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

In the Matter of the Accusation Against:	)	
	)	
MADHU YAMINEE GARG, M.D.	)	Case No. 06-2011-219537
Physician's and Surgeon's	)	
Certificate No. A 30879	)	
	)	
Respondent.	)	
	)	
	)	

DENIAL BY OPERATION OF LAW
PETITION FOR RECONSIDERATION

No action having been taken on the petition for reconsideration, filed by Madhu Yaminee Garg, M.D., and the time for action having expired at 5 p.m. on December 6, 2013, the petition is deemed denied by operation of law.

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

In the Matter of the Accusation Against:	)	
	)	MBC No. 06-2011-219537
MADHU YAMINEE GARG, M.D.	)	
	)	
Physician's & Surgeon's Certificate No. A 30879	)	**ORDER GRANTING STAY**
	)	
	)	(Gov't Code Section 11521)
	)	
Respondent	)	

Respondent, MADHU YAMINEE GARG, M.D., has filed a Request for Stay of execution of the Decision in this matter with an effective date of November 27, 2013.

Execution is stayed until December 6, 2013.

This stay is granted solely for the purpose of allowing the Board time to review and consider the Petition for Reconsideration.

DATED: November 27, 2013

A. Renee Threadgill
Chief of Enforcement
Medical Board of California

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

In the Matter of the Accusation Against, MADHU YAMINEE GARG, M.D. South Fork Medical Plaza 1818 S. Western St., Ste. 500 Los Angeles, California 90006 Physician's and Surgeon's Certificate A 30879, Respondent.	Case No. 06-2011-219537 **DEFAULT DECISION AND ORDER** [Gov. Code, §11520]

FINDINGS OF FACT

1. On or about March 27, 2013, Complainant Linda Whitney, in her official capacity as the Executive Director of the Medical Board of California, Department of Consumer Affairs, filed Accusation No. 06-2011-219537 against Madhu Yaminee Garg, M.D. (Respondent) before the Medical Board of California.

2. On or about March 28, 1977, the Medical Board of California (Board) issued Physician's and Surgeon's Certificate No. A 30879 to Respondent. That license was in full force and effect at all times relevant to the charges brought herein and will expire on March 31, 2015, unless renewed.

3. On or about April 18, 2013, Teresa Schaeffer, an employee of the Complainant Agency, served by Certified Mail a copy of the Accusation No. 06-2011-219537, Statement to Respondent, Notice of Defense, Request for Discovery, and Government Code sections 11507.5, 11507.6, and 11507.7 to Respondent's address of record with the Board, which was 1818 South Western Avenue, #203, Los Angeles, California 90006. A copy of the Accusation, the related documents, and Declaration of Service are attached as Exhibit A, and are incorporated herein by reference.

4. Service of the Accusation was effective as a matter of law under the provisions of Government Code section 11505, subdivision (c).

On or about May 11, 2013, the aforementioned documents were returned by the U.S. Postal Service marked "Unclaimed." A copy of the envelope returned by the post office is attached as Exhibit B, and is incorporated herein by reference.

5. On or about August 22, 2013, Teresa Schaffer, an employee of the Complainant Agency, served by Certified Mail a copy of Accusation No. 06-2011-219537, Statement to Respondent, Notice of Defense, Request for Discovery, and Government Code sections 11507.5, 11507.6, and 11507.7 to 241 Oak Knoll Drive, Glendora, California 91741. This is the address that Supervising Investigator Marianne Eckhoff indicated was the most recent address of the Respondent, per Lexis.com.

6. Service of the Accusation was effective as a matter of law under the provisions of Government Code section 11505, subdivision (c).

On or about October 9, 2013, the aforementioned documents were returned by the U.S. Postal Service marked "Unclaimed." A copy of the United States Postal Service tracking information for tracking number 70121001000012282913 2, which relates to the package containing the Accusation and Accusation Packet, notes that the package was returned to sender because they were unclaimed, is attached as exhibit C, and is incorporated herein by reference.

7. Also attached, as Exhibit D, is the Declaration of Dr. Stuart Shipko, the psychiatrist who evaluated Respondent on behalf of the Medical Board, in order to determine her fitness to practice medicine. Dr. Shipko examined Respondent on two occasions. His findings are set forth

in his declaration. His conclusions, as set forth in his declaration, establish that Respondent suffers from poly-substance abuse and that she is not capable of safely practicing medicine.

8. Government Code section 11506 states, in pertinent part:

"(c) The respondent shall be entitled to a hearing on the merits if the respondent files a notice of defense, and the notice shall be deemed a specific denial of all parts of the accusation not expressly admitted. Failure to file a notice of defense shall constitute a waiver of respondent's right to a hearing, but the agency in its discretion may nevertheless grant a hearing."

Respondent failed to file a Notice of Defense within 15 days after service upon her of the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 06-2011-219537.

9. California Government Code section 11520 states, in pertinent part:

"(a) If the respondent either fails to file a notice of defense or to appear at the hearing, the agency may take action based upon the respondent's express admissions or upon other evidence and affidavits may be used as evidence without any notice to respondent."

10. Pursuant to its authority under Government Code section 11520, the Board finds Respondent is in default. The Board will take action without further hearing and, based on Respondent's express admissions by way of default and the evidence before it, contained in exhibits A, B, C and D, finds that the allegations in Accusation No. 06-2011-219537 are true.

DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Madhu Yaminee Garg, M.D. has subjected her Physician's and Surgeon's Certificate No. A 30879 to discipline.

2. A copy of the Accusation and the related documents and Declaration of Service are attached.

3. The agency has jurisdiction to adjudicate this case by default.

4. The Medical Board of California is authorized to revoke Respondent's Physician's and Surgeon's Certificate based upon the following violations alleged in the Accusation: Business and Professions Code section 822 (mental and physical illness affecting ability to practice safely) 2239 (use of controlled substance in a dangerous manner).

ORDER

IT IS ORDERED THAT Physician's and Surgeon's Certificate No. A 30879, heretofore issued to Respondent Madhu Yaminee Garg, M.D., is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on November 27, 2013.

IT IS SO ORDERED October 31, 2013

FOR THE MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA
KIMBERLY KIRCHMEYER
EXECUTIVE DIRECTOR

EXHIBIT A

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FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO 12/27/2013
BY ANALYST

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

In the Matter of the Accusation Against: MADHU YAMINEE GARG, M.D. 1818 South Western Avenue Los Angeles, California 90006 Physician's and Surgeon's Certificate A 30879, Respondent.	Case No. 06-2011-219537 **ACCUSATION**

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, Department of Consumer Affairs (Board).

2. On or about March 28, 1977, the Board issued Physician's and Surgeon's Certificate number A 30879 to Madhu Yaminee Garg, M.D. (Respondent). That certificate was in full force and effect at all times relevant to the charges brought herein and will expire on March 31, 2015, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Board under the authority of the following laws.

4. Business and Professions Code section 2227[1] provides that a licensee who is found guilty under the Medical Practice Act may have his or her license revoked, suspended for a period not to exceed one year, placed on probation and required to pay the costs of probation monitoring, or such other action taken in relation to discipline as the Board deems proper.

5. Section 2234 of the Code, states:

"The board 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.

". . ."

6. Section 2239, subdivision (a) of the Code states:

" The use or prescribing for or administering to himself or herself, of any controlled substance; or the use of any of the dangerous drugs specified in Section 4022, or of alcoholic beverages, to the extent, or in such a manner as to be dangerous or injurious to the licensee, or to any other person or to the public, or to the extent that such use impairs the ability of the licensee to practice medicine safely or more than one misdemeanor or any felony involving the use, consumption, or self-administration of any of the substances referred to in this section, or any combination thereof, constitutes unprofessional conduct. . . ."

7. Section 820 of the Code states:

"Whenever it appears that any person holding a license, certificate or permit under this division or under any initiative act referred to in this division may be unable to practice his or her profession safely because the licentiate's ability to

[1] All statutory references are to the Business and Professions Code unless otherwise indicated.

practice is impaired due to mental illness, or physical illness affecting competency, the licensing agency may order the licentiate to be examined by one or more physicians and surgeons or psychologists designated by the agency. The report of the examiners shall be made available to the licentiate and may be received as direct evidence in proceedings conducted pursuant to Section 822."

8. Section 822 of the Code states:

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

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

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

"(c) Placing the licentiate on probation.

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

FIRST CAUSE FOR DISCIPLINE

(Mental and Physical Illness Affecting Ability to Practice Safely)

9. Respondent is subject to disciplinary action under Business and Professions Code sections 822 and 826 because her ability to practice medicine safely is impaired because of mental and physical illness. The facts and circumstances are as follows:

10. Respondent was a partner with Southern California Permanente Medical Group and worked at Kaiser Baldwin Park Medical Center-West Covina Medical Offices, practicing family medicine.

11. On or about October 24, 2011, Respondent reported for work and was asked to undergo drug testing as she appeared to be "out of it." The results of that drug test were received on or about October 31, 2011, and were noted to be positive for amphetamines,[2] methamphetamines,[3] and hydrocodone.[4] Respondent was placed off-work.

[2] Amphetamines are a group of psychoactive drugs that are central nervous system stimulants.

(continued...)

12. Respondent underwent a neuropsychiatric evaluation on or about February 24, 2012, performed by Dr. David Fox. Dr. Fox found considerable evidence of a movement disorder that caused Respondent to be uncoordinated and slowed her ability to process information. She exhibited signs of intermittent tremor, mild akinesia[5] and dyspraxia[6] during testing. There was also evidence that Respondent had cognitive impairment, consisting of confusion, impaired reasoning, and limited insight.

13. An MRI of the brain and brainstem were performed on Respondent on or about March 9, 2012, and were found to be within normal limits.

14. As a consequence of this impairment, Respondent was evaluated at the request of her licensing agency, the Board, by a psychiatrist, Dr. Stuart Shipko, and a family practitioner, Dr. Payam Shadie.

15. Dr. Shipko evaluated Respondent on or about April 18, 2012. Dr. Shipko diagnosed Respondent with polysubstance abuse. He further opined that Respondent should not return to work as she represented a potential safety risk to patients.

16. Dr. Shadie performed a physical examination of Respondent on or about April 24, 2012. He recommended that Respondent undergo a neuropsychiatric evaluation to assess her mental status and her ability to safely practice medicine.

17. On or about April 24, 2012, Respondent voluntarily submitted to a drug test at the request of the Board. The results of that drug test were received on or about May 1, 2012, and were positive for opiates and benzodiazepines.[7]

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[3] Methamphetamines are a central nervous system stimulant that have a high potential for abuse.

[4] Hydrocodone is a semi-synthetic opioid narcotic analgesic.

[5] Akinesia is a loss of control of voluntary muscle movement.

[6] Dyspraxia is a motor learning disability.

[7] Benzodiazepines are a type of medication commonly referred to as tranquilizers.

18. At Respondent's request, she underwent a second neuropsychiatric evaluation on or about June 12, 2012, performed by Dr. Earnest. Dr. Earnest found defects in Respondent's visual-spacial organization and executive functioning, processing speed and fine motor coordination.

19. On or about October 3, 2012, Respondent underwent a re-evaluation by Dr. Shipko. During this evaluation, Respondent admitted to Dr. Shipko that she took Vicodin, an opiate analgesic, for hip pain. Respondent would not state the name of the prescribing physician. A review of the Controlled Substance Utilization Review and Evaluation System (CURES) Report reflects that Vicodin was not prescribed for Respondent.

20. Following his re-evaluation of Respondent, Dr. Shipko rendered an impression that Respondent was suffering from polysubstance abuse. He further opined that Respondent is not capable of safely practicing medicine based on the results of his evaluation, the results of the neuropsychiatric testing and the effects of the self-abuse of controlled substances.

21. On or about October 3, 2012, Respondent voluntarily submitted to a drug test at the request of the Board. The results of that drug test were received on or about October 9, 2012, and were positive for opiates, barbiturates[8] and benzodiazepines.

22. On or about October 17, 2012, Respondent was visited by Board Investigator Maksim Degtyar. Respondent admitted to Investigator Degtyar that she took Vicodin daily. Respondent could not recall the name of the physician who prescribed the Vicodin for her. A review of the CURES Report run on Respondent has no evidence of Vicodin being prescribed for Respondent.

SECOND CAUSE FOR DISCIPLINE

(Use of Controlled Substance in a Dangerous Manner)

23. Respondent is subject to disciplinary action under Business and Professions Code Section 2239, subdivision (a), insofar as her use of a controlled substance impairs her ability to safely practice medicine. The facts and circumstances are as follows:

[8] Barbiturates are central nervous system depressants.

24. The allegations of the First Cause for Discipline paragraphs 10 through 22 are incorporated herein by reference as if fully set forth.

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 Number A 30879, issued to Respondent; and

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

3. If placed on probation, ordering her to pay to the Board the costs of probation monitoring; and

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

DATED: March 27, 2013

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

Complainant