

**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:)**

Manasseh C. Nwaigwe, M.D.)

Case No. 800-2015-015385

**Physician's and Surgeon's)
Certificate No. A 42532)**

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 June 1, 2016.

IT IS SO ORDERED May 25, 2016.

MEDICAL BOARD OF CALIFORNIA

By:


**Kimberly Kirchmeyer
Executive Director**

1 KAMALA D. HARRIS
Attorney General of California
2 E. A. JONES III
Supervising Deputy Attorney General
3 CINDY M. LOPEZ
Deputy Attorney General
4 State Bar No. 119988
California Department of Justice
5 300 So. Spring Street, Suite 1702
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7 *Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:

Case No. 800-2015-015385

12 MANASSEH NWAIGWE, M.D.
V.V. Station
13 Post Office Box 11028
Glendale, California 91226
14 Physician's and Surgeon's Certificate No.
A42532

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

15
16 Respondent.

17
18 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
19 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 Cindy M. Lopez,
24 Deputy Attorney General.

25 2. MANASSEH NWAIGWE, M.D. (Respondent) is represented in this proceeding by
26 attorney Nicholas D. Jurkowitz, Esq., whose address is 1990 S. Bundy Drive, Suite 777
27 Los Angeles, CA 90025.
28

1 3. On or about March 24, 1986, the Medical Board of California issued Physician's and
2 Surgeon's Certificate No. A42532 to Respondent. The Physician's and Surgeon's Certificate was
3 in full force and effect at all times relevant to the charges brought in Accusation No. 800-2015-
4 015385 and will expire on March 31, 2016, unless renewed. On February 17, 2016, Respondent's
5 license was suspended pursuant to an Interim Suspension Order.

6
7 JURISDICTION

8 4. Accusation No. 800-2015-015385 was filed before the Medical Board of California
9 (Board), Department of Consumer Affairs, and is currently pending against Respondent. The
10 Accusation and all other statutorily required documents were properly served on Respondent on
11 March 8, 2016. Respondent timely filed his Notice of Defense contesting the Accusation. A
12 copy of Accusation No. 800-2015-015385 is attached as Exhibit A and incorporated by reference.

13 ADVISEMENT AND WAIVERS

14 5. Respondent has carefully read, fully discussed with counsel, and understands the
15 charges and allegations in Accusation No. 800-2015-015385. Respondent also has carefully read,
16 fully discussed with counsel, and understands the effects of this Stipulated Surrender of License
17 and Order.

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

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

CULPABILITY

8. Respondent understands that the charges and allegations in Accusation No. 800-2015-015385, if proven at a hearing, constitute cause for imposing discipline upon his Physician's and Surgeon's Certificate.

9. For the purpose of resolving the Accusation without the expense and uncertainty of further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual basis for the charges in the Accusation and that those charges constitute cause for discipline. Respondent hereby gives up his right to contest that cause for discipline exists based on those charges.

10. Respondent understands that by signing this stipulation he enables the Board to issue an order accepting the surrender of his Physician's and Surgeon's Certificate without further process.

CONTINGENCY

11. This stipulation shall be subject to approval by the Medical Board of California. Respondent understands and agrees that counsel for Complainant and the staff of the Medical Board of California may communicate directly with the Board regarding this stipulation and surrender, without notice to or participation by Respondent or his counsel. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Surrender and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

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

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

1 ORDER

2 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A42532, issued
3 to Respondent MANASSEH NWAIGWE, M.D., is surrendered and accepted by the Medical
4 Board of California.

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

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

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

13 4. If Respondent ever files an application for licensure or a petition for reinstatement in
14 the State of California, the Board shall treat it as a petition for reinstatement. Respondent must
15 comply with all the laws, regulations and procedures for reinstatement of a revoked license in
16 effect at the time the petition is filed, and all of the charges and allegations contained in
17 Accusation No. 800-2015-015385 shall be deemed to be true, correct and admitted by Respondent
18 when the Board determines whether to grant or deny the petition.

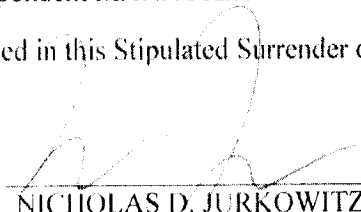
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20 ACCEPTANCE

21 I have carefully read the above Stipulated Surrender of License and Order and have fully
22 discussed it with my attorney, Nicholas D. Jurkowitz, Esq.. I understand the stipulation and the
23 effect it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated
24 Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound
25 by the Decision and Order of the Medical Board of California.

26
27 DATED: 5/2/16
28 MANASSEH NWAIGWE, M.D.
Respondent

1 I have read and fully discussed with Respondent MANASSEH NWAIGWE, M.D. the
2 terms and conditions and other matters contained in this Stipulated Surrender of License and
3 Order. I approve its form and content.

4 DATED: 5-2-2016


NICHOLAS D. JURKOWITZ, ESQ.
Attorney for Respondent

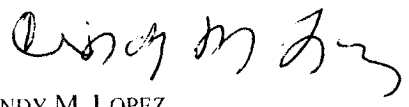
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7 ENDORSEMENT

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

10 Dated: 5.17.16

Respectfully submitted,

11 KAMALA D. HARRIS
12 Attorney General of California
13 E. A. JONES III
14 Supervising Deputy Attorney General


15 CINDY M. LOPEZ
16 Deputy Attorney General
17 Attorneys for Complainant

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Exhibit A

Accusation and Petition to Revoke Probation No. 800-2015-015385

1 KAMALA D. HARRIS
Attorney General of California
2 E. A. JONES III
Supervising Deputy Attorney General
3 CINDY M. LOPEZ
Deputy Attorney General
4 State Bar No. 119988
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7 *Attorneys for Complainant*

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO March 8 2016
BY K. Voong ANALYST

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

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

14 **MANASSEH NWAIGWE, M.D.**
V.V. Station
Post Office Box 11028
15 Glendale, California 91226

16 Physician's and Surgeon's Certificate No. A42532,
17 Respondent.

Case No. 800-2015-015385

**ACCUSATION AND PETITION TO
REVOKE PROBATION**

18
19 Complainant alleges:

20 **PARTIES**

21 1. Kimberly Kirchmeyer (Complainant) brings this Accusation and Petition to Revoke
22 Probation solely in her official capacity as the Executive Director of the Medical Board of
23 California, Department of Consumer Affairs (Board).

24 2. On or about March 24, 1986, the Medical Board issued Physician's and Surgeon's
25 Certificate Number A42532 to Manasseh Nwaigwe, M.D. (Respondent). The Physician's and
26 Surgeon's Certificate was in full force and effect at all times relevant to the charges brought
27 herein and will expire on March 31, 2016, unless renewed.

28 ///

JURISDICTION

3. This Accusation and Petition to Revoke Probation is brought before the Board, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

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

“(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.

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

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

2 “(g) The practice of medicine from this state into another state or country without meeting
3 the legal requirements of that state or country for the practice of medicine. Section 2314 shall not
4 apply to this subdivision. This subdivision shall become operative upon the implementation of the
5 proposed registration program described in Section 2052.5.

6 “(h) The repeated failure by a certificate holder, in the absence of good cause, to attend and
7 participate in an interview by the board. This subdivision shall only apply to a certificate holder
8 who is the subject of an investigation by the board.”

9 6. Section 2242 of the Code states:

10 “(a) Prescribing, dispensing, or furnishing dangerous drugs as defined in Section 4022
11 without an appropriate prior examination and a medical indication, constitutes unprofessional
12 conduct.

13 “(b) No licensee shall be found to have committed unprofessional conduct within the
14 meaning of this section if, at the time the drugs were prescribed, dispensed, or furnished, any of
15 the following applies:

16 “(1) The licensee was a designated physician and surgeon or podiatrist serving in the
17 absence of the patient's physician and surgeon or podiatrist, as the case may be, and if the
18 drugs were prescribed, dispensed, or furnished only as necessary to maintain the patient
19 until the return of his or her practitioner, but in any case no longer than 72 hours.

20 “(2) The licensee transmitted the order for the drugs to a registered nurse or to a
21 licensed vocational nurse in an inpatient facility, and if both of the following conditions
22 exist:

23 “(A) The practitioner had consulted with the registered nurse or licensed
24 vocational nurse who had reviewed the patient's records.

25 “(B) The practitioner was designated as the practitioner to serve in the absence
26 of the patient's physician and surgeon or podiatrist, as the case may be.

27 “(3) The licensee was a designated practitioner serving in the absence of the patient's
28 physician and surgeon or podiatrist, as the case may be, and was in possession of or had

1 utilized the patient's records and ordered the renewal of a medically indicated prescription
2 for an amount not exceeding the original prescription in strength or amount or for more
3 than one refill.

4 “(4) The licensee was acting in accordance with Section 120582 of the Health and
5 Safety Code.”

6 7. Section 726 of the Code states:

7 "The commission of any act of sexual abuse, misconduct, or relations with a patient, client,
8 or customer constitutes unprofessional conduct and grounds for disciplinary action for any
9 person licensed under this division, under any initiative act referred to in this division and under
10 Chapter 17 (commencing with Section 9000) of Division 3.

11 "This section shall not apply to sexual contact between a physician and surgeon and his or
12 her spouse or person in an equivalent domestic relationship when that physician and surgeon
13 provides medical treatment, other than psychotherapeutic treatment, to his or her spouse or person
14 in an equivalent domestic relationship."

15 8. Section 725 of the Code states:

16 "(a) Repeated acts of clearly excessive prescribing, furnishing, dispensing, or administering
17 of drugs or treatment, repeated acts of clearly excessive use of diagnostic procedures, or repeated
18 acts of clearly excessive use of diagnostic or treatment facilities as determined by the standard of
19 the community of licensees is unprofessional conduct for a physician and surgeon, dentist,
20 podiatrist, psychologist, physical therapist, chiropractor, optometrist, speech-language
21 pathologist, or audiologist.

22 "(b) Any person who engages in repeated acts of clearly excessive prescribing or
23 administering of drugs or treatment is guilty of a misdemeanor and shall be punished by a fine of
24 not less than one hundred dollars (\$100) nor more than six hundred dollars (\$600), or by
25 imprisonment for a term of not less than 60 days nor more than 180 days, or by both that fine and
26 imprisonment.

27 "(c) A practitioner who has a medical basis for prescribing, furnishing, dispensing, or
28 administering dangerous drugs or prescription controlled substances shall not be subject to

1 disciplinary action or prosecution under this section.

2 "(d) No physician and surgeon shall be subject to disciplinary action pursuant to this section
3 for treating intractable pain in compliance with Section 2241.5."

4 **FIRST CAUSE FOR DISCIPLINE**

5 **(Sexual Misconduct)**

6 9. Respondent Manasseh Nwaigwe, M.D. is subject to disciplinary action under section
7 726 in that he did an inappropriate vaginal exam on patient B.M. The circumstances are as
8 follows:

9 10. In May 2015, patient B.M. went to see Respondent for back pain. She returned on
10 July 2, 2015, for issues with anxiety. She also wanted to change her Valium medication because
11 it was too strong. When Respondent walked into the exam room, he took the patient's face in his
12 hands, which B.M. thought was a bit odd. After checking vitals, Respondent asked B.M. to sit on
13 the exam table.

14 11. She thought this was odd since she was there for anxiety but she complied. The
15 assistant entered the room and told B.M. Respondent was going to do a pelvic exam. B.M. was
16 fully clothed, with a paper towel over her lap. While she was lying down on the exam table, with
17 an ungloved hand, Respondent pulled her pants up, and touched her clitoris. Respondent did not
18 explain why he was examining her there. After the exam, Respondent asked B.M. if she wanted
19 to go out on a date with him. Then Respondent gave her prescriptions for anxiety, pain, blood
20 pressure and a cough, although she never complained about pain or a cough.

21 12. After the exam, the patient called and asked the medical assistant why Respondent
22 did a vaginal exam when she was there for anxiety, but the assistant claimed she did not see
23 anything. The patient reported the incident to the police.

24 13. On that same day, Los Angeles police officers interviewed Respondent. He denied
25 that he performed a pelvic exam, claiming that he told the patient he was going to examine her
26 stomach and pelvis. He claimed the patient lifted her pants so he could put his hand inside.
27 Respondent did admit, however, that he did not use a glove, and agreed this is not a common
28 practice amongst doctors. Respondent admitted asking the patient out on a date.

1 **SECOND CAUSE FOR DISCIPLINE**

2 **(Prescribing Without an Appropriate Prior Exam)**

3 14. Respondent Manasseh Nwaigwe, M.D. is subject to disciplinary action under sections
4 725 and 2242 in that he overprescribed to three undercover patients and 12 other patients without
5 an appropriate prior exam. The circumstances are as follows:

6 15. Respondent prescribed dangerous drugs to many of his patients, without the benefit of
7 an appropriate prior medical examination. These facts came to light through the Drug
8 Enforcement Agency (DEA) which had been investigating Respondent on its own. A DEA agent
9 informed the Board of this investigation, so undercover ("UC") operations were done in May
10 2015. The two UC officers obtained prescriptions for hydrocodone (a narcotic used to relieve
11 moderate pain); clonazepam (drug used for the management of symptoms of anxiety); and
12 promethazine with codeine cough syrup (used for the temporary relief of coughs). However,
13 Respondent failed to do a history or perform a physical exam. In fact, during most of these visits,
14 Respondent sat in his chair and wrote notes and barely spoke to the patients.

15 16. A second UC was conducted on July 21, 2015, with three police officers. All three
16 obtained prescriptions for hydrocodone, clonazepam and promethazine with codeine.

17 17. During these UC visits, Respondent would only listen to their chest and back, but did
18 no other physical exam, nor did he ask questions about their medical history. Respondent sat in
19 his chair writing for most of the time the UC's were in the exam room, with no talking. Then he
20 wrote prescriptions for Norco, Klonopin and Phenergan with codeine. Respondent did the exact
21 same thing for all three UC's.

22 18. Subsequent to the undercover visits, a medical board expert reviewed The CURES
23 report for Respondent, and chose several patients whose prescribing looked suspicious. The
24 expert reviewed patient records for about 12 random patients, which totaled approximately 225
25 visits. (They were A.B., C.C., E.M., E.T., L.H., J.M, K.N, P.P.B., WS., E.T., H.W., and W.W.)
26 He noticed that there was a pattern with all of these patients, notwithstanding age or sex. The
27 most glaring thing was that every single patient was prescribed the same medications each time
28 they went to see Respondent. They were prescribed a combination of Norco or Vicodin, plus

1 Klonopin or Valium, and Phenergan with Codeine.

2 19. Every patient received a combination of Norco or Vicodin, plus Klonopin or Valium,
3 and Phenergan with Codeine. For each patient, there were no referrals for imaging, physical
4 therapy, urine drug screens or a check of CURES. Each and every patient had the following
5 diagnoses (without evaluations): Chronic Anemia; Hypertension; COPD; UTI or Cystitis; and
6 fatigue/weakness.

7 Violations of the Standard of Care:

8 20. There was no adequate history taken for any of the patients.

9 21. There was no medically legitimate reason to justify the strong and dangerous opioids
10 and controlled substances prescribed by Respondent.

11 22. There were no appropriate exams, and no discussion of the risks and benefits of the
12 medications.

13 23. Respondent did not obtain a past history including what prior medications were used
14 to treat the pain.

15 24. Respondent failed to perform any exam of the areas of the pain.

16 25. Respondent failed to order urine drug screens.

17 26. Respondent prescribed dangerous controlled substance medications at nearly every
18 visit for each patient without any regard to the complaint.

19 **THIRD CAUSE FOR DISCIPLINE**

20 **(Gross Negligence)**

21 27. Respondent Manasseh Nwaigwe, M.D. is subject to disciplinary action under section
22 2234, subdivision (b), in that he was grossly negligent when he inappropriately touched patient
23 B.M. The circumstances are as follows:

24 28. Complainant incorporates by reference the allegations contained in paragraphs 9-13
25 as though fully set forth herein.

26 29. Respondent's inappropriate touching was without medical justification and outside
27 what is medically legitimate. There was very little discussion during the visit and no discussion
28 about her pain. The patient came in regarding her Valium, but she was given pain medication and

1 cough medication.

2 30. Respondent used an ungloved hand; B.M. was dressed; he failed to do an inspection,
3 a speculum visual exam, or palpate the uterus and ovaries. Finally, there was no medically
4 justified reason to touch her clitoris.

5 **CAUSE TO REVOKE PROBATION**

6 (Obey All Laws)

7 31. At all times after the effective date of Respondent's probation, as set forth in
8 paragraph 33 below, Condition 5 stated:

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

12 32. Respondent's probation is subject to revocation because he failed to comply with
13 Probation Condition 5, referenced above. Complainant incorporates by reference the allegations
14 contained in paragraphs 9-30, as though fully set forth herein.

15 **DISCIPLINARY CONSIDERATIONS**

16 33. To determine the degree of discipline, if any, to be imposed on Respondent Manasseh
17 Nwaigwe, M.D., Complainant alleges that on or about September 23, 2014, in a prior disciplinary
18 action entitled *In the Matter of the Accusation Against Manasseh Nwaigwe, M.D.*, before the
19 Medical Board of California, in Case Number 18-2012-221666, Respondent's license was placed
20 on three years probation effective October 23, 2014, for having been convicted in 2012 of failing
21 to file tax returns. That decision is now final and is incorporated by reference as if fully set forth
22 herein.

23 **PRAYER**

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

26 1. Revoking the probation that was granted by the Medical Board of California in Case
27 No. 18-2012-221666 and imposing the disciplinary order that was stayed, thereby revoking
28 Physician's and Surgeon's Certificate No. A42532 issued to Respondent;

2. Revoking or suspending Physician's and Surgeon's Certificate Number A42532,
issued to Manasseh Nwaigwe, M.D.;

3. Revoking, suspending or denying approval of Manasseh Nwaigwe, M.D.'s authority
to supervise physician assistants, pursuant to section 3527 of the Code;

4. Ordering Manasseh Nwaigwe, M.D., if placed on probation, to pay the Board the
costs of probation monitoring; and

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

DATED: March 8, 2016



KIMBERLY KIRCHMEYER
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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