and residence addresses. Changes of such addresses shall be immediately communicated in
8 writing to the Board or its designee. Under no circumstances shall a post office box serve as an
9 address of record, except as allowed by Business and Professions Code section 2021, subdivision
10 (b).

11 Respondent shall not engage in the practice of medicine in respondent's place of residence.
12 Respondent shall maintain a current and renewed California physician's and surgeon's license.

13 Respondent shall immediately inform the Board, or its designee, in writing, of travel to any
14 areas outside the jurisdiction of California which lasts, or is contemplated to last, more than 30
15 calendar days.

16 5. INTERVIEW WITH THE BOARD, OR ITS DESIGNEE Respondent shall be
17 available in person for interviews either at respondent's place of business or at the probation unit
18 office, with the Board or its designee, upon request at various intervals, and either with or without
19 prior notice throughout the term of probation.

20 6. RESIDING OR PRACTICING OUT-OF-STATE In the event respondent should
21 leave the State of California to reside or to practice, respondent shall notify the Board or its
22 designee in writing 30 calendar days prior to the dates of departure and return. Non-practice is
23 defined as any period of time exceeding 30 calendar days in which respondent is not engaging in
24 any activities defined in Sections 2051 and 2052 of the Business and Professions Code.

25 All time spent in an intensive training program outside the State of California which has
26 been approved by the Board or its designee shall be considered as time spent in the practice of
27 medicine within the State. A Board-ordered suspension of practice shall not be considered as a
28 period of non-practice. Periods of temporary or permanent residence or practice outside

1 California will not apply to the reduction of the probationary term. Periods of temporary or
2 permanent residence or practice outside California will relieve respondent of the responsibility to
3 comply with the probationary terms and conditions with the exception of this condition and the
4 following terms and conditions of probation: Obey All Laws and Probation Unit Compliance.

5 Respondent's license shall be automatically cancelled if respondent's periods of temporary
6 or permanent residence or practice outside California total two years. However, respondent's
7 license shall not be cancelled as long as respondent is residing and practicing medicine in another
8 state of the United States and is on active probation with the medical licensing authority of that
9 state, in which case the two year period shall begin on the date probation is completed or
10 terminated in that state.

11 7. FAILURE TO PRACTICE MEDICINE - CALIFORNIA RESIDENT

12 In the event respondent resides in the State of California and for any reason respondent
13 stops practicing medicine in California, respondent shall notify the Board or its designee in
14 writing within 30 calendar days prior to the dates of non-practice and return to practice. Any
15 period of non-practice within California, as defined in this condition, will not apply to the
16 reduction of the probationary term and does not relieve respondent of the responsibility to comply
17 with the terms and conditions of probation. Non-practice is defined as any period of time
18 exceeding 30 calendar days in which respondent is not engaging in any activities defined in
19 sections 2051 and 2052 of the Business and Professions Code.

20 All time spent in an intensive training program which has been approved by the Board or its
21 designee shall be considered time spent in the practice of medicine. For purposes of this
22 condition, non-practice due to a Board-ordered suspension or in compliance with any other
23 condition of probation, shall not be considered a period of non-practice.

24 Respondent's license shall be automatically cancelled if respondent resides in California
25 and for a total of two years, fails to engage in California in any of the activities described in
26 Business and Professions Code sections 2051 and 2052.

27
28

1 8. COMPLETION OF PROBATION Respondent shall comply with all financial
2 obligations not later than 120 calendar days prior to the completion of probation. Upon
3 successful completion of probation; respondent's certificate shall be fully restored.

4 9. VIOLATION OF PROBATION Failure to fully comply with any term or condition
5 of probation is a violation of probation and may be deemed unprofessional conduct and form the
6 basis for new disciplinary charges. If respondent violates probation in any respect, the Board,
7 after giving respondent notice and the opportunity to be heard, may revoke probation and carry
8 out the disciplinary order that was stayed. If an Accusation, Petition to Revoke Probation, or an
9 Interim Suspension Order is filed against respondent during probation, the Board shall have
10 continuing jurisdiction until the matter is final, and the period of probation shall be extended until
11 the matter is final.

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

23 11. PROBATION MONITORING COSTS Respondent shall pay the costs associated
24 with probation monitoring each and every year of probation, as designated by the Board. Such
25 costs shall be payable to the Medical Board of California and delivered to the Board or its
26 designee no later than January 31 of each calendar year. Failure to pay costs within 30 calendar
27 days of the due date is a violation of probation.

28

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
26
27
28

ACCEPTANCE

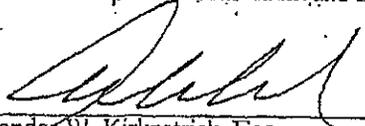
I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Alexander W. Kirkpatrick, Esq. I understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Medical Board of California.

DATED: 11/10/09


Javant N. Modi, M.D.
Respondent

I have read and fully discussed with Respondent Javant N. Modi, M.D. the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 11/10/09


Alexander W. Kirkpatrick, Esq.
Attorney for Respondent

ENDORSEMENT

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

Dated: 11/10/09

Respectfully Submitted,

EDMUND G. BROWN JR.
Attorney General of California
STEVEN V. ADLER
Supervising Deputy Attorney General


DOUGLAS LEE
Deputy Attorney General
Attorneys for Complainant

Exhibit A

First Amended Accusation No. 17-2006-177596

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 STEVEN V. ADLER
Supervising Deputy Attorney General
3 DOUGLAS LEE, State Bar No. 222806
Deputy Attorney General
4 California Department of Justice
110 West "A" Street, Suite 1100
5 San Diego, CA 92101
6 P.O. Box 85266
San Diego, CA 92186-5266
7 Telephone: (619) 645-2580
Facsimile: (619) 645-2061
8
9 Attorneys for Complainant

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

In the Matter of the First Amended Accusation
Against:

Case No. 17-2006-177596

JASVANT N. MODI, M.D.
1100 Sunset Boulevard, #B
Los Angeles, CA 90012

FIRST AMENDED ACCUSATION

Physician's and Surgeon's Certificate
No. A 39818

Respondent.

Complainant alleges:

PARTIES

1. Barbara Johnston (Complainant) brings this First Amended Accusation solely in her official capacity as the Executive Director of the Medical Board of California, Department of Consumer Affairs.

2. On or about May 9, 1983, the Medical Board of California issued Physician's and Surgeon's Certificate No. A 39818 to JASVANT N. MODI, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought herein and will expire on April 30, 2011, unless renewed.

///

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
26
27
28

6. Section 2234 of the Code states:

Section 2234 of the Code states:

"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:

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

"(b) Gross negligence.

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

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

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

"(d) Incompetence:

"...."

7. Section 2266 of the Code states: "The failure of a physician and surgeon to maintain adequate and accurate records relating to the provision of services to their patients constitutes unprofessional conduct."

///

///

1 FIRST CAUSE FOR DISCIPLINE

2 (Gross Negligence)

3 8. Respondent has subjected his Physician's and Surgeon's Certificate
4 No. A 39818 to disciplinary action under sections 2227 and 2234, as defined by section 2234,
5 subdivision (b) of the Code, in that he committed gross negligence in his care and treatment of
6 patients C.B., and R.F., as more particularly alleged hereinafter:

7 Patient C.B.

8 (a) On or about August 26, 2005, patient C.B. was admitted to Temple
9 Community Hospital in Los Angeles, California, for diabetes and altered mental status.

10 (b) Admitting laboratory tests revealed patient C.B. had a hemoglobin level of
11 8.0 and a mean cell volume (MCV) of 85. A patient history revealed that patient C.B. previously
12 had colorectal and bladder cancer. The medical records further suggest that patient C.B. was
13 anemic and hypoglycemic.

14 (c) At one point, respondent ordered two units of blood when patient C.B.'s
15 hemoglobin level dropped further. Patient C.B.'s hemoglobin level remained stable during the
16 remainder of his hospitalization.

17 (d) Patient C.B.'s mentation remained poor during that latter parts of his
18 hospitalization at Temple Community Hospital, and on or about September 10, 2005, a PEG tube
19 was placed.

20 (e) On or about September 13, 2005, patient C.B. was discharged to Westlake
21 Convalescent Hospital, where respondent continued treatment.

22 (f) While at Westlake Convalescent Hospital, patient C.B. was treated with
23 percutaneous endoscopic gastrostomy (PEG) feedings of 60 cc per hour.

24 (g) On or about September 27, 2005, a nutritionist recommended patient
25 C.B.'s PEG feedings be increased to 120 cc per hour because the present feedings were not
26 meeting patient C.B.'s needs.

27 ///

28 ///

1 (h) On or about October 3, 2005, patient C.B. was transferred to Good
2 Samaritan Hospital for respiratory failure requiring intubation. Laboratory results at the time of
3 transfer showed a blood urea nitrogen (BUN) of 215, a Creatinine of 6.4, and a Sodium of 164,
4 indicating patient C.B. was severely dehydrated.

5 Patient R.F.

6 (i) Since on or about 2000, patient R.F. was a resident of Westlake
7 Convalescent Hospital. Respondent was patient R.F.'s primary physician. Patient R.F. had a
8 history of prior schizophrenia, dementia, and seizures. In 2004, patient R.F. had a PEG-tube
9 placed.

10 (j) Patient R.F., unable to care for himself and unable to make medical
11 decisions for himself, at all times relevant, had a Durable Power of Attorney which stated that he
12 wanted no medication or treatment restriction, and that he wanted hospitalization and tube
13 feeding, but no intravenous fluids.

14 (k) Since on or about 2000, patient R.F. had multiple admissions to either
15 Temple Community Hospital or Good Samaritan Hospital for infections such as pneumonia
16 and/or urosepsis.

17 (l) Since on or about 2000, patient R.F. was admitted to either Temple
18 Community Hospital or Good Samaritan Hospital with severe dehydration, requiring aggressive
19 rehydration by Emergency Room staff.

20 (m) On or about July of 2005, patient R.F. severely declined. Patient R.F.'s
21 family requested that respondent administer IV fluids and antibiotics. Respondent complied.

22 (n) On or about January and February of 2006, patient R.F. was admitted to
23 either Temple Community Hospital or Good Samaritan Hospital and placed on a dopamine drip.

24 (o) On or about October of 2006, patient R.F. died immediately after being
25 placed into hospice for terminal care.

26 ///

27 ///

28 ///

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
26
27
28

Gross Negligence

(p) Respondent committed gross negligence in his care and treatment of patients C.B. and R.F., which included, but was not limited to the following:

- (1) Failing to appropriately treat patient C.B.'s multiple episodes of hypoglycemia;
- (2) Failing to prevent patient C.B.'s severe dehydration from on or about September 13, 2005, through October 3, 2005;
- (3) Failing to maintain adequate hydration of patient R.F. prior to admission to either Temple Community Hospital or Good Samaritan Hospital on or about June 21, 2004, July 23, 2004, August 11, 2004, September 12, 2004, October 13, 2004, August 21, 2005, September 13, 2005, November 28, 2005, December 21, 2005, and February 28, 2006; and,
- (4) Administering patient R.F. intravenous fluids and antibiotics at the family's request despite a Durable Power of Attorney stating that no intravenous fluids were to be given.

SECOND CAUSE FOR DISCIPLINE

(Repeated Negligent Acts)

9. Respondent has further subjected his Physician's and Surgeon's Certificate No. A 39818 to disciplinary action under sections 2227 and 2234, as defined by section 2234, subdivision (c), of the Code, in that he has committed repeated negligent acts in his care and treatment of patients C.B., K.D., and R.F., as more particularly alleged hereinafter:

(a) Paragraph 8, above, is hereby incorporated by reference and realleged as if fully set forth hereinafter;

Patient K.D.

(b) Patient K.D. was a 37-year-old female at the time of treatment by respondent in 2005. Patient K.D. was also a resident of Westlake Convalescent Hospital and suffered from schizophrenia.

///
///

1 (c) At the time of treatment, patient K.D. complained of cough and dyspepsia.
2 Respondent diagnosed patient K.D. with chronic cough, dyspepsia and psychosis. No work up
3 was initiated and patient K.D. was given phenergan with codeine. Patient K.D. returned several
4 days later and respondent recommended a purified protein derivative test (PPD).

5 (d) On or about December 1, 2005, patient K.D. was admitted to Temple
6 Community Hospital for nausea, vomiting, and diarrhea. A chest x-ray was normal. A stool
7 culture obtained on December 2, 2005, later grew out Shigellosis. A colonoscopy that same day
8 showed evidence of colitis. Patient K.D. was placed on Azulfidine, Bactrim, and Flagyl.

9 (e) Patient K.D. subsequently developed a boil on her buttock and was
10 admitted to Temple Community Hospital on or about December 13, 2005. Patient K.D. was
11 afebrile, in no acute distress, and her white blood cell count was normal upon admission. Patient
12 K.D. was seen by infectious disease and surgical consultants. The surgical consultant did
13 incision and drainage of the boil under local anesthetic. Patient K.D. was subsequently
14 discharged.

15 Repeated Negligent Acts

16 (f) Respondent committed repeated negligent acts in his care and treatment of
17 patients C.B., R.F., and K.D., which included, but was not limited to, the following:

18 (1) Failing to appropriately treat patient C.B.'s multiple episodes of
19 hypoglycemia;

20 (2) Failing to prevent patient C.B.'s severe dehydration from on or about
21 September 13, 2005, through October 3, 2005;

22 (3) Failing to do an appropriate work up of patient C.B.'s anemia;

23 (4) Failing to document a treatment plan for patient C.B.'s weight loss and
24 history of two prior malignancies;

25 (5) Failing to maintain adequate hydration of patient R.F. prior to admission
26 to either Temple Community Hospital or Good Samaritan Hospital on or about June 21, 2004,
27 July 23, 2004, August 11, 2004, September 12, 2004, October 13, 2004, August 21, 2005,
28 September 13, 2005, November 28, 2005, December 21, 2005, and February 28, 2006;

1 (6) Administering patient R.F. intravenous fluids and antibiotics at the
2 family's request despite a Durable Power of Attorney stating that no intravenous fluids were to
3 be given.

4 (7) Failing to follow up on patient K.D.'s PPD test;

5 (8) Failing to clearly delineate a structured treatment strategy for patient K.D.;
6 and,

7 (9) Failing to treat patient K.D.'s boil in an outpatient setting.

8 THIRD CAUSE FOR DISCIPLINE

9 (Incompetence)

10 10. Respondent has further subjected his Physician's and Surgeon's Certificate
11 No. A 39818 to disciplinary action under sections 2227 and 2234, as defined by section 2234,
12 subdivision (d), of the Code, in that he demonstrated incompetence in his care and treatment of
13 patients C.B., and R.F., as more particularly alleged hereinafter;

14 (a) Paragraphs 8 and 9, above, are hereby incorporated by reference and
15 realleged as if fully set forth hereinafter;

16 (b) Failing to appropriately manage patient C.B.'s hypoglycemia;

17 (c) Failing to appropriately manage and follow up regarding patient C.B.'s
18 anemia;

19 (d) Failing to appropriately manage and follow up regarding patient C.V.'s
20 weight loss; and,

21 (e) Failing to appropriately manage and treat patient R.F.'s hypernatremia and
22 dehydration.

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

1 FOURTH CAUSE FOR DISCIPLINE

2 (Failure To Maintain Adequate And Accurate Records)

3 11. Respondent has further subjected his Physician's and Surgeon's Certificate
4 No. A 39818 to disciplinary action under sections 2227 and 2234, as defined by section 2266 of
5 the Code, in that he failed to maintain adequate and accurate records relating to his care and
6 treatment of patients C.B., K.D., and R.F., as more particularly alleged hereinafter;

7 (a) Paragraphs 8, 9, and 10, above, are hereby incorporated by reference and
8 realleged as if fully set forth hereinafter;

9 (b) Respondent did not document numerous consultations from different
10 medical personnel during his care and treatment of patient C.B.;

11 (c) Respondent did not document a treatment plan for patient C.B.'s weight
12 loss and history of two prior malignancies;

13 (d) Respondent failed to maintain timely and complete notes for patient C.B.,
14 during the period of treatment;

15 (e) Respondent did not document an analysis for treatment of patient R.F.'s
16 bacteremia;

17 (f) Respondent did not document the discussion with patient R.F.'s family
18 regarding intravenous fluids;

19 (g) Respondent failed to document a structured treatment plan or follow up for
20 patient K.D. following the development of Shigella; and,

21 (h) Respondent did not document any of the tests ordered for patient K.D.
22 when she was an outpatient.

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

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
26
27
28

PRAYER

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

1. Revoking or suspending Physician's and Surgeon's Certificate No. A 39818, issued to JASVANT N. MODI, M.D.;
2. Revoking, suspending or denying JASVANT N. MODI, M.D.'s authority to supervise physicians assistants, pursuant to section 3527 of the Code;
3. Ordering JASVANT N. MODI, M.D. to pay the Medical Board of California, if placed on probation, the costs of probation monitoring; and,
4. Taking such other and further action as deemed necessary and proper.

DATED: 2/14/09

 For
BARBARA JOHNSTON
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

EXHIBIT A

Case No. 11-2004-157321

Decision Effective July 28, 2008

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 PAUL C. AMENT
Supervising Deputy Attorney General
3 ESTHER P. KIM, State Bar No. 225418
Deputy Attorney General
4 300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
5 Telephone: (213) 897-2872
Facsimile: (213) 897-9395
6
7 Attorneys for Complainant

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

10 In the Matter of the First Amended Accusation
Against:
11 JASVANT N. MODI, M.D.
12 711 North Alvarado St., Ste. 112
13 Los Angeles, California 90026
14 Physician's & Surgeon's Certificate No. A39818
15 Respondent.

Case No. 11-2004-157231

OAH No. 2007050037

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

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

19 PARTIES

- 20 1. Barbara Johnston (Complainant) is the Executive Director of the Medical
21 Board of California. She brought this action solely in her official capacity and is represented in
22 this matter by Edmund G. Brown Jr., Attorney General of the State of California, by Esther P.
23 Kim, Deputy Attorney General.
- 24 2. Respondent Jasvant N. Modi, M.D. (Respondent) is represented in this
25 proceeding by attorney Leon Small, whose address is 16530 Ventura Blvd., Suite 306
26 Encino, CA 91436.
- 27 3. On or about May 9, 1983, the Medical Board of California (Board) issued
28 Physician's & Surgeon's Certificate No. A39818 to Respondent. The Physician's & Surgeon's

1 Certificate was in full force and effect at all times relevant to the charges brought in the First
2 Amended Accusation No. 11-2004-157231 and will expire on April 30, 2009, unless renewed.

3 JURISDICTION

4 4. First Amended Accusation No. 11-2004-157231 was filed before the
5 Medical Board of California, and is currently pending against Respondent. The First Amended
6 Accusation and all other statutorily required documents were properly served on Respondent on
7 November 29, 2007. Respondent timely filed his Notice of Defense contesting the Accusation.
8 A copy of First Amended Accusation No. 11-2004-157231 is attached as exhibit A and
9 incorporated herein by reference.

10 ADVISEMENT AND WAIVERS

11 5. Respondent has carefully read, fully discussed with counsel, and
12 understands the charges and allegations in First Amended Accusation No. 11-2004-157231.
13 Respondent has also carefully read, fully discussed with counsel, and understands the effects of
14 this Stipulated Settlement and Disciplinary Order.

15 6. Respondent is fully aware of his legal rights in this matter, including the
16 right to a hearing on the charges and allegations in the First Amended Accusation; the right to be
17 represented by counsel at his own expense; the right to confront and cross-examine the witnesses
18 against him; the right to present evidence and to testify on his own behalf; the right to the
19 issuance of subpoenas to compel the attendance of witnesses and the production of documents;
20 the right to reconsideration and court review of an adverse decision; and all other rights accorded
21 by the California Administrative Procedure Act and other applicable laws.

22 7. Respondent voluntarily, knowingly, and intelligently waives and gives up
23 each and every right set forth above.

24 CULPABILITY

25 8. Respondent does not contest that, at an administrative hearing,
26 complainant could establish a prima facie case with respect to the charges and allegations
27 contained in First Amended Accusation No. 11-2004-157231 and that he has thereby subjected
28 his license to disciplinary action.

1 is stayed and Respondent is placed on probation for four (4) years on the following terms and
2 conditions.

3 1. ETHICS COURSE Within 60 calendar days of the effective date of this
4 Decision, respondent shall enroll in a course in ethics, at Respondent's expense, approved in
5 advance by the Board or its designee. Failure to successfully complete the course during the first
6 year of probation is a violation of probation.

7 An ethics course taken after the acts that gave rise to the charges in the
8 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board
9 or its designee, be accepted towards the fulfillment of this condition if the course would have
10 been approved by the Board or its designee had the course been taken after the effective date of
11 this Decision.

12 Respondent shall submit a certification of successful completion to the Board or
13 its designee not later than 15 calendar days after successfully completing the course, or not later
14 than 15 calendar days after the effective date of the Decision, whichever is later.

15 2. CLINICAL TRAINING PROGRAM Based on information submitted by
16 Respondent, Respondent shall receive credit for the clinical training program requirement.

17 3. MEDICAL RECORD KEEPING COURSE Based on information
18 submitted by Respondent, Respondent shall receive credit for the medical record keeping course
19 requirement.

20 4. EDUCATION COURSE Based on information submitted by Respondent,
21 Respondent shall receive credit for the education course requirement.

22 5. MONITORING - PRACTICE/BILLING In lieu of a private
23 practice/billing monitor, the Board shall utilize the case review program performed by the
24 Quality and Risk Management Committee at Temple Community Hospital in Los Angeles,
25 California. Within 30 calendar days of the effective date of this Decision, Respondent shall
26 submit to the Board or its designee, the name and qualifications of one or more licensed
27 physicians and surgeons who will conduct the case review for the Quality and Risk Management
28 Committee at Temple Community Hospital. A monitor shall have no prior or current business or

1 personal relationship with Respondent, or other relationship that could reasonably be expected to
2 compromise the ability of the monitor to render fair and unbiased reports to the Board, including,
3 but not limited to, any form of bartering, shall be in Respondent's field of practice, and must
4 agree to serve as Respondent's monitor. Respondent shall pay all monitoring costs, if any.

5 The Board or its designee shall provide the approved monitor with copies of the
6 Decision and First Amended Accusation, and a proposed monitoring plan. Within 15 calendar
7 days of receipt of the Decision, First Amended Accusation, and proposed monitoring plan, the
8 monitor shall submit a signed statement that the monitor has read the Decision and First
9 Amended Accusation, fully understands the role of a monitor, and agrees or disagrees with the
10 proposed monitoring plan. If the monitor disagrees with the proposed monitoring plan, the
11 monitor shall submit a revised monitoring plan with the signed statement.

12 Within 60 calendar days of the effective date of this Decision, and continuing
13 throughout probation, Respondent's practice shall be monitored by the approved monitor
14 utilizing the case review program performed by the Quality and Risk Management Committee at
15 Temple Community Hospital. Respondent shall make all records available for immediate
16 inspection and copying on the premises by the monitor at all times during business hours, and
17 shall retain the records for the entire term of probation.

18 The monitor(s) shall submit a quarterly written report to the Board or its designee
19 which includes an evaluation of Respondent's performance, indicating whether Respondent's
20 practices are within the standards of practice of medicine or billing, or both, and whether
21 Respondent is practicing medicine safely, billing appropriately or both. The monitor(s) shall also
22 submit any and all reports, data, and/or information relevant to the case review program.

23 It shall be the sole responsibility of Respondent to ensure that the monitor submits
24 the quarterly written reports to the Board or its designee within 10 calendar days after the end of
25 the preceding quarter.

26 If the monitor resigns or is no longer available, Respondent shall, within 5
27 calendar days of such resignation or unavailability, submit to the Board or its designee, for prior
28 approval, the name and qualifications of a replacement monitor who will be assuming that

1 responsibility within 15 calendar days. If Respondent fails to obtain approval of a replacement
2 monitor within 60 days of the resignation or unavailability of the monitor, Respondent shall be
3 suspended from the practice of medicine until a replacement monitor is approved and prepared to
4 assume immediate monitoring responsibility. Respondent shall cease the practice of medicine
5 within 3 calendar days after being so notified by the Board or designee.

6 If the case review program performed by the Quality and Risk Management
7 Committee at Temple Community Hospital is no longer available or ceases to provide
8 monitoring for Respondent, Respondent shall, within 5 calendar days of such unavailability,
9 submit to the Board or its designee, for prior approval, the name and qualifications of a
10 replacement monitor who will be assuming the responsibility equivalent to one outlined by the
11 Quality and Risk Management Committee at Temple Community Hospital, within 15 calendar
12 days. If Respondent fails to obtain approval of a replacement monitor within 60 days of the
13 resignation or unavailability of the monitor, Respondent shall be suspended from the practice of
14 medicine until a replacement monitor is approved and prepared to assume immediate monitoring
15 responsibility. Respondent shall cease the practice of medicine within 3 calendar days after
16 being so notified by the Board or designee.

17 Failure to maintain all records, or to make all appropriate records available for
18 immediate inspection and copying on the premises, or to comply with this condition as outlined
19 above is a violation of probation.

20 6. SOLO PRACTICE Respondent is prohibited from engaging in the solo
21 practice of medicine. However, this requirement is waived with the case review program
22 performed by the Quality and Risk Management Committee at Temple Community Hospital in
23 place,

24 7. RESTRICTIONS IN PRACTICE Respondent shall perform
25 gastrointestinal procedures only at Temple Community Hospital for the duration of probation.
26 Respondent is prohibited from performing gastrointestinal procedures at any other hospital,
27 clinic, and/or medical facility without prior approval from the Board. Should Respondent seek
28 approval from the Board to perform gastrointestinal procedures at any other hospital, clinic,

1 and/or medical facility, Respondent shall, as to that hospital, clinic, and/or medical facility,
2 comply with procedures equivalent to those outlined in the Monitoring - Practice/Billing
3 condition, above.

4 8. NOTIFICATION Prior to engaging in the practice of medicine, the
5 Respondent shall provide a true copy of the Decision and First Amended Accusation to the Chief
6 of Staff or the Chief Executive Officer at every hospital where privileges or membership are
7 extended to Respondent, at any other facility where respondent engages in the practice of
8 medicine, including all physician and locum tenens registries or other similar agencies, and to the
9 Chief Executive Officer at every insurance carrier which extends malpractice insurance coverage
10 to Respondent. Respondent shall submit proof of compliance to the Board or its designee within
11 15 calendar days.

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

14 9. SUPERVISION OF PHYSICIAN ASSISTANTS During probation,
15 respondent is prohibited from supervising physician assistants.

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

19 11. QUARTERLY DECLARATIONS Respondent shall submit quarterly
20 declarations under penalty of perjury on forms provided by the Board, stating whether there has
21 been compliance with all the conditions of probation. Respondent shall submit quarterly
22 declarations not later than 10 calendar days after the end of the preceding quarter.

23 12. PROBATION UNIT COMPLIANCE Respondent shall comply with the
24 Board's probation unit. Respondent shall, at all times, keep the Board informed of Respondent's
25 business and residence addresses. Changes of such addresses shall be immediately
26 communicated in writing to the Board or its designee. Under no circumstances shall a post office
27 box serve as an address of record, except as allowed by Business and Professions Code section
28 2321, subdivision (b).

1 Respondent shall not engage in the practice of medicine in Respondent's place of
2 residence. Respondent shall maintain a current and renewed California physician and surgeon's
3 certificate.

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

7 13. INTERVIEW WITH THE BOARD OR ITS DESIGNEE Respondent
8 shall be available in person for interviews either at Respondent's place of business or at the
9 probation unit office, with the Board or its designee, upon request at various intervals, and either
10 with or without prior notice throughout the term of probation.

11 14. RESIDING OR PRACTICING OUT-OF-STATE In the event
12 Respondent should leave the State of California to reside or to practice, Respondent shall notify
13 the Board or its designee in writing 30 calendar days prior to the dates of departure and return.
14 Non-practice is defined as any period of time exceeding 30 calendar days in which Respondent is
15 not engaging in any activities defined in Sections 2051 and 2052 of the Business and Professions
16 Code.

17 All time spent in an intensive training program outside the State of California
18 which has been approved by the Board or its designee shall be considered as time spent in the
19 practice of medicine within the State. A Board-ordered suspension of practice shall not be
20 considered as a period of non-practice. Periods of temporary or permanent residence or practice
21 outside California will not apply to the reduction of the probationary term. Periods of temporary
22 or permanent residence or practice outside California will relieve respondent of the responsibility
23 to comply with the probationary terms and conditions with the exception of this condition and
24 the following terms and conditions of probation: Obey All Laws and Probation Unit
25 Compliance.

26 Respondent's license shall be automatically canceled if Respondent's periods of
27 temporary or permanent residence or practice outside California total two years. However,
28 Respondent's license shall not be canceled as long as Respondent is residing and practicing

1 medicine in another state of the United States and is on active probation with the medical
2 licensing authority of that state, in which case the two year period shall begin on the date
3 probation is completed or terminated in that state.

4 15. FAILURE TO PRACTICE MEDICINE - CALIFORNIA RESIDENT

5 In the event Respondent resides in the State of California and for any reason Respondent stops
6 practicing medicine in California, Respondent shall notify the Board or its designee in writing
7 within 30 calendar days prior to the dates of non-practice and return to practice. Any period of
8 non-practice within California, as defined in this condition, will not apply to the reduction of the
9 probationary term and does not relieve Respondent of the responsibility to comply with the terms
10 and conditions of probation. Non-practice is defined as any period of time exceeding 30 calendar
11 days in which Respondent is not engaging in any activities defined in sections 2051 and 2052 of
12 the Business and Professions Code.

13 All time spent in an intensive training program which has been approved by the
14 Board or its designee shall be considered time spent in the practice of medicine. For purposes of
15 this condition, non-practice due to a Board-ordered suspension or in compliance with any other
16 condition of probation, shall not be considered a period of non-practice.

17 Respondent's license shall be automatically canceled if Respondent resides in
18 California and for a total of two years, fails to engage in California in any of the activities
19 described in Business and Professions Code sections 2051 and 2052.

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

24 17. VIOLATION OF PROBATION Failure to fully comply with any term or
25 condition of probation is a violation of probation. If Respondent violates probation in any
26 respect, the Board, after giving Respondent notice and the opportunity to be heard, may revoke
27 probation and carry out the disciplinary order that was stayed. If an Accusation, Petition to
28 Revoke Probation, or an Interim Suspension Order is filed against Respondent during probation,

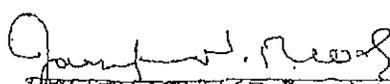
1 the Board shall have continuing jurisdiction until the matter is final, and the period of probation
2 shall be extended until the matter is final.

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

14 19. PROBATION MONITORING COSTS Respondent shall pay the costs
15 associated with probation monitoring each and every year of probation, as designated by the
16 Board, and which may be adjusted on an annual basis. Such costs shall be payable to the
17 Medical Board of California and delivered to the Board or its designee no later than January 31st
18 of each calendar year. Failure to pay costs within 30 calendar days of the due date is a violation
19 of probation.

20 ACCEPTANCE

21 I have carefully read the above Stipulated Settlement and Disciplinary Order and
22 have fully discussed it with my attorney, Leon Small. I understand the stipulation and the effect
23 it will have on my Physician's & Surgeon's Certificate. I enter into this Stipulated Settlement and
24 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the
25 Decision and Order of the Board.

26 DATED: 5/6/08
27 
28 JASVANT N. MODI, M.D., Respondent

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
26
27
28

I have read and fully discussed with Respondent Jasvant N. Modi, M.D., the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 5/9/08


LEON SMALL, Attorney for Respondent

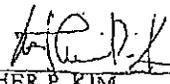
ENDORSEMENT

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

DATED: 5/9/08

EDMUND G. BROWN JR., Attorney General
of the State of California

PAUL C. AMENT
Supervising Deputy Attorney General


ESTHER P. KIM
Deputy Attorney General
Attorneys for Complainant

50240043.wpd

Exhibit A

First Amended Accusation No. 11-2004-157231

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO *November 29, 2007*
BY *[Signature]*

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 PAUL C. AMENT
Supervising Deputy Attorney General
3 ESTHER KIM, State Bar No. 225418
Deputy Attorney General
4 California Department of Justice
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2872
6 Facsimile: (213) 897-9395
7 Attorneys for Complainant

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

12 In the Matter of the Accusation Against:

Case No. 11-2004-157231

13 JASVANT N. MODI, M.D.

OAH No. 2007050037

14 711 North Alvarado Street, Suite 112
15 Los Angeles, California 90026:

FIRST AMENDED ACCUSATION

16 Physician and Surgeon's Certificate No. A 39818

17 Respondent.

18
19
20 Complainant alleges:

21 PARTIES

- 22 1. Barbara Johnston (Complainant) brings this First Amended Accusation
23 solely in her official capacity as the Executive Director of the Medical Board of California
24 (Board), Department of Consumer Affairs, State of California.
25 2. On or about May 9, 1983, the Board issued Physician and Surgeon's
26 Certificate No. A 39818 to Jasvant N. Modi, M.D. (Respondent). The Physician and Surgeon's
27 Certificate was in full force and effect at all times relevant to the charges brought herein and will
28 expire on April 30, 2009, unless renewed.

1 J.A.¹ The circumstances are as follows:

2 8. On or about January 29, 2003, patient J.A., who was thirty-seven years old
3 at the time, was admitted to Temple Community Hospital with complaints of abdominal pain and
4 bloody bowel movements. A CT scan of his abdomen was performed and found to be negative.

5 9. On or about January 30, 2003, Respondent performed an upper endoscopy
6 with biopsy on patient J.A. Respondent's operative summary indicated that the patient presented
7 with epigastric and abdominal pain, stool guaiac³ positive, loss of appetite, and loss of weight.
8 Respondent's findings were severe gastritis³ and hiatal hernia⁴. The pathology report was
9 negative. There was no indication for an upper endoscopy as all the symptoms were lower
10 gastrointestinal symptoms.

11 10. On or about January 30, 2003, Respondent was grossly negligent in the
12 care and treatment of patient J.A. by performing an upper endoscopy, a procedure which was
13 unnecessary and for which there were no medical indications under the circumstances.

14 SECOND CAUSE FOR DISCIPLINE

15 (Gross Negligence - Patient E.D.)

16 11. Respondent is subject to disciplinary action under section 2234,
17 subdivision (b), of the Code in that he was grossly negligent in the care and treatment of patient
18 E.D. The circumstances are as follows:

19 12. On or about September 10, 2002, E.D., who was thirty-seven years old at
20 the time and a resident of a board and care facility, was admitted to Temple Community Hospital
21 with complaints of a sore throat, coughing, severe episodes of nausea and vomiting, and diarrhea.
22 It was noted that there was no history of any recurrent abdominal pain. The physical examination
23 revealed a flat and soft abdomen with no rebound or guarding. The rectal examination revealed

- 24
- 25 1. The names of patients are kept confidential to protect their privacy.
26 2. A test to detect blood in the stool.
27 3. Inflammation of the stomach lining.
28 4. Upper part of the stomach protrudes through the diaphragm into the chest.

1 no blood on the examining finger. A CT scan of the abdomen and pelvis was performed which
2 showed bilateral pleural thickening.

3 13. On or about September 11, 2002, Respondent performed an upper
4 endoscopy with biopsy on patient E.D. Respondent's operative summary indicated that the
5 patient presented with epigastric and abdominal pain, stool guaiac positive, loss of appetite, and
6 loss of weight. His findings were severe gastritis and hiatal hernia. There was no indication for
7 an upper endoscopy as the patient was admitted with possible upper respiratory infection.

8 14. On or about September 11, 2002, Respondent was grossly negligent in the
9 care and treatment of patient E.D. by performing an upper endoscopy, a procedure which was
10 unnecessary and for which there were no medical indications under the circumstances.

11 THIRD CAUSE FOR DISCIPLINE

12 (Gross Negligence - Patient M.R.)

13 15. Respondent is subject to disciplinary action under section 2234,
14 subdivision (b), of the Code in that he was grossly negligent in the care and treatment of patient
15 M.R. The circumstances are as follows:

16 16. On or about September 17, 2003, M.R., who was twenty-six years old at
17 the time, presented to Physician Healthcare Services with complaints of lower abdominal and
18 pelvic pain. A history and physical was completed by the primary physician and a referral was
19 made to Respondent.

20 17. On or about September 18, 2003, Respondent performed an upper
21 endoscopy on patient M.R. Respondent's operative summary indicated that the patient presented
22 with constant epigastric and abdominal pain, heartburn, and reflux. His findings were gastritis
23 and biopsies were obtained which demonstrated H. Pylori⁵. Respondent also described
24 gastroesophageal reflux disease and stated that it was non-erosive. Hiatal hernia and further
25 gastroenterology work up was noted. There was no indication for an upper endoscopy as the

26
27 ⁵ Helicobacter pylori is a type of bacteria that is a major cause of stomach and upper
28 small intestine ulcers.

1 symptoms were associated with an acute onset of gastrointestinal symptoms, possibly with an
2 acute onset of H. Pylori disease.

3 18. Respondent was grossly negligent in the care and treatment of patient
4 M.R. by:

5 A. Performing an upper endoscopy on or about September 18, 2003,
6 without medical indication; and

7 B. Ordering further gastroenterology work up without medical
8 indication.

9 FOURTH CAUSE FOR DISCIPLINE

10 (Repeated Negligent Acts)

11 19. Respondent is subject to disciplinary action under section 2234,
12 subdivision (c), of the Code in that he committed repeated negligent acts in the care and
13 treatment of his patients. The circumstances are as follows:

14 Patient J.A.

15 20. Paragraphs 8 through 9 above are incorporated here by reference as if fully
16 set forth.

17 21. On or about January 30, 2003, Respondent was negligent in the care and
18 treatment of patient J.A. by performing an upper endoscopy, a procedure which was unnecessary
19 and for which there were no medical indications under the circumstances.

20 Patient E.D.

21 22. Paragraphs 12 and 13 above are incorporated here by reference as if fully
22 set forth.

23 23. On or about September 11, 2002, Respondent was negligent in the care
24 and treatment of patient E.D. by performing an upper endoscopy, a procedure which was
25 unnecessary and for which there were no medical indications under the circumstances.

26 Patient M.R.

27 24. Paragraphs 16 and 17 above are incorporated here by reference as if fully
28 set forth.

1 25. On or about September 18, 2003, Respondent was negligent in the care
2 and treatment of patient M.R. by performing an endoscopy, a procedure which was unnecessary
3 and for which there were no medical indications under the circumstances, and ordering further
4 gastroenterology work up without medical indication.

5 Patient E.M.

6 26. On or about July 9, 2002, patient E.M., who was forty-two years old at the
7 time with an unspecified mental disorder, was admitted to Temple Community Hospital with
8 complaints of abdominal pain after eating. In the patient's recorded history and physical
9 examination, there was no description of the type and location of the abdominal pain and no
10 mention of blood in the stool. A rectal examination was not performed. A CT scan of abdomen
11 was performed and found to be negative. The patient's liver enzymes were normal, and his
12 Amylase and Lipase (which diagnose pancreatic diseases) were minimally elevated.

13 27. On or about July 10, 2002, Respondent performed an upper endoscopy
14 with biopsy on patient E.M. Respondent's operative summary indicated that the patient
15 presented with epigastric and abdominal pain related to food. His findings were gastritis, bile
16 reflux, and hiatal hernia. Biopsies revealed negative findings. Respondent diagnosed the patient
17 with pancreatitis. There was no indication for an upper endoscopy where pancreatitis was
18 evident.

19 28. On or about July 11, 2002, Respondent performed a colonoscopy and
20 biopsy for abdominal pain, constipation, and blood in the stool. His findings were a suboptimal
21 examination, sigmoid⁶ inflammation and internal hemorrhoids. There was no indication for a
22 colonoscopy when the patient's only complaint was abdominal pain.

23 29. It was noted that the patient's aunt gave consent for the colonoscopy, but
24 no written consent was documented in the patient's chart.

25 30. Respondent was negligent in the care and treatment of patient E.M.
26 by:

27 _____
28 6. Large intestine.

1 A. Performing an upper endoscopy on or about July 10, 2002, where
2 pancreatitis was evident, and without medical indication;

3 B. Performing a colonoscopy on or about July 11, 2002; without
4 medical indication; and

5 C. Failing to properly obtain an informed consent from the patient for
6 the procedures on or about July 10 and 11, 2002.

7 Patient E.T.

8 31. On or about October 7, 2002, patient E.T., who was fifty-two years old at
9 the time and a resident of a board and care facility, was admitted to Temple Community Hospital.
10 In the initial history and physical it was noted the patient was mentally retarded and was unable
11 to provide any history. Respondent indicated, "Chief complaint is not known at this time." It is
12 unclear why the patient was admitted as the patient was unable to communicate any complaints
13 or provide any history.

14 32. On or about October 8, 2002, a consultant performed a rectal examination
15 and the stool sample was negative for occult blood. On or about October 8, 2002, Respondent
16 performed an upper endoscopy with biopsy. His operative summary indicated that the patient
17 presented with epigastric and abdominal pain, stool guaiac positive, loss of appetite, and loss of
18 weight. Respondent's findings were severe gastritis and hiatal hernia.

19 33. On or about October 9, 2002, Respondent performed a colonoscopy and
20 biopsy. His findings were colitis⁷ and an incomplete examination due to the presence of stool.
21 The biopsy suggested that there may be some evidence of H. pylori, but no confirmation, follow-
22 up or treatment was provided.

23 34. Telephonic consents for the gastrointestinal procedures were obtained
24 from the caretaker of the facility where the patient resided, but no written consent was
25 documented in the patient's chart.

26 35. Respondent was negligent in the care and treatment of patient E.T. by:

27 _____
28 7. Inflammation in the lining of the large intestine.

1 A. Performing an endoscopy on or about October 8, 2002, without
2 medical indication;

3 B. Performing a colonoscopy on or about October 9, 2002, without
4 medical indication; and

5 C. Failing to properly obtain an informed consent from the patient for
6 the procedures on or about October 8 and 9, 2002.

7 Patient J.R.

8 36. On or about November 26, 2002, patient J.R., who was fifty-one years old
9 at the time, was admitted to Temple Community Hospital for headache, decreasing left vision,
10 and neck pain. The patient suffered from aphasia,⁸ but the Respondent noted that the patient
11 complained of abdominal pain. A rectal examination was not performed until the next day by a
12 consultant, who found that the examination was negative for occult blood.

13 37. On or about November 30, 2002, Respondent performed an upper
14 endoscopy with biopsy. His operative summary indicated that the patient presented with
15 epigastric and abdominal pain, stool guaiac positive, loss of appetite, and loss of weight. His
16 finding was severe gastritis. Biopsies revealed negative findings.

17 38. On or about November 30, 2002, Respondent performed a colonoscopy
18 and polypectomy for severe epigastric and abdominal distress. His findings were a descending
19 colon polyp, which was removed, suboptimal examination, and colitis. Respondent did not
20 document the size, location and method of removal of the polyp. Biopsies revealed negative
21 findings.

22 39. It is unclear how Respondent obtained consents to perform these
23 procedures as the patient suffered from aphasia.

24 40. Respondent was negligent in the care and treatment of patient J.R. by
25 failing to properly obtain an informed consent from the patient for the procedures on or about
26 November 30, 2002.

27
28 8. Language problems due to brain damage.

1 Patient J.L.

2 41. On or about March 7, 2002, patient J.L., who was fifty years old at the
3 time, and had end stage renal disease, was admitted to Queen of Angels Hollywood Presbyterian
4 Hospital (Queen of Angels) with complaints of epigastric abdominal pain and vomiting of coffee
5 ground-like material. On or about March 13, 2002, Respondent performed an upper endoscopy.
6 Respondent's findings were hiatal hernia, multiple superficial gastric erosions and ulcerations,
7 gastritis and duodenitis.⁹ The patient's hemoglobin was 11.8.

8 42. On or about May 19, 2002, patient J.L. was admitted to Queen of Angels
9 for shortness of breath and chest pain. On or about May 22, 2002, Respondent performed an
10 upper endoscopy with biopsy. His operative summary indicated that the patient presented with
11 epigastric abdominal pain and low hemoglobin. His findings were multiple gastric erosions,
12 ulcerations, gastritis, and duodenitis. The biopsy of the antrum¹⁰ was negative. On or about May
13 22, 2002, the laboratory report indicated the stool specimen was negative for occult blood.

14 43. On or about May 23, 2002, Respondent performed a colonoscopy and
15 biopsy for epigastric abdominal pain, stool guaiac positive, and low hemoglobin. His findings
16 were colitis and blood clots. The evaluation was noted to be suboptimal, and a barium enema
17 was ordered. The pathology report of the colon biopsy was negative.

18 44. On or about November 11, 2002, patient J.L. was admitted to Queen of
19 Angels for abdominal pain, vomiting, dizziness, and weakness. Respondent noted that the rectal
20 examination, chest x-ray, and abdominal series were "unremarkable."

21 45. The records for patient J.L. indicate that on November 16 and 17, 2002,
22 the patient refused to take the preparation for the colonoscopy and refused to have the
23 colonoscopy.

24 46. On or about November 18, 2002, Respondent performed a colonoscopy
25 and biopsy for epigastric abdominal pain with nausea, vomiting, and positive stool guaiac. His
26

27 9. Irritation of the small intestine.

28 10. Upper portion of the stomach.

1 findings were internal hemorrhoids and colitis.

2 47. On or about November 20, 2002, Respondent performed an upper
3 endoscopy with biopsy for abdominal pain and anemia. His findings were gastritis and hiatal
4 hernia.

5 48. On or about April 14, 2004, Respondent saw patient J.L. in his office for
6 constipation, intermittent blood in the stool, and epigastric pain. Her hemoglobin was 11.4. On
7 or about April 19, 2004, Respondent performed an upper endoscopy for epigastric and abdominal
8 pain, intermittent nausea and vomiting, heartburn, and food regurgitation. His findings were
9 hiatal hernia, a mild degree of gastroesophageal reflux, and antral inflammation.

10 49. On or about April 26, 2004, Respondent performed a colonoscopy and
11 biopsy for blood in the stool, change in bowel habits, constipation, and weight loss. His findings
12 were internal hemorrhoids, diverticulosis,¹¹ and sigmoid area inflammation which was biopsied.
13 The pathology report indicated that a cecal biopsy was examined.

14 50. Respondent was negligent in the care and treatment of patient J.L. by
15 performing excessive upper endoscopies (on or about March 13, 2002; May 22, 2002; November
16 20, 2002; and April 19, 2004) and colonoscopies (on or about May 23, 2002; November 18,
17 2002; and April 26, 2004) over a two-year period without medical indication.

18 Patient R.T.

19 51. On or about November 20, 2002, R.T., who was nineteen years old at the
20 time, was admitted to Tempe Community Hospital with complaints of vomiting, diarrhea, and
21 headaches for three days. There was no documentation of any abdominal pain upon physical
22 examination. The patient refused a rectal examination. A CT examination of her abdomen and
23 pelvis was ordered on an outpatient basis.

24 52. On or about November 21, 2002, Respondent performed an upper
25 endoscopy with biopsy. His operative summary indicated that the patient presented with

26
27
28 ¹¹ Condition in which pouches called diverticula form in the wall of the large intestine.

1 epigastric and abdominal pain, stool guaiac positive, loss of appetite, and loss of weight. His
2 finding was severe gastritis. Biopsies revealed negative findings.

3 53. On or about November 21, 2002, Respondent performed a colonoscopy
4 and polypectomy for severe epigastric and abdominal distress. His findings were internal
5 hemorrhoids, sigmoid colon polyp, and colitis. He did not document the size, location and
6 method of removal of the polyp. There was no mention of the polyp in the pathology report.
7 Although a KUB¹² showed evidence of stool in the colon, Respondent did not document this in
8 the colonoscopy report.

9 54. Respondent was negligent in the care and treatment of patient R.T. by:

10 A. Performing an upper endoscopy on or about November 21, 2002,
11 without medical indication;

12 B. Performing a colonoscopy on or about November 21, 2002,
13 without medical indication;

14 C. Failing on or about November 21, 2002, to properly document the
15 gastrointestinal work-up for the patient including size and method of removal of the
16 polyp;

17 D. Failing on or about November 21, 2002, to submit the polyp for
18 evaluation by a pathologist; and

19 E. Failing on or about November 21, 2002, to document in the
20 colonoscopy report the presence of stool which was found on the KUB.

21 FIFTH CAUSE FOR DISCIPLINE

22 (Failure to Maintain Adequate Records)

23 55. Respondent is subject to disciplinary action under section 2256 of the
24 Code in that he failed to maintain adequate and accurate records relating to the provision of
25 services to his patients. The circumstances are as follows:

26 A. Paragraphs 7 through 54 above are incorporated here by reference

27
28 12. Abdominal x-ray.

1 as if set forth in full.

2

PRAYER

3

4

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

5

6

1. Revoking or suspending Physician and Surgeon's Certificate Number A 39818 issued to Jasvant N. Modi, M.D.;

7

8

2. Revoking, suspending or denying approval of his authority to supervise physician's assistants, pursuant to section 3527 of the Code;

9

10

3. Ordering him to pay the Board, if placed on probation, the costs of probation monitoring;

11

12

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

13

DATED: November 29, 2007

14

15

16

17

18

19

20

21

22

50198870.vpd

23

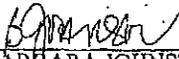
24

25

26

27

28


BARBARA JOHNSTON
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant