

**BEFORE THE
DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:)

FRANCIS GERARD D'AMBROSIO, M.D.)

**Physician's and Surgeon's
Certificate No. G73590**)

Respondent.)

File No. 06-2002-132815

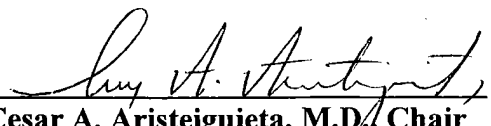
DECISION

The attached Stipulated Settlement and Disciplinary Order is hereby adopted as the Decision and Order of the Division of Medical Quality of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on April 2, 2007.

IT IS SO ORDERED March 1, 2007.

MEDICAL BOARD OF CALIFORNIA

By:  *ms*
**Cesar A. Aristeiguieta, M.D., Chair
Consolidated Panel
Division of Medical Quality**

1 BILL LOCKYER, Attorney General
of the State of California
2 GAIL M. HEPPELL, Supervising
Deputy Attorney General
3 ISMAEL A. CASTRO, State Bar No. 85452
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Facsimile: (916) 327-2247

7 Attorneys for Complainant

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:

15 **FRANCIS GERARD D'AMBROSIO, M.D.**
23852 Pacific Coast Highway, # 793
16 Malibu, CA 92373

17 Physician and Surgeon's Certificate
No. G73590,

18 Respondent.

Case No. 06-2002-132815

**STIPULATED SETTLEMENT
AND DISCIPLINARY ORDER**

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

22 **PARTIES**

23 1. Complainant David T. Thornton is the Executive Officer of the Medical
24 Board of California. He brought this action solely in his official capacity and is represented in
25 this matter by Bill Lockyer, Attorney General of the State of California, by Ismael A. Castro,
26 Deputy Attorney General.

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1 2. Respondent is represented by Peter R. Osinoff, Esq., Bonne, Bridges
2 Mueller, O'Keefe & Nichols, 3699 Wilshire Boulevard, 10th Floor, Los Angeles, CA 90010-
3 2179.

4 3. On or about March 10, 1992, the Medical Board of California issued
5 Physician and Surgeon's Certificate No. G73590 to Francis Gerard D'Ambrosio, M.D.
6 ("Respondent"). Said certificate was in full force and effect at all times relevant to these
7 proceedings and will expire on February 28, 2008 unless renewed.

8 **JURISDICTION**

9 4. Accusation Number 06-2002-132815, was filed before the Division of
10 Medical Quality, Medical Board of California ("Board"), and is currently pending against
11 Respondent. The Accusation, together with all other statutorily required documents, was duly
12 served on Respondent, and Respondent timely filed his Notice of Defense contesting the
13 Accusation. A copy of Accusation Number 06-2002-132815 is attached as Exhibit A and
14 incorporated herein by reference.

15 **ADVISEMENT AND WAIVERS**

16 5. Respondent has carefully read and fully understands the nature of the
17 charges and allegations in the Accusation, Number 06-2002-132815. Respondent also has read
18 and carefully considered the Stipulated Settlement and Disciplinary Order and understands the
19 effect it will have on his ability to practice.

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

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

1 CULPABILITY

2 8. Respondent admits the truth of the allegations contained in the Third
3 Cause for Discipline Accusation No. 06-2002-132815 and that cause exists for discipline
4 pursuant to Business and Professions Code sections 2234(b).

5 9. Respondent agree that his Physician and Surgeon's Certificate is subject to
6 discipline and agrees to be bound by the Board's imposition of discipline as set forth in the
7 Disciplinary Order below.

8 CONTINGENCY

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

19 11. The parties understand that facsimile copies of this Stipulated Settlement
20 and Disciplinary Order, including facsimile signatures thereto, shall have the same force and
21 effect as the originals.

22 12. In consideration of the foregoing admissions and stipulations, the parties
23 agree that the Medical Board of California may, without further notice or formal proceeding,
24 issue and enter the following Disciplinary Order:

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Respondent shall complete the Program not later than six months after Respondent's initial enrollment unless the Board or its designee agrees in writing to a later time for completion. Failure to participate and complete successfully all phases of the Program outlined above constitutes unprofessional conduct and is a violation of this order.

2. **PROHIBITED PRACTICE.** Pending completion of Condition Number 1, Respondent is prohibited from performing surgery.

3. **PROCTOR REQUIREMENT.** Respondent shall be proctored for the first twelve (12) surgeries performed by Respondent in which Respondent acts as the primary surgeon. Respondent shall notify the Division in writing upon the completion of the twelfth surgery. No proctor is required if Respondent is assisting in a surgery.

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

The Division or its designee shall provide the approved monitor with copies of the Decision(s) and Accusation(s), and a proposed monitoring plan. Within 15 (fifteen) calendar days of receipt of the Decision(s), Accusation(s), and proposed monitoring plan, the monitor shall submit a signed statement that the monitor has read the Decision(s), Accusation(s), fully understands the role of a monitor, and agrees or disagrees with the proposed monitoring plan. If the monitor disagrees with the proposed monitoring plan, the monitor shall submit a revised monitoring plan with the signed statement.

Within 60 (sixty) calendar days of the effective date of this Decision, and continuing throughout probation, Respondent's practice shall be monitored by the approved

1 monitor. respondent shall make all records available for immediate inspection and copying on
2 the premises by the monitor at all times during business hours and shall retain the records for the
3 entire term of probation.

4 The monitor(s) shall submit a quarterly written report to the Division or its
5 designee which includes an evaluation of Respondent's performance, indicating whether
6 Respondent's practices are within the standards of practice of medicine or billing, or both, and
7 whether Respondent is practicing medicine safely, billing appropriately, or both.

8 It shall be the sole responsibility of Respondent to ensure that the monitor submits
9 the quarterly written reports to the Division or its designee within ten (10) calendar days after the
10 end of the preceding quarter.

11 If the monitor resigns or is no longer available, Respondent shall, within five (5)
12 calendar days of such resignation or unavailability, submit to the Division or its designee, for
13 prior approval, the name and qualifications of a replacement monitor who will be assuming that
14 responsibility within 15 (fifteen) calendar days. If Respondent fails to obtain approval of a
15 replacement monitor within 60 (sixty) days of the resignation or unavailability of the monitor,
16 Respondent shall be suspended from the practice of medicine until a replacement monitor is
17 approved and prepared to assume immediate monitoring responsibility. Respondent shall cease
18 the practice of medicine within three (3) calendar days after being so notified by the Division or
19 its designee.

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

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

1 5. **NOTIFICATION.** Prior to engaging in the practice of medicine,
2 Respondent shall provide a true copy of the Decision(s) and Accusation(s) to the chief of Staff or
3 the Chief Executive Officer at every hospital where privileges or membership are extended to
4 Respondent, at any other facility where Respondent engages in the practice of medicine,
5 including all physician and locum tenens registries or other similar agencies, and to the Chief
6 Executive Officer at every insurance carrier which extends malpractice insurance coverage to
7 Respondent. Respondent shall submit proof of compliance to the Division or its designee within
8 15 (fifteen) calendar days.

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

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

14 7. **QUARTERLY DECLARATIONS.** Respondent shall submit quarterly
15 declarations under penalty of perjury on forms provided by the Division, stating whether there
16 has been compliance with all the conditions or probation. Respondent shall submit quarterly
17 declarations not later than ten (10) calendar days after the end of the preceding quarter.

18 8. **PROBATION UNIT COMPLIANCE.** Respondent shall comply with
19 the Division's probation unit. Respondent shall, at all times, keep the Division informed of
20 Respondent's business and residence addresses. Changes of such addresses shall be immediately
21 communicated in writing to the Division or its designee. Under no circumstances shall a post
22 office box serve as an address of record, except as allowed by Business and Professions Code
23 section 2021(b).

24 Respondent shall not engage in the practice of medicine in Respondent's place or
25 residence. Respondent shall maintain a current and renewed California physician's and
26 surgeon's license.

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

9. INTERVIEW WITH THE DIVISION OR ITS DESIGNEE.

Respondent shall be available in person for interviews either at Respondent's place of business or at the probation unit office, with the Division or its designee, upon request at various intervals and either with or without prior notice throughout the term of probation.

10. RESIDING OR PRACTICING OUT-OF-STATE. In the event

Respondent should leave the State of California to reside or to practice, Respondent shall notify the Division or its designee in writing 30 (thirty) calendar days prior to the dates of departure and return. Non-practice is defined as any period of time exceeding 30 (thirty) calendar days in which Respondent is not engaging in any activities defined in sections 2051 and 2052 of the Business and Professions Code.

All time spend in an intensive training program outside the State of California, which has been approved by the Division or its designee, shall be considered as time spent in the practice of medicine within the State. A Board-ordered suspension of practice shall not be considered as a period of non-practice. Periods of temporary or permanent residence or practice outside California will not apply to the reduction of the probationary term. Periods of temporary or permanent residence or practice outside California will relieve Respondent of the responsibility to comply with the probationary terms and conditions with the exception of this condition and the following terms and conditions of probation: Obey All Laws; Probation Unit Compliance; and Cost Recovery.

Respondent's license shall be automatically canceled if Respondent's periods of temporary or permanent residence or practice outside California totals two (2) years. However, Respondent's license shall not be canceled as long as Respondent is residing and practicing medicine in another state of the United States and is on active probation with the medical licensing authority of that state, in which case the two (2) year period shall begin on the date probation is completed or terminated in that state.

1 11. **FAILURE TO PRACTICE MEDICINE – CALIFORNIA**

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

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

14 Respondent's license shall be automatically canceled if Respondent resides in
15 California and for a total of two (2) years, fails to engage in California in any of the activities
16 described in Business and Professions Code sections 2051 and 2052.

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

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

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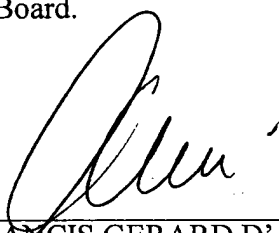
1 14. **LICENSE SURRENDER.** Following the effective date of this Decision,
2 if Respondent ceases practicing due to retirement, health reasons, or is otherwise unable to satisfy
3 the terms and conditions of probation, Respondent may request the voluntary surrender of
4 Respondent's license. The Division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

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

19 **ACCEPTANCE**

20 I have carefully read the above Stipulated Settlement and Disciplinary Order and
21 have fully discussed it with my attorney Peter R. Osinoff. I understand its terms, and their effects
22 on my Physician and Surgeon's certificate. I enter into this Stipulated Settlement and agree to
23 the Disciplinary Order entered thereon voluntarily, knowingly, and intelligently, and agree to be
24 bound by the Decision and Order of the Board.

25 DATED: 1/25/07

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27 
28 FRANCIS GERARD D'AMBROSIO, M.D.
Respondent

1 I have read and fully discussed with Respondent Francis Gerard D'Ambrosio,
2 M.D. the terms and conditions and other matters contained in this Stipulated Settlement and
3 Disciplinary
4 Order. I approve its form.

5
6 DATED: 1/31/07



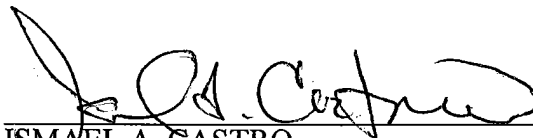
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9 PETER R. OSINOFF, ESQ.
Bonne, Bridges, Mueller, O'Keefe & Nichols
Attorneys for Respondent

10
11 **ENDORSEMENT**

12 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
13 submitted for consideration.

14
15 DATED: 2/23/07

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18 **BILL LOCKYER, Attorney General**
of the State of California



19
20 ISMAEL A. CASTRO
Deputy Attorney General

21
22 Attorneys for Complainant

EXHIBIT A

1 BILL LOCKYER, Attorney General
of the State of California
2 ADRIAN K. PANTON, Supervising
Deputy Attorney General
3 ISMAEL A. CASTRO, State Bar No. 85452
Deputy Attorney General
4 California Department of Justice
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, California 94244-2550
6 Telephone: (916) 323-8203
Facsimile: (916) 327-2247
7 Attorneys for Complainant

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO March 14 20 05
BY Valerie MOR ANALYST

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

12 In the Matter of the Accusation Against:

Case No. 06-2002-132815

13 **FRANCIS GERARD D'AMBROSIO, M.D.**
23852 Pacific Coast Highway #793
14 Malibu, CA 90265

A C C U S A T I O N

15 Physician and Surgeon's Certificate
No. G73590

16
17 Respondent.

18
19 Complainant alleges:

20 **PARTIES**

21 1. David T. Thornton ("Complainant") brings this Accusation solely in his
22 official capacity as the Executive Director of the Medical Board of California, Department of
23 Consumer Affairs.

24 2. On or about March 10, 1992, the Medical Board of California issued
25 Physician and Surgeon's Certificate Number G73590 to Francis Gerard D'Ambrosio, M.D.
26 ("Respondent"). The Certificate was in full force and effect at all times relevant to the charges
27 brought herein and will expire on February 28, 2006, unless renewed.

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1 claim, including any claim for dental services, as so described. In such a case, the
2 department shall continue to reimburse the licensee for all procedures, except for those
3 invasive or surgical procedures for which the licensee was placed on probation.”

4 RECOVERY OF COSTS

5 5. Section 125.3 of the Code provides, in pertinent part, that the Division
6 may request the administrative law judge to direct a licensee found to have committed a
7 violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the
8 investigation and enforcement of the case.

9 FIRST CAUSE FOR DISCIPLINE

(Gross Negligence)

10 [Bus. & Prof. Code Section 2234(b)]

11 6. Respondent is subject to disciplinary action under section 2234(b) of the
12 Code in that Respondent's preoperative and postoperative care of patient J.M. was grossly
13 inadequate. The circumstances are as follows:

14 Patient J.M., a Southern California Chiropractor, was involved in a low-impact-
15 energy rear-end vehicle accident between his sport utility vehicle in which he was a passenger
16 and a Greyhound Bus on January 18, 2000.¹ J.M. was examined by Respondent at J.M.'s
17 chiropractic office which revealed diffuse weakness of the left upper extremity. An MRI was
18 taken and Respondent recommended that J.M. undergo a C4 through C7 360 degree cervical
19 decompression and fusion. The surgery was performed on November 10, 2000, at the Bellflower
20 Medical Center, with C4 and C6 corpectomies, with two fibular strut grafts secured by long
21 plate, using a limited number of screws.

22 During the postoperative course, J.M. complained of "paralysis" and apparent
23 weakness in the left upper extremity. J.M. was discharged from the hospital on the seventh
24 postoperative day. Between the Fall of 2000 and the Spring of 2001, J.M. was seen at several
25 emergency rooms with complaints of severe pain. An x-ray taken on February 6, 2001, revealed

26 _____
27 1. In this Accusation, the patients will be referred to by initials. The full names of the
28 patients will be disclosed to respondent when discovery is provided pursuant to Government
Code section 11507.6.

1 displacement of the fibular struts and plate. J.M. was readmitted to Bellflower Medical Center
2 on March 11, 2001, where Respondent performed a second surgery on March 12, 2001, with
3 revision of the anterior grafts and plate fixation. After a third surgery was performed by
4 Respondent on March 16, 2001, J.M. was diagnosed with central cord syndrome. J.M.
5 developed severe neurologic deficit and was transferred to Rancho Los Amigos Rehabilitation
6 Hospital on March 23, 2001, with profound weakness of both upper extremities, and significant
7 left lower extremity motor loss. J.M. was found to be anesthetic at C6 bilaterally, markedly
8 hypesthetic at C7 through S5 on the right, and with normal sensation from the left lower
9 extremity. J.M. had positive Babinski sign and left upper and lower sensory loss.

10 J.M. underwent subsequent skilled nursing facility and spinal cord rehabilitation
11 stays. He was subsequently diagnosed with central cord syndrome, with essentially flaccid
12 paralysis of both upper extremities, with strength loss of the left hip. Due to the patient's
13 neurologic deficit, he was unable to ambulate.

14 7. Respondent was grossly negligent in his care and treatment of J.M. in that:
15 (a) Respondent's preoperative workup was grossly inadequate; (b) Respondent did not make a
16 reasonable attempt to provide nonoperative treatment or to obtain further diagnostic studies; (c)
17 Respondent did not see the MRI study prior to the surgery; (d) Respondent's choice of surgical
18 procedure was not supported by reasonable operative indications; (e) the surgery left J.M. with an
19 unstable spine with the breakdown of the surgical construct due to inadequate stabilization of the
20 spine due to unfixed multiple fibular allografts; (f) Respondent's postoperative care provided
21 inadequate surveillance of the patient's course; (g) Respondent disregarded the potential for
22 postsurgical complications in that Respondent did not obtain or view postoperative radiographs
23 when it was evident that the patient was not doing well clinically; and (h) Respondent took no
24 action to obtain help or to refine his diagnosis in order to mitigate the patient's evolving
25 neurologic deficit.

26 8. Respondent's conduct as set forth in paragraphs 6, and 7, above, constitute
27 gross negligence within the meaning of Code section 2234(b).

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1 **THIRD CAUSE FOR DISCIPLINE**

2 (Gross Negligence)

3 [Bus. & Prof. Code Section 2234(b)]

4 12. Respondent is subject to disciplinary action under section 2234(b) of the
5 Code in that Respondent's care and treatment of patient J.G. was grossly inadequate. The
6 circumstances are as follows:

7 Patient J.G., a 54 year old male, suffered a low back injury while on the job on
8 February 8, 1999. He had been undergoing conservative treatment under the care of physicians
9 and surgeons. He was diagnosed with a left L5-S1 disc herniation. During this time, J.G. was
10 not cleared for surgery because of coagulopathy, probably due to chronic liver disease. It was
11 recommended then that J.G. be cleared by hematology prior to operation. Subsequently, J.G.'s
12 condition improved and considered permanent and stationary with lifting restrictions of no more
13 than 25 pounds. The diagnosis were lumbar spondylosis with stenosis at L4-5, and L5-S1;
14 herniated nucleus pulposus at L5-S1; and chronic lumbar sprain.

15 On November 1, 2000, J.G. was seen by Respondent who diagnosed Mechanical
16 low back pain secondary to discogenic disc disease at L4-5 and L5-S1. Respondent prescribed
17 physical therapy and workup with diskography, which was performed by Respondent on
18 November 15, 2000. Thereafter, Respondent talked to J.G. about an anterior and posterior fusion
19 from L3. J.G. was subsequently seen by another physician for preoperative clearance and was
20 found to have platelet and intrinsic clotting abnormalities. J.G. was then referred to Hematology
21 at Kaiser Permanente Medical Center. Laboratory studies on May 16, 2001, revealed significant
22 abnormalities, with coagulopathy with significant thrombocytopenia. There was no indication
23 that J.G. was medically cleared for surgery.

24 On May 22, 2001, Respondent admitted J.G. for surgery at Bellflower Medical
25 Center with a diagnosis of degenerative disc disease at L3-4, L4-5, and L5-S1 with sciatica. The
26 surgery was performed by Respondent on May 24, 2001, which consisted of posterior
27 laminectomies at L3-4 and L5-S1, posterolateral fusion from L3 through S1, followed by an
28 anterior interbody fusion with partial corpectomy of the caudal three lumbar intervertebral joints.

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1 Postoperatively, J.G. had a rapid downhill progressive course with frank hepatic
2 failure, uncontrolled hemorrhage, wound drainage, and infection, and demised of cardiac failure
3 and apparent sepsis on June 1, 2001.

4 13. Respondent was grossly negligent in his care and treatment of J.G. in that:
5 (a) prior to performing surgery, Respondent failed to obtain J.G.'s prior medical records; (b)
6 Respondent failed to communicate with J.G.'s prior treating physicians; (c) Respondent failed to
7 perform a reasonable physical examination and preoperative workup; and (d) Respondent failed
8 to review J.G.'s preadmission laboratory studies.

9 14. Respondent's conduct as set forth in paragraphs 12 and 13, above,
10 constitute gross negligence within the meaning of Code section 2234(b).

11 **FOURTH CAUSE FOR DISCIPLINE**
12 (Repeated Negligent Acts)
[Bus. & Prof. Code Section 2234(c)]

13 15. Respondent is subject to disciplinary action under section 2234(c) of the
14 Code in that Respondent's care and treatment of patient M.G. was negligent. The circumstances
15 are as follows:

16 Patient M.G., a Hispanic 45 year old female, sustained the onset of back pain
17 while at work in January 1999. Her workup showed grade II L5-S1 spondyloisthesis.
18 Respondent saw M.G. on July 24, 2000. She was taken to surgery on August 18, 2000 for
19 performance of an anterior lumbar disectomy at L5-S1. Respondent described a partial
20 "corpectomy" at L5-S1, with anterior interbody fusion, using bone dowels. Following the
21 anterior approach, Respondent performed a bilateral decompressive laminectomy at L5-S1, with
22 segmental fixation and iliac crest bone graft. There was also a laminectomy performed at L4-5
23 although the consent form signed by M.G. only provided for decompressive laminectomy at L5-
24 S1, in addition to the anterior interbody fusion with spacers.

25 Postoperatively, M.G. suffered a right foot drop although Respondent's
26 handwritten operative note indicated no complications.

27 M.G. returned to the operating room on October 11, 2000, for removal of the
28 external fixation with exploration of the fusion, and possible refusion. The operative note

1 described repair of pseudomeningocele with placement of dural fat graft. There was no
2 indication of infection and there were no laboratory studies in the Bellflower Hospital records to
3 suggest the presence of culture. There was no indication of wound infection in the discharge
4 summary dictated by Respondent four (4) days after discharge although Respondent's note of
5 June 11, 2001, indicated the rationale for removing the hardware was due to infection. It is also
6 noted that M.G. was informed to seek opinions from other orthopedic surgeons or spine surgeons
7 and was discharged to be seen on an as-needed basis.

8 16. Respondent was negligent in his care and treatment of M.G. in that
9 Respondent's office records and hospital documentation are inadequate in terms of informed
10 consent. Respondent's operative note indicates that he performed an additional level of surgery,
11 as noted above, which was not covered by Mrs. Gonzalez' surgical consent. Complainant
12 realleges paragraphs 6 and 7 ["First Cause for Discipline"], noted above, and incorporates them
13 by reference as though fully set forth herein.

14 17. Complainant realleges paragraphs 6 and 7 ["First Cause for Discipline"],
15 noted above, and incorporates them by reference as though fully set forth herein.

16 18. Complainant realleges paragraphs 9 and 10 ["Second Cause for
17 Discipline"], noted above, and incorporates them by reference as though fully set forth herein.

18 19. Complainant realleges paragraphs 12 and 13 ["Third Cause for
19 Discipline"], noted above, and incorporates them by reference as though fully set forth herein.

20 20. Respondent's conduct as set forth in paragraphs 15, 16, 17, 18, and 19,
21 above, constitute repeated negligent acts within the meaning of Code section 2234(c).

22 **FIFTH CAUSE FOR DISCIPLINE**

23 (Incompetence)

24 [Bus. & Prof. Code Section 2234(d)]

25 21. Respondent is subject to disciplinary action under section 2234(d) of the
26 Code. The circumstances are as follows:

27 a. Complainant realleges paragraphs 6 and 7 ["First Cause for
28 Discipline"], noted above, and incorporates them by reference as though fully set forth herein.

///

1 b. Complainant realleges paragraphs 9 and 10 ["Second Cause for
2 Discipline"], noted above, and incorporates them by reference as though fully set forth herein.

3 c. Complainant realleges paragraphs 12 and 13 ["Third Cause for
4 Discipline"], noted above, and incorporates them by reference as though fully set forth herein.

5 d. Complainant realleges paragraphs 15 and 16 ["Fourth Cause for
6 Discipline"], above, and incorporates them by reference as though fully set forth herein.

7 **PRAYER**

8 **WHEREFORE**, Complainant requests that a hearing be held on the matters
9 herein alleged, and that following the hearing, the Division of Medical Quality issue a decision:

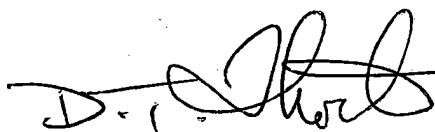
10 1. Revoking or suspending Certificate Number G73590 issued to Francis
11 Gerard D'Ambrosio, M.D.;

12 2. Revoking, suspending or denying approval of Francis Gerard D'Ambrosio,
13 M.D.'s authority to supervise physician's assistants, pursuant to section 3527 of the Code;

14 3. Ordering Francis Gerard D'Ambrosio, M.D., to pay the Division of
15 Medical Quality the reasonable costs of the investigation and enforcement of this case, and, if
16 placed on probation, the costs of probation monitoring;

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

18 DATED: March 11, 2005.

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21 

22 **DAVID T. THORNTON**
23 Executive Director
24 Medical Board of California
25 Department of Consumer Affairs
26 State of California, Complainant
27
28