

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

In the Matter of the Accusation )  
Against: )  
ROBERT NELSON WELLS, M.D. ) File No: 08-2000-112844  
Physician's and Surgeon's )  
Certificate #A-22094 )  
Respondent. )  
\_\_\_\_\_  
)

**DECISION AND ORDER**

The attached Stipulation to Order Revoking Medical License is hereby accepted and adopted as the Decision and Order by 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 October 31, 2001

**IT IS SO ORDERED** October 1, 2001

MEDICAL BOARD OF CALIFORNIA



Hazem H. Chehabi, M.D.  
President  
Division of Medical Quality

1 BILL LOCKYER, Attorney General  
2 of the State of California  
3 GAIL M. HEPPELL, Supervising  
4 Deputy Attorney General, State Bar No. 84134  
5 DANIEL J. TURNER, State Bar No. 79560  
6 Deputy Attorney General  
7 California Department of Justice  
8 1300 I Street, Suite 125  
9 P.O. Box 944255  
10 Sacramento, California 94244-2550  
11 Telephone: (916) 324-7861  
12 Facsimile: (916) 327-2247  
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14 Attorneys for Complainant

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

In the Matter of the Accusation Against:

**ROBERT NELSON WELLS, M.D.**  
5359 North Fresno Street, Suite 101 F  
Fresno, CA 93710

Physician and Surgeon's Certificate No. A 22094

Respondent.

Case No. 08-2000-112844

OAH No. N2000120297

**STIPULATION TO ORDER  
REVOKING MEDICAL LICENSE**

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

**PARTIES**

1. Complainant Ron Joseph is the Executive Director of the Medical Board of California. He brought this action solely in his official capacity and is represented in this matter by Bill Lockyer, Attorney General of the State of California, by Daniel J. Turner, Deputy Attorney General.

2. Respondent Robert Nelson Wells, M.D. ("Respondent") is represented in this matter by attorney Charles K. Manock, whose address is Baker, Manock & Jensen, 5260 North Palm Avenue, 4th Floor, Fresno, CA 93704-2222.

1                   3.     On or about July 1, 1966, the Medical Board of California issued  
2 Physician and Surgeon's Certificate Number A 22094 to Robert Nelson Wells, M.D.  
3 ("Respondent").

4                   JURISDICTION

5                   4.     A Petition For An Interim Suspension Order was filed with the Office of  
6 Administrative Hearings pursuant to Government Code section 11529. On November 21, 2000,  
7 an administrative law judge with the the Office of Administrative Hearings issued an order  
8 suspending Respondent's medical license, staying the suspension, and ordering Respondent to  
9 comply with several interim orders in its Decision Following Hearing On Petition For Interim  
10 Suspension, OAH Case No. N-2000110027. On August 27, 2001, Complainant (the Petitioner in  
11 the Petition For An Interim Suspension Order) moved to set aside the stay and suspend  
12 Respondent's medical license for violations of the interim order. On August 27, 2001, after  
13 hearing the matter, the administrative law judge granted the motion and suspended Respondent's  
14 license. The suspension order is currently in effect.

15                  5.     An Accusation, Number 08-2000-112844, was filed before the Division of  
16 Medical Quality, Medical Board of California of the Department of Consumer Affairs,  
17 ("Division"). The Accusation, together with all other statutorily required documents, was duly  
18 served on Respondent on June 4, 2001, and Respondent timely filed his Notice of Defense  
19 contesting the Accusation. On June 29, 2001, a First Amended Accusation was filed and duly  
20 served on Respondent and is currently pending against Respondent. A copy of First Amended  
21 Accusation Number 08-2000-112844 is attached as Exhibit A and incorporated herein by  
22 reference.

23                  6.     A hearing on the First Amended Accusation was heard before an  
24 administrative law judge, Office of Administrative Hearings, on July 23, 24, and 25, 2001. The  
25 hearing was continued to July 31, 2001. Upon Respondent and his counsel signing the instant  
26 Stipulation the matter will be taken off calendar with the Office of Administrative Hearings.

27                  ///

28                  ///

## ADVISEMENT AND WAIVERS

2           7.     Respondent has carefully read and discussed with his counsel the nature of  
3 the charges and allegations contained in the First Amended Accusation, Number  
4 08-2000-112844. Respondent also has read and carefully considered the instant Stipulation To  
5 Order Revoking Medical License and understands the effect it will have on his ability to  
6 practice.

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

14                   9.     Respondent voluntarily, knowingly and intelligently waives and gives up  
15 each and every right set forth above.

## CULPABILITY

17           10.    Respondent understands that the charges and allegations in the First  
18 Amended Accusation, if proven at a hearing, constitute cause for imposing discipline upon his  
19 Physician and Surgeon's Certificate.

20                   11. For the purpose of resolving First Amended Accusation, Number  
21 08-2000-112844, Respondent agrees that, at the above three day hearing, Complainant had  
22 established a factual basis for the charges in the First Amended Accusation. Respondent hereby  
23 gives up his right to contest that cause for discipline exists based on those charges and hereby  
24 admits to the truth of each and every allegation in the First Amended Accusation, and that he  
25 violated Business and Professions Code section 2234 (e) (Corrupt Acts) as alleged in the First  
26 and Second Causes For Discipline.

27                   12. All admissions and recitals contained in this stipulation are made solely  
28 for the purpose of settlement in this proceeding and for any other proceedings in which the

1 Division of Medical Quality , Medical Board of California or other licensing agency is involved ,  
2 and shall not be admissible in any other criminal or civil proceedings.

3 EFFECT OF REVOCATION

4 13. Respondent understands that by signing this stipulation he enables the  
5 Division to issue its order revoking his Physician and Surgeon's Certificate without further  
6 process.

7 14. Upon acceptance of the stipulation by the Division, Respondent  
8 understands that he will no longer be permitted to practice as physician and surgeon in  
9 California, and also agrees to surrender and cause to be delivered to the Division both his license  
10 and wallet certificate before the effective date of the decision.

11 WAIVER OF COSTS

12 15. Complainant waives all claims against respondent for its costs of  
13 investigation and prosecution of this matter which amount to \$31, 638.11, unless Respondent's  
14 medical license is to be reinstated in which case Respondent is to pay in full the above amount to  
15 the Medical Board of California as a prerequisite to reinstatement of his license.

16 CONTINGENCY

17 16. This stipulation shall be subject to the approval of the Division.  
18 Respondent understands and agrees that Medical Board of California's staff and counsel for  
19 complainant may communicate directly with the Division regarding this stipulation, without  
20 notice to or participation by Respondent or his counsel. If the Division fails to adopt this  
21 stipulation as its Order, the Stipulation To Order Revoking Medical License shall be of no force  
22 or effect, it shall be inadmissible in any legal action between the parties, and the Division shall  
23 not be disqualified from further action in this matter by virtue of its consideration of this  
24 stipulation.

25 17. The parties agree that facsimile copies to this Stipulation To Order  
26 Revoking Medical License, including facsimile signatures thereto, shall have the same force and  
27 effect as original Stipulation To Order Revoking Medical License and signatures.

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## ACCEPTANCE

2 I, Robert Nelson Wells, M.D. have carefully read the above Stipulation To Order  
3 Revoking Medical License and enter into this agreement freely and voluntarily with the advice  
4 of counsel, and with full knowledge of its force and effect, do hereby agree to and accept the  
5 order of the Division of Medical Quality, Medical Board of California revoking my Physician  
6 and Surgeon's Certificate. By signing this Stipulation To Order Revoking Medical License I  
7 recognize that upon its formal acceptance by the Division I will lose all rights and privileges to  
8 practice as a physician and surgeon in the State of California and I will also cause to be delivered  
9 to the Division both my license and wallet certificate before the effective date of the decision.

10 I further agree that a facsimile copy of this Stipulation To Order Revoking  
11 Medical License including facsimile copies of signatures, may be used with the same force and  
12 effect as the originals.

13 DATED: 7/30/2001

ROBERT NELSON WELLS, M.D.  
Respondent

18 I have read and fully discussed with Respondent Robert Nelson Wells, M.D. the  
19 terms and conditions and other matters contained in the above Stipulation To Order Revoking  
20 Medical License. I approve its form and content.

21 DATED: 1/30/2001

CHARLES K. MANOCK  
Attorney for Respondent

**ENDORSEMENT**

2 The foregoing Stipulation To Order Revoking Medical Licensee is hereby  
3 respectfully submitted for consideration by the Division of Medical Quality, Medical Board of  
4 California of the Department of Consumer Affairs.

5 DATED: 8-9-01

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

~~DANIEL J. TURNER~~  
Deputy Attorney General

Attorneys for Complainant

**Exhibit A:**

**First Amended Accusation, Case No. 08-2000-112844,**

1 BILL LOCKYER, Attorney General  
2 of the State of California  
3 GAIL HEPPELL, Supervising Deputy  
4 Attorney General, State Bar No. 84134  
5 DANIEL J. TURNER, State Bar No. 79560  
6 Deputy Attorney General  
7 California Department of Justice  
8 1300 I Street, Suite 125  
9 P.O. Box 944255  
10 Sacramento, California 94244-2550  
11 Telephone: (916) 324-7861  
12 Facsimile: (916) 327-2247  
13  
14 Attorneys for Complainant

15 FILED  
16 STATE OF CALIFORNIA  
17 MEDICAL BOARD OF CALIFORNIA  
18 SACRAMENTO, JUN 29 2001  
19 BY HOLLY STANLEY

20 BEFORE THE  
21 DIVISION OF MEDICAL QUALITY  
22 MEDICAL BOARD OF CALIFORNIA  
23 DEPARTMENT OF CONSUMER AFFAIRS  
24 STATE OF CALIFORNIA

25 In the Matter of the Accusation Against:

26 Case No. 08-2000-112844

27 **ROBERT N. WELLS, M.D.**  
28 5359 North Fresno Street, Suite 101 F  
29 Fresno, CA 93710

30 **FIRST AMENDED ACCUSATION**

31 Physician and Surgeon's Certificate No. A 22094

32 Respondent.

33  
34 Complainant alleges:

35 **PARTIES**

36 1. Ron Joseph ("Complainant") brings this Accusation solely in his official capacity as  
37 the Executive Director of the Medical Board of California, Department of Consumer Affairs.

38 2. On or about July 1, 1966, the Medical Board of California issued Physician and  
39 Surgeon's Certificate Number A 22094 to Robert Wells, M.D. ("Respondent"). The Physician and  
40 Surgeon's Certificate was in full force and effect at all times relevant to the charges brought herein  
41 and will expire on February 28, 2002, unless renewed. Pursuant to an ex-parte petition for an interim  
42 suspension order under Government Code section 11529, on November 21, 2000, after a hearing on  
43 the petition a decision was issued by an administrative law judge with the Office of Administrative  
44 Hearings placing restrictions on respondent's medical license.

## **JURISDICTION**

2       3.     This Accusation is brought before the Division of Medical Quality, Medical Board  
3     of California ("Division"), under the authority of the following sections of the Business and  
4     Professions Code ("Code").

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

9       5.     Section 2234 of the Code states that the Division of Medical Quality shall take action  
10   against any licensee who is charged with unprofessional conduct. In addition to other provisions of  
11   this article, unprofessional conduct includes, but is not limited to, the following:

12 (a) Violating or attempting to violate, directly or indirectly, or assisting in or  
13 abetting the violation of, or conspiring to violate, any provision of this chapter.

14 (b) Gross negligence.

15 (c) Repeated negligent acts.

16 (d) Incompetence.

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

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

24 || 6. Section 14124.12 of the Welfare and Institutions Code states:

25 (a) Upon receipt of written notice from the Medical Board of California, the  
26 Osteopathic Medical Board of California, or the Board of Dental Examiners of  
27 California, that a licensee's license has been placed on probation as a result of a  
28 disciplinary action, the department may not reimburse any Medi-Cal claim for the

1 type of surgical service or invasive procedure that gave rise to the probation,  
2 including any dental surgery or invasive procedure, that was performed by the  
3 licensee on or after the effective date of probation and until the termination of all  
4 probationary terms and conditions or until the probationary period has ended,  
5 whichever occurs first. This section shall apply except in any case in which the  
6 relevant licensing board determines that compelling circumstances warrant the  
7 continued reimbursement during the probationary period of any Medi-Cal claim,  
8 including any claim for dental services, as so described. In such a case, the  
9 department shall continue to reimburse the licensee for all procedures, except for  
10 those invasive or surgical procedures for which the licensee was placed on probation.

11

12 (b) The Medical Board of California, the Osteopathic Medical Board of California,  
13 and the Board of Dental Examiners of California, shall work in conjunction with the  
14 State Department of Health Services to provide all information that is necessary to  
15 implement this section. These boards and the department shall annually report to the  
16 Legislature by no later than March 1 that number of licensees of these boards, placed  
17 on probation during the immediately preceding calendar year, who are:

18 (1) Not receiving Medi-Cal reimbursement for certain surgical services or  
19 invasive procedures, including dental surgeries or invasive procedures, as a result of  
20 subdivision (a).

21 (2) Continuing to receive Medi-Cal reimbursement for certain surgical or  
22 invasive procedures, including dental surgeries or invasive procedures, as a  
23 result of a determination of compelling circumstances made in accordance  
24 with subdivision (a).

25 (c) This section shall become inoperative on July 1, 2003, and, as of January 1,  
26 2004, is repealed, unless a later enacted statute that is enacted before January 1, 2004,  
27 deletes or extends the dates on which it becomes inoperative and is repealed.

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1           7. Section 125.3 of the Code states:

2           (a) Except as otherwise provided by law, in any order issued in resolution of a  
3 disciplinary proceeding before any board within the department or before the Osteopathic  
4 Medical Board, the board may request the administrative law judge to direct a licentiate  
5 found to have committed a violation or violations of the licensing act to pay a sum not to  
6 exceed the reasonable costs of the investigation and enforcement of the case.

7           (b) In the case of a disciplined licentiate that is a corporation or a partnership, the  
8 order may be made against the licensed corporate entity or licensed partnership.

9           (c) A certified copy of the actual costs, or a good faith estimate of costs where actual  
10 costs are not available, signed by the entity bringing the proceeding or its designated  
11 representative shall be *prima facie* evidence of reasonable costs of investigation and  
12 prosecution of the case. The costs shall include the amount of investigative and enforcement  
13 costs up to the date of the hearing, including, but not limited to, charges imposed by the  
14 Attorney General.

15           (d) The administrative law judge shall make a proposed finding of the amount of  
16 reasonable costs of investigation and prosecution of the case when requested pursuant to  
17 subdivision (a). The finding of the administrative law judge with regard to costs shall not be  
18 reviewable by the board to increase the cost award. The board may reduce or eliminate the  
19 cost award, or remand to the administrative law judge where the proposed decision fails to  
20 make a finding on costs requested pursuant to subdivision (a).

21           (e) Where an order for recovery of costs is made and timely payment is not made as  
22 directed in the board's decision, the board may enforce the order for repayment in any  
23 appropriate court. This right of enforcement shall be in addition to any other rights the board  
24 may have as to any licentiate to pay costs.

25           (f) In any action for recovery of costs, proof of the board's decision shall be  
26 conclusive proof of the validity of the order of payment and the terms for payment.

27           (g)(1) Except as provided in paragraph (2), the board shall not renew or reinstate the  
28 license of any licentiate who has failed to pay all of the costs ordered under this section.

(2) Notwithstanding paragraph (1), the board may, in its discretion, conditionally renew or reinstate for a maximum of one year the license of any licentiate who demonstrates financial hardship and who enters into a formal agreement with the board to reimburse the board within that one-year period for the unpaid costs.

(h) All costs recovered under this section shall be considered a reimbursement for costs incurred and shall be deposited in the fund of the board recovering the costs to be available upon appropriation by the Legislature.

(i) Nothing in this section shall preclude a board from including the recovery of the costs of investigation and enforcement of a case in any stipulated settlement.

(j) This section does not apply to any board if a specific statutory provision in that board's licensing act provides for recovery of costs in an administrative disciplinary proceeding

**FIRST CAUSE FOR DISCIPLINE**  
(Dishonest or Corrupt Act)  
[Bus. & Prof. Code § 2234 (e)]

15        8.      Respondent is subject to disciplinary action under section 2234 (e) of the Code in  
16 that he committed a dishonest or corrupt act in communicating via the internet on his medical clinic  
17 computer explicit sexual subject matter with an undercover deputy sheriff posing as a 13 year old  
18 female. The circumstances are as follows:

1 messages, respondent asked the undercover operative who identified "herself" on the Internet with  
2 the computer screen name of Megaan13 (with Detective Hedrick posing as a thirteen year old  
3 female), how old she was and whether she had experienced sex before. Megaan13 responded that  
4 she was 13 and had not yet had sex. Respondent asked what fantasies Megaan13 wanted to  
5 experience. Respondent advised her that he liked to kidnap and tie up girls and women, and  
6 indicated that "all girls and women want to be abducted." Respondent also informed her that he had  
7 done this with girls before and that "it is only for fun as they both agree on it." Respondent solicited  
8 a meeting with the Megaan13 in Modesto and advised her that they would talk on the Internet again

25 C. On or about July 30, 2000, respondent sent an e-mail message to Megaan13  
26 advising her he needed to reschedule their proposed meeting due to a medical emergency. A new  
27 date of August 20, 2000, was agreed upon. Thereafter, respondent sent another e-mail message to  
28 subject Megaan13 advising her that he was unavailable on August 20, 2000, and would reschedule

1 On or about August 21, 2000, Detective Hedrick contacted respondent at his office and placed him  
2 under arrest on charges of attempted lewd and lascivious conduct with a minor child under age  
3 fourteen (Penal Code sections 664 and 288 (a))

4 9. Respondent's conduct as set forth in paragraph 8, above, constitutes a dishonest or  
5 corrupt act substantially related to the qualifications, functions, or duties of a physician and surgeon,  
6 and is therefore unprofessional conduct subject to discipline within the meaning of Code section  
7 2234 (e).

8 **SECOND CAUSE FOR DISCIPLINE**  
9 (Dishonest or Corrupt Act)  
[ Bus. & Prof. Code § 2234 (e)]

10 10. Complainant realleges paragraphs 8.A through 8. C., above, and incorporates them  
11 by reference as if fully set forth at this point.

12 11. As a result of Detective Hedrick's above investigation, Detective Hedrick obtained  
13 a search warrant to search respondent's office at 5359 N. Fresno Street, Suite 101F, Fresno, and his  
14 home at 835 East Woodhaven Lane in Fresno, California, for evidence of crimes concerning  
15 children. On August 20, 2000, during the search of respondent's home, where he resided alone,  
16 respondent's two computer systems were seized and taken to the Stanislaus County Sheriff's  
17 Department for analysis. On one of the computers seized from respondent's residence, respondent  
18 had saved on the hard drive images or pictures of females under the age of 18 engaging in or  
19 simulating sexual conduct as defined in Penal Code section 311.4 (d), which includes sexual  
20 intercourse or the exhibition of the genitals or pubic or rectal area for the purpose of sexual  
21 stimulation of the viewer.

22 12. Respondent's conduct as set forth in paragraph 11, above, constitutes a dishonest or  
23 corrupt act substantially related to the qualifications, functions, or duties of a physician and surgeon,  
24 and is therefore unprofessional conduct subject to discipline within the meaning of Code section  
25 2234 (e).

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## PRAYER

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

4           1.       Revoking or suspending Physician and Surgeon's Certificate Number A 22094, issued  
5 to Robert Wells, M.D.;

6       2.     Revoking, suspending or denying approval of Robert Wells, M.D.'s authority to  
7 supervise physician's assistants, pursuant to section 3527 of the Code;

8       3.     Ordering Robert Wells, M.D. to pay the Division of Medical Quality the reasonable  
9 costs of the investigation and enforcement of this case, and, if placed on probation, the costs of  
10 probation monitoring;

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

12 DATED: 6-29-2001

Dariff Davis for  
RON JOSEPH

RON JOSEPH  
Executive Director  
Medical Board of California  
Department of Consumer Affairs  
State of California  
Complainant