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Panel B

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7

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

10 In the Matter of the Accusation Against:

11 SONA PATEL, M.D.
4864 Melrose Avenue
12 Los Angeles, California 90029

13 Physician's and Surgeon's Certificate Number
A 88229,
14

15 Respondent.

Case No. 17-2009-203838

OAH No. 2012110678

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

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

18 PARTIES

19 1. Linda K. Whitney (Complainant) is the Executive Director of the Medical Board of
20 California (Board). She brought this action solely in her official capacity and is represented in
21 this matter by Kamala D. Harris, Attorney General of the State of California, by Colleen M.
22 McGurrin, Deputy Attorney General.

23 2. Sona Patel, M.D. (Respondent) is representing herself in this proceeding and has
24 chosen not to exercise her right to be represented by counsel. She, however, consulted with Peter
25 Osinoff of Bonne, Bridges, Mueller, O'Keefe & Nichols prior to entering into this stipulation.

26 3. On or about July 21, 2004, the Board issued Physician's and Surgeon's Certificate
27 Number A 88229 to Sona Patel, M.D. (Respondent). The Physician's and Surgeon's Certificate
28 was in full force and effect at all times relevant to the charges brought in Accusation No. 17-

1 2009-203838 and will expire on June 30, 2014, unless renewed.

2 JURISDICTION

3 4. Accusation No. 17-2009-203838 was filed before the Board, Department of
4 Consumer Affairs, and is currently pending against Respondent. The Accusation and all other
5 statutorily required documents were properly served on Respondent on August 22, 2012.
6 Respondent timely filed her Notice of Defense contesting the Accusation.

7 5. A copy of Accusation No. 17-2009-203838 is attached as Exhibit A and incorporated
8 herein by reference.

9 ADVISEMENT AND WAIVERS

10 6. Respondent has carefully read, and understands the charges and allegations in
11 Accusation No. 17-2009-203838. Respondent has also carefully read, and fully understands the
12 effects of this Stipulated Settlement and Disciplinary Order will have on her license and her
13 ability to practice medicine in California.

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

21 8. Respondent freely, voluntarily, knowingly, and intelligently waives and gives up each
22 and every right set forth above.

23 CULPABILITY

24 9. Respondent admits the truth of each and every charge and allegation in Accusation
25 No. 17-2009-203838.

26 10. Respondent agrees that her Physician's and Surgeon's Certificate is subject to
27 discipline and she agrees to be bound by the Board's probationary terms as set forth in the
28 Disciplinary Order below.

1 CONTINGENCY

2 11. This stipulation shall be subject to approval by the Board. Respondent understands
3 and agrees that counsel for Complainant and the staff of the Board may communicate directly
4 with the Board regarding this stipulation and settlement, without notice to or participation by
5 Respondent. By signing the stipulation, Respondent understands and agrees that she may not
6 withdraw her agreement or seek to rescind the stipulation prior to the time the Board considers
7 and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the
8 Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this
9 paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not
10 be disqualified from further action by having considered this matter.

11 12. The parties understand and agree that facsimile copies of this Stipulated Settlement
12 and Disciplinary Order, including facsimile or scanned and emailed signatures thereto, shall have
13 the same force and effect as the originals.

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

17 **DISCIPLINARY ORDER**

18 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate Number A 88229
19 issued to Respondent Sona Patel, M.D. is revoked. However, the revocation is stayed and
20 Respondent is placed on probation for seven (7) years on the following terms and conditions.

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

24 2. PRESCRIBING PRACTICES COURSE. Within 60 calendar days of the effective
25 date of this Decision, Respondent shall enroll in a course in prescribing practices equivalent to the
26 Prescribing Practices Course at the Physician Assessment and Clinical Education Program,
27 University of California, San Diego School of Medicine (Program), approved in advance by the
28 Board or its designee. Respondent shall provide the program with any information and documents

1 that the Program may deem pertinent. Respondent shall participate in and successfully complete
2 the classroom component of the course not later than six (6) months after Respondent's initial
3 enrollment. Respondent shall successfully complete any other component of the course within
4 one (1) year of enrollment. The prescribing practices course shall be at Respondent's expense
5 and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of
6 licensure.

7 A prescribing practices 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 its
13 designee not later than 15 calendar days after successfully completing the course, or not later than
14 15 calendar days after the effective date of the Decision, whichever is later. Failure to participate
15 in and successfully complete the prescribing practices course as provided above shall constitute a
16 violation of probation.

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

28 A medical record keeping course taken after the acts that gave rise to the charges in the

1 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board
2 or its designee, be accepted towards the fulfillment of this condition if the course would have
3 been approved by the Board or its designee had the course been taken after the effective date of
4 this Decision.

5 Respondent shall submit a certification of successful completion to the Board or its
6 designee not later than 15 calendar days after successfully completing the course, or not later than
7 15 calendar days after the effective date of the Decision, whichever is later. Failure to participate
8 in and successfully complete the medical record keeping course as provided above shall constitute
9 a violation of probation.

10 4. PROFESSIONALISM PROGRAM (ETHICS COURSE). Within 60 calendar days of
11 the effective date of this Decision, Respondent shall enroll in a professionalism program that
12 covers ethics and meets the requirements of Title 16, California Code of Regulations (CCR)
13 section 1358. Respondent shall participate in and successfully complete that program.
14 Respondent shall provide any information and documents that the program may deem pertinent.
15 Respondent shall successfully complete the classroom component of the program not later than
16 six (6) months after Respondent's initial enrollment, and the longitudinal component of the
17 program not later than the time specified by the program, but no later than one (1) year after
18 attending the classroom component. The professionalism program shall be at Respondent's
19 expense and shall be in addition to the Continuing Medical Education (CME) requirements for
20 renewal of licensure.

21 A professionalism program taken after the acts that gave rise to the charges in the
22 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board
23 or its designee, be accepted towards the fulfillment of this condition if the program would have
24 been approved by the Board or its designee had the program been taken after the effective date of
25 this Decision.

26 Respondent shall submit a certification of successful completion to the Board or its
27 designee not later than 15 calendar days after successfully completing the program or not later
28 than 15 calendar days after the effective date of the Decision, whichever is later. Failure to

1 participate in and successfully complete the professionalism program (ethics course) as provided
2 above shall constitute a violation of probation.

3 5. MONITORING - PRACTICE. Within 30 calendar days of the effective date of this
4 Decision, Respondent shall submit to the Board or its designee for prior approval as a practice
5 monitor, the name and qualifications of one or more licensed physicians and surgeons whose
6 licenses are valid and in good standing, and who are preferably American Board of Medical
7 Specialties (ABMS) certified. The monitor shall have no prior or current business or personal
8 relationship with Respondent, or other relationship that could reasonably be expected to
9 compromise the ability of the monitor to render fair and unbiased reports to the Board, including
10 but not limited to any form of bartering, shall be in Respondent's field of practice, and must agree
11 to serve as Respondent's monitor. Respondent shall pay all monitoring costs.

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

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

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

28 The monitor(s) shall submit a quarterly written report to the Board or its designee which

1 includes an evaluation of Respondent's performance, indicating whether Respondent's practices
2 are within the standards of practice of medicine, and whether Respondent is practicing medicine
3 safely and appropriately. It shall be the sole responsibility of Respondent to ensure that the
4 monitor submits the quarterly written reports to the Board or its designee within 10 calendar days
5 after the end of the preceding quarter.

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

14 In lieu of a monitor, Respondent may participate in a professional enhancement program
15 equivalent to the one offered by the Physician Assessment and Clinical Education Program at the
16 University of California, San Diego School of Medicine, that includes, at minimum, quarterly
17 chart review, semi-annual practice assessment, and semi-annual review of professional growth
18 and education. Respondent shall participate in the professional enhancement program at
19 Respondent's expense during the term of probation.

20 STANDARD CONDITIONS

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

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

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

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

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

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

12 10. GENERAL PROBATION REQUIREMENTS.

13 Compliance with Probation Unit

14 Respondent shall comply with the Board's probation unit and all terms and conditions of
15 this Decision.

16 Address Changes

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

22 Place of Practice

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

26 License Renewal

27 Respondent shall maintain a current and renewed California physician's and surgeon's
28 license.

1 Travel or Residence Outside California

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

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

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

11 12. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or
12 its designee in writing within 15 calendar days of any periods of non-practice lasting more than
13 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is
14 defined as any period of time Respondent is not practicing medicine in California as defined in
15 Business and Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month
16 in direct patient care, clinical activity or teaching, or other activity as approved by the Board. All
17 time spent in an intensive training program which has been approved by the Board or its designee
18 shall not be considered non-practice. Practicing medicine in another state of the United States or
19 Federal jurisdiction while on probation with the medical licensing authority of that state or
20 jurisdiction shall not be considered non-practice. A Board-ordered suspension of practice shall
21 not be considered as a period of non-practice.

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

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

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

28 Periods of non-practice will relieve Respondent of the responsibility to comply with the

1 probationary terms and conditions with the exception of this condition and the following terms
2 and conditions of probation: Obey All Laws; and General Probation Requirements.

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

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

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


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

1 delivered to the Board or its designee no later than January 31 of each calendar year.

2 ACCEPTANCE

3 I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the
4 stipulation and the effect it will have on my Physician's and Surgeon's Certificate. I enter into
5 this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and
6 agree to be bound by the Decision and Order of the Medical Board of California.

7
8 DATED: 4/11/13


SONA PATEL, M.D.
Respondent


10
11 ENDORSEMENT

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

15 Dated: 4/11/13

Respectfully submitted,

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

19 
20 COLLEEN M. MCGURRIN
21 Deputy Attorney General
22 *Attorneys for Complainant*

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24
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Exhibit A

Accusation No. 17-2009-203838

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO August 22 20 12
BY H. Park ANALYST

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

In the Matter of the Accusation Against:

Case No. 17-2009-203838

SONA PATEL, M.D.
4864 Melrose Avenue
Los Angeles, California 90029

Physician's and Surgeon's Certificate Number
A 88229,

ACCUSATION

Respondent.

Complainant alleges:

PARTIES

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

2. On or about July 21, 2004, the Board issued Physician's and Surgeon's Certificate Number A 88229 to Sona Patel, 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 June 30, 2014, unless renewed.

JURISDICTION

3. This Accusation is brought before the Board, Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions

1 Code unless otherwise indicated.

2 4. Section 2220 of the Code states, in pertinent part:

3 "Except as otherwise provided by law, the Division of Medical Quality¹ may take action
4 against all persons guilty of violating this chapter [Chapter 5, the Medical Practice Act]. The
5 division shall enforce and administer this article as to physician and surgeon certificate holders,
6 and the division shall have all the powers granted in this chapter for these purposes including, but
7 not limited to:

8 "(a) Investigating complaints from the public, from other licensees, from health care
9 facilities, or from a division of the board that a physician and surgeon may be guilty of
10 unprofessional conduct. The board shall investigate the circumstances underlying any report
11 received pursuant to Section 805 within 30 days to determine if an interim suspension order or
12 temporary restraining order should be issued. The board shall otherwise provide timely
13 disposition of the reports received pursuant to Section 805.

14 "(b) . . . (c)."

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

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

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

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

25
26 ¹ California Business and Professions Code section 2002, as amended and effective January 1, 2008,
27 provides that, unless otherwise expressly provided, the term "board" as used in the State Medical Practices Act (Bus.
28 & Prof. Code § 2000, et seq.) means the "Medical Board of California," and references to the "Division of Medical
Quality" and "Division of Licensing" in the Act or any other provision of law shall be deemed to refer to the Board.

1 Practice Act].

2 "(b) Gross negligence.

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

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

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

13 "(d) Incompetence.

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

16 "(f) Any action or conduct which would have warranted the denial of a certificate."

17 7. Section 2262 of the Code states, in pertinent part:

18 "Altering or modifying the medical record of any person, with fraudulent intent, or creating
19 any false medical record, with fraudulent intent, constitutes unprofessional conduct.

20 "In addition to any other disciplinary action, the Division of Medical Quality . . . may
21 impose a civil penalty of five hundred dollars (\$500) for a violation of this section."

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

25 HEALTH AND SAFETY CODE SECTIONS

26 9. Health and Safety Code section 11362.5 states, in pertinent part:

27 "(a) This section shall be known and may be cited as the Compassionate Use Act of
28 1996.

1 “(b)(1) The people of the State of California hereby find and declare that the purposes of
2 the Compassionate Use Act of 1996 are as follows:

3 (A) To ensure that seriously ill Californians have the right to obtain and use
4 marijuana for medical purposes where that medical use is deemed appropriate and has been
5 recommended by a physician who has determined that the person's health would benefit from the
6 use of marijuana in the treatment of cancer, anorexia, AIDS, chronic pain, spasticity, glaucoma,
7 arthritis, migraine, or any other illness for which marijuana provides relief.

8 (B) . . . (C).

9 (2) Nothing in this section shall be construed to supersede legislation prohibiting
10 persons from engaging in conduct that endangers others, nor to condone the diversion of
11 marijuana for nonmedical purposes.

12 (c) Notwithstanding any other provision of law, no physician in this state shall be
13 punished, or denied any right or privilege, for having recommended marijuana to a patient for
14 medical purposes.

15 (d)”

16 10. Health and Safety Code Section 11362.7 provides, in pertinent part:

17 “For purposes of this article, the following definitions shall apply:

18 “(a) ‘Attending physician’ means an individual who possesses a license in good
19 standing to practice medicine or osteopathy issued by the Medical Board of California . . . and
20 who has taken responsibility for an aspect of the medical care, treatment, diagnosis, counseling,
21 or referral of a patient and who has conducted a medical examination of that patient before
22 recording in the patient's medical record the physician's assessment of whether the patient has a
23 serious medical condition and whether the medical use of marijuana is appropriate.

24 “(b) . . . (g)

1 “(h) ‘Serious medical condition’ means all of the following medical conditions:

2 “(1) Acquired immune deficiency syndrome (AIDS).

3 “(2) Anorexia.

4 “(3) Arthritis.

5 “(4) Cachexia.

6 “(5) Cancer.

7 “(6) Chronic pain.

8 “(7) Glaucoma.

9 “(8) Migraine.

10 “(9) Persistent muscle spasms, including, but not limited to, spasms associated
11 with multiple sclerosis.

12 “(10) Seizures, including, but not limited to, seizures associated with epilepsy.

13 “(11) Severe nausea.

14 “(12) Any other chronic or persistent medical symptom that either:

15 “(A) Substantially limits the ability of the person to conduct one or more major
16 life activities as defined in the Americans with Disabilities Act of 1990 (Public Law 101-336).

17 “(B) If not alleviated, may cause serious harm to the patient's safety or physical
18 or mental health.”

19 ///

20 ///

21 ///

22 ///

23 ///

24 ///

25

1 **FIRST CAUSE FOR DISCIPLINE**

2 (Gross Negligence)

3 11. Respondent is subject to disciplinary action under Business and Professions Code
4 section 2234, subdivision (b), in that she committed gross negligence when she recommended
5 medical marijuana to patients M.W.² and A.B. The circumstances are as follows:

6 12. Respondent owns and operates two Los Angeles based clinics where she evaluates
7 whether a prospective patient is a seriously ill Californian, as defined by Health and Safety Code
8 section 11362.5 et seq. (i.e., "the Compassionate Use Act of 1996"), for the purposes of
9 qualifying for a medical marijuana recommendation. Respondent told the Board that she uses a
10 stethoscope, and sometimes a reflex hammer, during her evaluations, however, there is no
11 medical equipment or examination table(s) in her office to assist in the examination of
12 prospective patients.

13 13. Respondent told the Board that she established a screening protocol which requires
14 that certain criteria be met before she sees a prospective patient for a recommendation.
15 Respondent stated that each prospective patient is handed a series of documents to complete. One
16 of the documents is a "Medical Marijuana Evaluation Form" (MMEF). The MMEF requires that
17 they "MUST COMPLETE **EVERY** QUESTION ON THIS FORM" (**emphasis on original**).
18 The MMEF also requires the "NAME OF DOCTOR OR CLINIC WHO DIAGNOSED OR
19 TREATED YOU FOR THE CONDITION WHICH YOU ARE BEING EVALUATED FOR
20 MEDICAL MARIJUANA." Immediately following this section, the MMEF states "IF YOU
21 ARE UNABLE TO COMPLETE THE DOCTOR INFORMATION ABOVE YOU DO NOT
22 QUALIFY. PLEASE RETURN YOUR PAPERWORK TO THE RECEPTIONIST AND
23 RETURN AFTER YOU HAVE BEEN SEEN BY A DOCTOR FOR YOUR CONDITION.
24 THERE ARE NO EXCEPTIONS."

25 14. Respondent told the Board that she trains her receptionists to review the paperwork
26

27 ² For privacy and officer safety considerations, the individuals listed in this Accusation will be identified by
28 their first and last undercover identity initials. Their full undercover identity names will be disclosed to Respondent
upon timely request for discovery pursuant to Government Code section 11507.6.

1 and make sure it is complete before sending a prospective patient in to see her. Respondent stated
2 that "[a] lot of times, they just say . . . I haven't seen a doctor" and in that situation the
3 receptionists are instructed to turn them away and "tell them that you need to come back", "you
4 need to go get diagnosed." Respondent continued that the "diagnosis is the most important things
5 [sic] because I do not diagnose patients." Respondent stated that if a prospective patient comes
6 with no regular primary care doctor and no medical records "the receptionist would turn them
7 away because they have to have a primary doctor", "[t]here's no getting around that."

8 **M.W.**

9 15. On or about April 27, 2010, M.W., an undercover Medical Board investigator posing
10 as a patient, presented to Respondent's clinic to determine if he would qualify as a seriously ill
11 Californian, as defined by Health and Safety Code section 11362.5 et seq. (i.e., "the
12 Compassionate Use Act of 1996"), for purposes of obtaining a medical marijuana
13 recommendation. M.W. arrived in Respondent's office and was handed a series of documents to
14 complete, including the MMEF. M.W. partially completed the documents and left the portion of
15 the MMEF requesting the name and address of his diagnosing/treating doctor blank. M.W. did
16 not bring any medical records or any other documentation confirming his medical history,
17 condition or diagnosis to the visit. Under the MMEF section requesting the reason(s) he wanted
18 to use medical marijuana, M.W. wrote "depressed, drinking too much gives me bad hangovers"
19 and noted that his alcohol use is "10 beers a day or 1/2 bottle of Vodka." M.W. further wrote that
20 he had not tried, nor was he currently taking, any prescription medications, and he did not have
21 insurance.

22 16. Respondent saw M.W., on or about April 27, 2010, even though he did not list a
23 diagnosing or treating doctor and thus, did not qualify per Respondent's established office
24 screening protocol. Respondent, however, saw M.W. and completed the "Medical Marijuana
25 Evaluation" (MME) form. This is different from the MMEF, which is to be completed by the
26 prospective patient. The MME, however, is to be completed by the physician seeing the patient.
27 Respondent documented, on the MME, that she examined M.W.'s head, ears, eyes, nose and
28 throat, as well as his neck/thyroid and heart. This examination, however, was never performed,

1 nor were M.W.'s vitals taken or recorded. Respondent further documented that M.W. "does not
2 want to take prescriptions because they are not effective and not natural – he does not want to try
3 alternative prescription." M.W., however, never said or told Respondent this.

4 17. On or about April 27, 2010, Respondent assessed M.W. as suffering from 1)
5 Depression; 2) Anxiety; and 3) Insomnia. Her documented plan was to give M.W. a one-year
6 recommendation based upon his medical history "confirmed by medical records" and her
7 evaluation that he would "benefit from medical use of cannabis." Thereafter, Respondent issued
8 M.W. a one-year medical marijuana recommendation, and M.W. paid the recommendation fee.
9 When asked why she assessed M.W. with anxiety and insomnia, as he had not listed those
10 conditions on the paperwork, Respondent stated that he would have told her "that the doctor
11 diagnosed him with that." M.W., however, never told Respondent this. When asked why she
12 saw M.W. and issued him a recommendation when he did not meet her established office
13 screening policy, Respondent said "I think he told me that he did see a doctor and he did have
14 these conditions." M.W., however, never told Respondent that he had or had ever been
15 diagnosed or treated, for anxiety or insomnia. When asked if it was safe to give marijuana to a
16 patient who was drinking ten beers a day or half a bottle of vodka, Respondent replied "No.
17 Because that patient is not stable" and "I would not qualify him." When asked why she qualified
18 M.W. with his listed alcohol use, Respondent said he must have told her that "his alcohol is not
19 an ongoing thing." M.W., however, never told Respondent this.

20 A.B.

21 18. On or about August 19, 2010, A.B., an undercover Medical Board investigator posing
22 as a patient, presented to Respondent's clinic to determine if he would qualify as a seriously ill
23 Californian, as defined by Health and Safety Code section 11362.5 et seq. (i.e., "the
24 Compassionate Use Act of 1996"), for purposes of obtaining a medical marijuana
25 recommendation. A.B. arrived in Respondent's office and was handed a series of documents.
26 A.B. completed the documents and wrote "None" in the section of MMEF requesting the name of
27 his diagnosing or treating doctor. Additionally, A.B. did not bring any medical records
28 confirming his medical history, condition or diagnosis. Under the section of the MMEF

1 requesting the reason(s) he wanted to use medical marijuana, A.B. wrote "insomnia" and noted
2 that he had previously taken Ambien. A.B. did not, however, bring any pills, prescriptions or
3 prescription bottle(s) to the visit.

4 19. On or about August 19, 2010, Respondent saw A.B. even though he indicated that he
5 did not have a diagnosis or treating doctor, and did not qualify per Respondent's established
6 office screening protocol. Respondent, however, saw A.B., and completed the MME
7 documenting that she examined his head, ears, eyes, nose and throat, as well as his neck/thyroid
8 and heart. This examination, however, was never performed, nor were his vitals taken or
9 recorded. On the MME, Respondent documented that A.B. "has PMD, but does not recall
10 name." A.B., however, never told Respondent that he had a primary medical doctor (PMD).

11 20. On or about August 19, 2010, Respondent assessed A.B. as suffering from insomnia.
12 Her documented plan was to give him a one-year recommendation based upon his medical history
13 "confirmed by medical records" and her evaluation that he would "benefit from medical use of
14 cannabis." Thereafter, Respondent issued A.B. a one-year medical marijuana recommendation,
15 and he paid the recommendation fee. When asked why she issued A.B. a recommendation when
16 he did not have the name of his primary care doctor, Respondent replied, "he must have had a
17 prescription with him, like the actual pill bottle or I don't recall how." Respondent continued
18 that it is generally her custom and practice to make a photocopy of the prescription bottle and
19 maintain it in the patient's chart, or she would "probably make a note of it." There is, however,
20 no such entry in A.B.'s chart. Respondent could not recall if she checked A.B.'s blood pressure,
21 but considered it to be an integral part of her examination in a patient with insomnia. Respondent
22 told the Board that she would ask a patient, who had been complaining of five years of insomnia,
23 when they last took medication for their condition, but did not document this in the patient's
24 chart. Respondent, however, never asked A.B. this.

25 21. In Respondent's care and treatment of patients M.W. and A.B., the following acts and
26 omissions constitute gross negligence, individually and collectively:

- 27 (a) Failing to take an adequate medical history and conduct a good faith examination of
28 M.W. and A.B. prior to issuing a medical marijuana recommendation;

- 1 (b) Failing to adequately explore signs and symptoms of potentially significant pre-existing
2 condition(s) or pathology and to recognize alcohol addiction or other potential related
3 concomitant disease(s) regarding M.W. and his alcohol use/consumption;
4 (c) Failing to adequately explore and address M.W.'s depression as a symptom and/or
5 cause of excessive alcohol use/consumption by M.W.;
6 (d) Failing to refer M.W. to a specialist for consultation and/or evaluation of alcohol
7 dependency, liver disease, and a psychological consultation and/or evaluation; and
8 (e) Falsifying medical records.

9 **SECOND CAUSE FOR DISCIPLINE**

10 (Repeated Negligent Acts)

11 22. Respondent is subject to disciplinary action under Business and Professions Code
12 section 2234, subdivision (c), in that she committed repeated negligent acts when she
13 recommended medical marijuana to patients M.W. and A.B. The circumstances are as follows:

14 23. Paragraphs 12 through 20, inclusive, above are incorporated herein by reference as if
15 fully set forth herein.

16 24. In Respondent's care and treatment of patients M.W. and A.B., the following acts and
17 omissions constitute repeated negligent acts:

- 18 (a) Failing to take an adequately medical history and conduct a good faith examination of
19 M.W. and A.B. prior to issuing a medical marijuana recommendation;
20 (b) Failing to adequately explore signs and symptoms of potentially significant pre-existing
21 condition(s) or pathology and to recognize alcohol addiction or other potential related
22 concomitant disease(s) regarding M.W. and his alcohol use/consumption;
23 (c) Failing to adequately explore and address M.W.'s depression as a symptom and/or
24 cause of excessive alcohol use/consumption by M.W.;
25 (d) Failing to refer M.W. to a specialist for consultation and/or evaluation of alcohol
26 dependency, liver disease, and a psychological consultation and/or evaluation;
27 (e) Falsifying medical records; and
28 (f) Failing to develop an appropriate and adequate treatment plan.

1 **THIRD CAUSE FOR DISCIPLINE**

2 (Falsifying Medical Records)

3 25. Respondent is subject to disciplinary action under Business and Professions Code
4 section 2262 in that she falsified the medical records of patients M.W. and A.B. The
5 circumstances are as follows:

6 26. Paragraphs 12 through 20, inclusive, above are incorporated herein by reference as if
7 fully set forth herein.

8 27. Respondent falsified the medical records of patients M.W. and A.B. when she:

9 (a) Documented that she examined the head, ears, eyes, nose, throat, neck/thyroid and
10 heart of M.W. and A.B. when such physical examinations never occurred;

11 (b) Documented that M.W. said he "does not want to take prescriptions because they are
12 not effective and not natural – he does not want to try alternative prescription" when
13 M.W. never said or told Respondent this;

14 (c) Documented that M.W. had anxiety and insomnia when he never told Respondent that
15 he had been diagnosed with or treated for these conditions;

16 (d) Documented that M.W.'s and A.B.'s medical history was confirmed by their medical
17 records when it was not; and

18 (e) Documented that A.B. "has PMD, but does not recall name" when A.B. never said or
19 told Respondent this.

20 **FOURTH CAUSE FOR DISCIPLINE**

21 (Dishonest and Corrupt Acts)

22 28. Respondent is subject to disciplinary action under Business and Professions Code
23 section 2234, subdivision (e), in that she committed dishonest and corrupt acts in the care and
24 treatment of patients M.W. and A.B. The circumstances are as follows:

25 29. Paragraphs 12 through 20, inclusive, above are incorporated herein by reference as if
26 fully set forth herein.

27 30. In Respondent's care and treatment of patients M.W. and A.B., the allegations
28 contained in Paragraphs 12 through 20, inclusive, above constitute dishonest and corrupt acts

1 under Business and Professions Code section 2234, subdivision (e).

2 **FIFTH CAUSE FOR DISCIPLINE**

3 (Failure to Maintain Adequate and Accurate Records)

4 31. Respondent is subject to disciplinary action under Business and Professions Code
5 section 2266 in that she failed to maintain adequate and accurate records in her care and treatment
6 of patients M.W. and A.B. The circumstances are as follows:

7 32. Paragraphs 12 through 20, inclusive, above are incorporated herein by reference as if
8 fully set forth herein.

9 33. In Respondent's care and treatment of patients M.W. and A.B., the allegations
10 contained in Paragraphs 12 through 20, inclusive, above constitute failure to maintain adequate
11 and accurate medical records under Business and Professions Code section 2266.

12 **PRAYER**

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

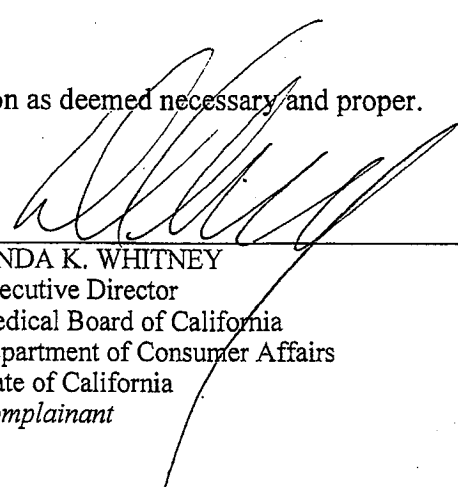
15 1. Revoking or suspending Physician's and Surgeon's Certificate Number A 88229,
16 issued to Sona Patel, M.D.

17 2. Revoking, suspending or denying approval of Sona Patel, M.D.'s authority to
18 supervise physician assistants, pursuant to section 3527 of the Code;

19 3. Ordering Respondent to pay the Board, if placed on probation, the costs of probation
20 monitoring; and

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

22
23 DATED: August 22, 2012


24 LINDA K. WHITNEY
25 Executive Director
26 Medical Board of California
27 Department of Consumer Affairs
28 State of California
Complainant

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