

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

In the Matter of the Accusation and)
Petition to Revoke Probation Against:)
)
)
CRAIG J. BALL, M.D.)
)
Physician's and Surgeon's)
Certificate No. G 38467)
)
Respondent.)
_____)

File No. 19-2003-149845


DECISION

The attached Stipulated Surrender of License and 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 December 31, 2007.

IT IS SO ORDERED October 19, 2007.

MEDICAL BOARD OF CALIFORNIA

By: 
Cesar A. Aristeiguieta, M.D., F.A.C.E.P.
Chair
Panel A
Division of Medical Quality

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 STEVEN V. ADLER
Supervising Deputy Attorney General
3 RICHARD D. HENDLIN, State Bar No. 76742
Deputy Attorney General
4 California Department of Justice
110 West "A" Street, Suite 1100
5 San Diego, CA 92101
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San Diego, CA 92186-5266
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8
9 Attorneys for Complainant

10 **BEFORE THE**
11 **DIVISION OF MEDICAL QUALITY**
12 **MEDICAL BOARD OF CALIFORNIA**
13 **DEPARTMENT OF CONSUMER AFFAIRS**
14 **STATE OF CALIFORNIA**

15 In the Matter of the Accusation and Petition to
16 Revoke Probation Against:

17 **CRAIG J. BALL, M.D.**
73-710 Alessandro Drive, Suite A-1
18 Palm Desert, CA 92260

19 Physician's and Surgeon's Certificate
20 No. G 38467

21 Respondent.

Case No. 19-2003-149845

OAH No. L200610059

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

22 IT IS HEREBY STIPULATED AND AGREED by and between the parties in this
23 proceeding that the following matters are true:

24 **PARTIES**

25 1. Barbara Johnston (Complainant) is the Executive Director of the Medical
26 Board of California, who appears this action solely in her official capacity and is represented in
27 this matter by Edmund G. Brown Jr., Attorney General of the State of California, by Richard D.
28 Hendlin, Deputy Attorney General.

2. CRAIG J. BALL, M.D. (Respondent) is represented in this proceeding by
attorney Peter R. Osinoff, Esq., of the law firm of Bonne, Bridges, Mueller, O'Keefe and

1 Nichols, APC, whose address is 3699 Wilshire Boulevard, 10th Floor, Los Angeles, California
2 90010-2719.

3 3. On or about November 20, 1978, the Medical Board of California issued
4 Physician's and Surgeon's Certificate No. G 38467 to CRAIG J. BALL, M.D. (Respondent). The
5 Certificate was in full force and effect at all times relevant to the charges brought in Accusation
6 and Petition to Revoke Probation No. 19-2003-149845 and will expire on June 30, 2008, unless
7 renewed.

8 JURISDICTION

9 4. Accusation and Petition to Revoke Probation No. 19-2003-149845 was
10 filed before the Division of Medical Quality (Division) for the Medical Board of California,
11 Department of Consumer Affairs, and is currently pending against Respondent. The Accusation
12 and Petition to Revoke Probation and all other statutorily required documents were properly
13 served on Respondent on August 16, 2006. Respondent timely filed his Notice of Defense
14 contesting the Accusation and Petition to Revoke Probation. A copy of Accusation and Petition
15 to Revoke Probation No. 19-2003-149845 is attached as Exhibit A and incorporated herein by
16 reference.

17 ADVISEMENT AND WAIVERS

18 5. Respondent has carefully read, discussed with counsel, and fully
19 understands the charges and allegations in Accusation and Petition to Revoke Probation
20 No. 19-2003-149845. Respondent also has carefully read, discussed with counsel, and fully
21 understands the effects of this Stipulated Surrender of License and Order.

22 6. Respondent is fully aware of his legal rights in this matter, including the
23 right to a hearing on the charges and allegations in the Accusation and Petition to Revoke
24 Probation; the right to be represented by counsel, at his own expense; the right to confront and
25 cross-examine the witnesses against him; the right to present evidence and to testify on his own
26 behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the
27 production of documents; the right to reconsideration and court review of an adverse decision;

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1 and all other rights accorded by the California Administrative Procedure Act and other applicable
2 laws.

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

5 CULPABILITY

6 8. Respondent understands that the charges and allegations in Accusation and
7 Petition to Revoke Probation No. 19-2003-149845, if proven at a hearing, constitute cause for
8 imposing discipline upon his Physician's and Surgeon's Certificate. Respondent waives his right
9 to contest the charges and allegations in Accusation and Petition to Revoke Probation
10 No. 19-2003-149845, and hereby surrenders his Physician's and Surgeon's Certificate
11 No. G 38467 for the Division's formal acceptance.

12 9. Respondent understands that by signing this stipulation he enables the
13 Division to issue an order accepting the surrender of his Physician's and Surgeon's Certificate
14 No. G 38467 without further process.

15 10. Respondent fully understands and agrees that if he ever files an application
16 for licensure or a petition for reinstatement in the State of California, the Division shall treat it as
17 a petition for reinstatement. Respondent must comply with all the laws, regulations and
18 procedures for reinstatement of a revoked license in effect at the time the petition is filed, and all
19 of the charges and allegations contained in Accusation and Petition to Revoke Probation No.
20 19-2003-149845 shall be deemed to be true and correct when the Division determines whether to
21 grant or deny the petition.

22 CONTINGENCY AND TOLLING OF THE STATUE OF LIMITATIONS

23 11. This stipulation shall be subject to approval by the Division of Medical
24 Quality. Respondent understands and agrees that counsel for Complainant and the staff of the
25 Medical Board of California may communicate directly with the Division regarding this
26 stipulation and surrender, without notice to or participation by Respondent or his counsel. By
27 signing the stipulation, Respondent understands and agrees that he may not withdraw his
28 agreement or seek to rescind the stipulation prior to the time the Division considers and acts upon

1 it. If the Division fails to adopt this stipulation as its Decision and Order, the parties agree that
2 the statute of limitations in Business and Professions Code section 2230.5 is tolled for the period
3 between the date the respondent signed this Stipulation and the date the Division serves notice
4 that it rejected this stipulation. If the Division fails to adopt this stipulation as its Decision and
5 Order, the Stipulated Surrender and Disciplinary Order shall be of no force or effect, except for
6 this paragraph, it shall be inadmissible in any legal action between the parties, and the Division
7 shall not be disqualified from further action by having considered this matter.

8 OTHER MATTERS

9 12. This Stipulated Settlement and Disciplinary Order is intended by the
10 parties herein to be an integrated writing representing the complete, final and exclusive
11 embodiment of the agreements of the parties in the above-entitled matter.

12 13. The parties understand and agree that facsimile copies of this Stipulated
13 Surrender of License and Order, including facsimile signatures thereto, shall have the same force
14 and effect as the originals.

15 14. It is the parties intention that this Stipulated Settlement and Disciplinary
16 Order will resolve this case as well as Medical Board of California pending Investigation Case
17 Nos. 19-2004-162360 (re: patient J.B.), Case No. 19-2006-179102 (re: patient J.L.), and Case
18 No. 19-2006-177212 (re: patient E.F.).

19 15. The parties understand and agree that nothing in this Stipulated Settlement
20 and Disciplinary Order precludes the Complainant or the Division from taking any action
21 authorized by law in any case and/or investigation other than Investigation No. 19-2004-162360,
22 Investigation No. 19-2006-179102, and Investigation No. 19-2006-177212.

23 16. In consideration of the foregoing admissions and stipulations, the parties
24 agree that the Division may, without further notice or formal proceeding, issue and enter the
25 following Order:

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ORDER

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2 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate
3 No. G 38467, issued to Respondent CRAIG J. BALL, M.D., is surrendered and accepted by the
4 Division of Medical Quality, effective on December 31, 2007, which shall be the effective date
5 of this Decision.

6 17. Respondent shall lose all rights and privileges as a Physician and Surgeon
7 in California as of the effective date of the Division's Decision and Order.

8 18. Respondent shall cause to be delivered to the Division both his Certificate
9 wall and pocket license certificate on or before the effective date of the Decision and Order.

10 19. Respondent fully understands and agrees that if he ever files an application
11 for licensure or a petition for reinstatement in the State of California, the Division shall treat it as
12 a petition for reinstatement. Respondent must comply with all the laws, regulations and
13 procedures for reinstatement of a revoked license in effect at the time the petition is filed, and all
14 of the charges and allegations contained in Accusation and Petition to Revoke Probation
15 No. 19-2003-149845 shall be deemed to be true and correct by Respondent when the Division
16 determines whether to grant or deny the petition.

17 20. Should Respondent ever apply or reapply for a new license or certification,
18 or petition for reinstatement of a license by any other health care licensing agency in the State of
19 California, all of the charges and allegations contained in Accusation and Petition to Revoke
20 Probation, No. 19-2003-149845 shall be deemed to be true and correct for the purpose of any
21 Statement of Issues or any other proceeding seeking to deny or restrict licensure.

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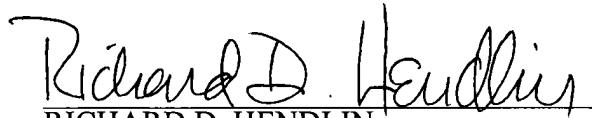
ENDORSEMENT

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

DATED: October 4, 2007

EDMUND G. BROWN JR., Attorney General
of the State of California

STEVEN V. ADLER
Supervising Deputy Attorney General



RICHARD D. HENDLIN
Deputy Attorney General

Attorneys for Complainant

DOJ Matter ID: SD2006700085
80155187.wpd

Exhibit A

Accusation and Petition to Revoke Probation No. 19-2003-149845

1 BILL LOCKYER
Attorney General of the State of California
2 RICHARD D. HENDLIN
Deputy Attorney General
3 State Bar No. 76742
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5 P.O. Box 85266
San Diego, CA 92186-5266
6 Telephone: (619) 645-2071
Fax: (619) 645-2061

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**

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

15 **CRAIG J. BALL, M.D.**
73-710 Alessandro Drive, Suite A-1
16 Palm Desert, CA 92260

17 Physician's and Surgeon's
Certificate No. G 38467

18 Respondent.

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO August 16, 20 06
BY Valerie Moran ANALYST

Case No.: 19-2003-149845

**ACCUSATION AND PETITION TO
REVOKE PROBATION**

19 Complainant alleges:

20 **PARTIES**

- 21 1. David T. Thornton (Complainant) brings this Accusation and Petition to Revoke
22 Probation solely in his official capacity as the Executive Director of the Medical Board of
23 California, Department of Consumer Affairs.
- 24 2. On or about November 20, 1978, the Medical Board of California issued
25 Physician's and Surgeon's Certificate Number G 38467 to CRAIG J. BALL, M.D. (Respondent).
26 The Physician's and Surgeon's Certificate was on probation, but otherwise in full force and effect
27 at all times relevant to the charges brought herein and will expire on June 30, 2008, unless
28 renewed.

1 **JURISDICTION**

2 3. This Accusation and Petition to Revoke Probation is brought before the Division
3 of Medical Quality (Division) for the Medical Board of California, Department of Consumer
4 Affairs, under the authority of the following laws. All section references are to the Business and
5 Professions Code unless otherwise indicated.

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

10 5. Section 2234 of the Code states:

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

14 "(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting
15 the violation of, or conspiring to violate any provision of this chapter [Chapter 5, the
16 Medical Practice Act].

17 "(b) Gross negligence.

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

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

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

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"(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.

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

"..."

6. Unprofessional conduct under California Business and Professions Code section 2234 is conduct which breaches the rules of ethical code of the medical profession, or conduct which is unbecoming to a member in good standing of the medical profession, and which demonstrates an unfitness to practice medicine^{1/}.

7. Section 2216 of the Code provides:

"On or after July 1, 1996, no physician and surgeon shall perform procedures in an outpatient setting using anesthesia, except local anesthesia or peripheral nerve blocks, or both, complying with the community standard of practice, in doses that, when administered, have the probability of placing a patient at risk for loss of the patient's life-preserving protective reflexes, unless the setting is specified in Section 1248.1. Outpatient settings where anxiolytics and analgesics are administered are excluded when administered, in compliance with the community standard of practice, in doses that do not have the probability of placing the patient at risk for loss of the patient's life-preserving protective reflexes. The definition of 'outpatient settings' contained in subdivision (c) of Section 1248 shall apply to this section."

8. Section 2216.2 of the Code provides:

"(a) It is unprofessional conduct for a physician and surgeon to fail to provide adequate security by liability insurance, or by participation in an interindemnity trust, for claims by patients arising out of surgical procedures performed outside of a general acute care hospital as defined in subdivision (a) of Section 1250 of the Health and Safety Code.

1. *Shea v. Board of Medical Quality Assurance* (1978) 81 Cal.App.3d 564, 575.

1 "(b) For purposes of this section, the board shall determine what constitutes
2 adequate security.

3 "(c) Nothing in this section shall require an insurer admitted to transact liability
4 insurance in this state to provide coverage to a physician and surgeon.

5 "(d) The security required by this section shall be acceptable only if provided by
6 any one of the following:

7 "(1) An insurer admitted pursuant to Section 700 of the Insurance Code
8 to transact liability insurance in this state.

9 "(2) An insurer that appears on the list of eligible surplus line insurers
10 pursuant to subdivision (f) of Section 1765.1 of the Insurance Code.

11 "(3) A cooperative corporation authorized by Section 1280.7 of the
12 Insurance Code.

13 "(4) An insurer licensed to transact liability insurance in at least one
14 state of the United States."

15 9. Section 2261 of the Code states:

16 "Knowingly making or signing any certificate or other document directly or indirectly
17 related to the practice of medicine or podiatry which falsely represents the existence or
18 nonexistence of a state of facts, constitutes unprofessional conduct."

19 10. Section 2262 of the Code states:

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

22 "In addition to any other disciplinary action, the Division of Medical Quality or the
23 California Board of Pediatric Medicine may impose a civil penalty of five hundred dollars
24 (\$500) for a violation of this section."

25 11. Section 2263 of the Code states:

26 "The willful, unauthorized violation of professional confidence constitutes
27 unprofessional conduct."

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1 12. Health and Safety Code section 1248.1 states:

2 "No association, corporation, firm, partnership, or person shall operate, manage,
3 conduct, or maintain an outpatient setting in this state, unless the setting is one of the
4 following:

5 "(a) An ambulatory surgical center that is certified to participate in the Medicare
6 program under Title XVIII (42 U.S.C. Sec. 1395 et seq.) of the federal Social Security
7 Act.

8 "(b) Any clinic conducted, maintained, or operated by a federally recognized
9 Indian tribe or tribal organization, as defined in Section 450 or 1601 of Title 25 of the
10 United States Code, and located on land recognized as tribal land by the federal
11 government.

12 "(c) Any clinic directly conducted, maintained, or operated by the United States or
13 by any of its departments, officers, or agencies.

14 "(d) Any primary care clinic licensed under subdivision (a) and any surgical clinic
15 licensed under subdivision (b) of Section 1204.

16 "(e) Any health facility licensed as a general acute care hospital under Chapter 2
17 (commencing with Section 1250).

18 "(f) Any outpatient setting to the extent that it is used by a dentist or physician and
19 surgeon in compliance with Article 2.7 (commencing with Section 1646) or Article 2.8
20 (commencing with Section 1647) of Chapter 4 of Division 2 of the Business and
21 Professions Code.

22 "(g) An outpatient setting accredited by an accreditation agency approved by the
23 division pursuant to this chapter.

24 "(h) A setting, including, but not limited to, a mobile van, in which equipment is
25 used to treat patients admitted to a facility described in subdivision (a), (d), or (e), and
26 in which the procedures performed are staffed by the medical staff of, or other
27 healthcare practitioners with clinical privileges at, the facility and are subject to the
28 peer review process of the facility but which setting is not a part of a facility described

1 in subdivision (a), (d), or (e). Nothing in this section shall relieve an association,
2 corporation, firm, partnership, or person from complying with all other provisions of
3 law that are otherwise applicable."

4 13. Health and Safety Code section 1248.65 states:

5 "It shall constitute unprofessional conduct for a physician and surgeon to willfully and
6 knowingly violate this chapter."

7 14. The Division of Medical Quality (Division) issued a Decision, effective June 22,
8 2003, "*In the Matter of the Accusation Against Craig J. Ball, M.D.*," Case Number 11-2000-
9 110596, in which Respondent's license was revoked, with revocation stayed, and he was placed
10 on seven years probation upon terms and conditions, including number 5 that "Respondent shall
11 obey all federal, state, and local laws, [and] all rules governing the practice of medicine in
12 California...." That Decision is now final and is incorporated herein by reference.

13 **FIRST CAUSE FOR DISCIPLINE**

14 (Dishonesty or Corruption [Bus. & Prof. Code § 2234 (e)])

15 15. Respondent is subject to disciplinary action under sections 2227 and 2234, as
16 defined by 2234(e), in that he committed acts involving dishonesty or corruption which are
17 substantially related to the qualifications, functions, or duties of a physician and surgeon. The
18 circumstances are as follows:

19 A. While Respondent was employed by Serra Community Medical Clinic
20 [SCMC] at 6375 San Fernando Road, City of Sun Valley, California, from about April,
21 1982, through on or about October 10, 1999, he was covered under a master liability
22 insurance policy number 1174-4521/ E1 for SCMC. Respondent was only covered under
23 the insurance policy while he was employed at SCMC. Each SCMC-employed physician,
24 including Respondent, was given a copy of the certificate of insurance as proof of insurance
25 coverage. The original certificate of insurance stated the limits of \$5,000,000.00 per
26 occurrence, with no annual aggregate, and that there was "No coverage for private practice."
27 The master policy of SCMC ran for a period from October 1 through October 1 each year.

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1 B. On or about October 10, 1999, Respondent's employment ended and his
2 coverage under the SCMC master liability insurance policy number
3 1174-4521/E1 terminated.

4 C. Sometime after October 10, 1999, and before February 2003, Respondent
5 called Ms. R.P of Acordia of California Insurance Company (an affiliate of Farmers
6 Insurance Company) for an insurance quote as an individual since he was no longer covered
7 under the SCMC policy. Ms. R.P. told Respondent that he would have to pay a premium of
8 \$75,000 to \$100,000 per year to cover his new practice. She never heard from Respondent
9 again.

10 D. On or about January 16, 2003, Respondent signed an application to the
11 Accreditation Association for Ambulatory Health Care (AAAHC) for accreditation of his
12 ambulatory surgery center "Cosmetic Surgery Institute" [CSI] located at
13 73-710 Alessandro Drive in Palm Desert, California. AAAHC requires physicians to
14 obtain adequate malpractice insurance coverage prior to accreditation. California state
15 law (AB595) requires that all outpatient health care facilities providing anesthesia that
16 could place patients at risk of losing life preserving protective reflexes, such as
17 Respondent's, be either licensed, Medicare certified (which his was not), or accredited
18 by the AAAHC.

19 E. On or about January 2003, Ms. M.R., (who was Respondent's sister-in-law,
20 and who worked for Respondent from on or about February 5, 2003, until October 12, 2004)
21 received a telephone call at her place of work at Calvary Chapel in Palm Springs from
22 Respondent's wife, L.B., who asked her sister, Ms. M.R., to alter a certificate of insurance
23 malpractice coverage that Respondent had had from when he worked at SCMC. Ms. L.B.
24 was not specific as to what information needed to be in the certificate. Respondent then
25 caused to have faxed over to Ms. M.R. the SCMC certificate of insurance. Respondent then
26 personally telephoned Ms. M.R. and told her exactly what information to put in each box of
27 the SCMC certificate of insurance. Pursuant to Respondent's telephonic instructions to her,
28 Ms. M.R. typed the changes on a computer at Calvary Chapel, printed them, cut and pasted

1 them onto the SCMC certificate of insurance, and faxed the altered document back to
2 Respondent's office.

3 F. On or about February 2003, the surveyor for AAAHC, Ms. S.C., surveyed
4 Respondent's surgery center and interviewed Respondent. She asked Respondent for proof
5 of malpractice insurance coverage which was required by state law for accreditation, and
6 informed Respondent that it was the only thing remaining for completion of the survey.
7 Respondent was reluctant to provide such proof and said he didn't have it with him. Ms.
8 S.C. went back to her hotel room where she waited for the certificate of insurance coverage
9 from Respondent. The next morning, on or about February 27, 2003, she called
10 Respondent's office, spoke with one of his employees, and again requested the proof of
11 insurance coverage. That day, she received a fax at her hotel, the Spa Hotel and Casino in
12 Palm Springs, from Respondent's office what purported to be a "Certificate of Insurance."
13 But, in fact, it was later discovered to be a false and fraudulent document created and sent at
14 Respondent's direction.

15 G. On or about February 27, 2003, Respondent caused to be submitted to the
16 AAAHC's surveyor, Ms. S.C., a fraudulent and false "Certificate of Insurance," indicating
17 the Master Policy Holder was Serra Medical Clinic, Policy number 1174-4512/E1, which
18 falsely represented that Respondent, at his address in Palm Desert, was insured with a
19 coverage date of January 1, 2003 to January 1, 2004, in the amount of "\$1,000,000. Per
20 Occurrence, No Annual Aggregate" in the specialty of "Otolaryngology (with Plastic
21 Surgery including Tumescant Liposculpting and Laser Resurfacing)." It also falsely
22 represented that "This policy has been in place since 07/98 without any incidents or claims,"
23 and was dated "December 28, 2002."

24 H. On or about July 28, 2003, when Ms. M.R. was employed by Respondent, he
25 received a letter from AAAHC requesting proof of malpractice insurance coverage. When
26 Ms. M.R. confronted Respondent about AAAHC's letter, Respondent told her that if anyone
27 inquired about the altered certificate of insurance he would blame Ms. K.G. and a nurse,
28 J.K., since they no longer worked for him.

1 I. Once the accreditation was canceled, Respondent began to alter medical
2 records, including the operating room log and narcotics log to hide the fact that surgeries
3 involving general anesthesia [AB595 surgeries] had been performed from on or about July
4 18, 2003 to on or about August 20, 2003. In order hide from the AAAHC surveyor the fact
5 that he had performed AB595 surgeries while he was uninsured and unaccredited,
6 Respondent asked Ms. M.R. to take home a stack of patients' medical charts to her home
7 office, which she did.

8 **SECOND CAUSE FOR DISCIPLINE**

9 (Failure to Provide Required Liability Coverage [[Bus. & Prof. Code § 2216.2])

10 16. Respondent is further subject to disciplinary action under sections 2227 and 2234,
11 as defined by section 2216.2, in that he failed to provide required liability coverage as more fully
12 set forth in paragraph 15, above, which is incorporated herein by reference.

13 **THIRD CAUSE FOR DISCIPLINE**

14 (General Unprofessional Conduct [Bus. & Prof. Code § 2234])

15 17. Respondent is further subject to disciplinary action under sections 2227 and 2234
16 for general unprofessional conduct as more fully set forth in paragraph 15, above, which is
17 incorporated herein by reference.

18 **FOURTH CAUSE FOR DISCIPLINE**

19 (Making False Certificate or Other Document [Bus. & Prof. Code § 2261])

20 18. Respondent is further subject to disciplinary action under sections 2227 and 2234,
21 as defined by section 2261, in that he knowingly made or signed a certificate or other document
22 directly or indirectly related to the practice of medicine which falsely represents the existence or
23 nonexistence of a state of facts, as more fully described in paragraph 15, above, which is hereby
24 incorporated by reference.

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1 **FIFTH CAUSE FOR DISCIPLINE**

2 (Required Settings; Unprofessional Conduct to Violate Chapter (added Stats 1994 ch.1276 , § 2
3 (AB595)) [Health & Safety Code §§ 1248.1 and 1248.65])

4 19. Respondent is further subject to disciplinary action under Health & Safety Code
5 sections 1248.1 and 1248.65 section in that he committed unprofessional conduct by violating
6 Health and Safety Code sections 1248.1 and 1248.65, in that he operated, managed, conducted,
7 or maintained an outpatient setting in California without proper accreditation, as more fully set
8 forth in paragraph 15, above, which is hereby incorporated by reference.

9 **SIXTH CAUSE FOR DISCIPLINE**

10 (Making False Certificate or Other Document [Bus. & Prof. Code § 2262])

11 20. Respondent is further subject to disciplinary action under sections 2227 and 2234,
12 as defined by section 2262, in that he altered or modified the medical record of any person, with
13 fraudulent intent, or created any false medical record, with fraudulent intent, as more fully set
14 forth in paragraph 15, above, which is hereby incorporated by reference.

15 **SEVENTH CAUSE FOR DISCIPLINE**

16 (Gross Negligence [Bus. and Prof. Code § 2234(b)])

17 21. Respondent is further subject to disciplinary action under sections 2227 and 2234,
18 as defined by section 2234(b), in that he committed gross negligence in the care and treatment of
19 **patient T.R.** The circumstances are as follows:

20 A. In 2000, patient T.R., a 62 year-old female, 5 feet tall, weighing 184 pounds,
21 sought Respondent's medical services. Previously she had had an abdominoplasty.
22 Respondent's plan was to perform extensive liposuction in three stages, which, in fact, he
23 did on or about September 4, 2000, February 6, 2001, and April 25, 2001, all at an
24 outpatient surgical facility, the Renaissance Surgery Center of El Paseo, located at 73180 El
25 Paseo, Palm Desert, California, a facility that was neither licensed nor accredited at the
26 time. Respondent did not have malpractice insurance during the time of any of the three
27 surgeries on patient T.R. Liposuction is a procedure of body contouring and sculpting and
28 not intended as a weight loss procedure. Respondent removed a total of approximately

1 22,925 ccs of aspirate during the three procedures. Respondent's selection of patient T.R.
2 for extensive liposuction constituted an extreme departure from the standard of care.

3 B. On or about September 4, 2000, Respondent performed his first of three
4 series of multiple surgeries on patient T.R., including a brow lift, submental platyma
5 plication, facial fat injections, and liposuction to the abdomen. The surgeries took
6 approximately six hours and the total aspirate was 7,900 ccs. After the September 4, 2000,
7 surgeries Patient T.R. was sent home and seen in subsequent post operative visits by
8 Respondent. From on or about September 18 to September 24, 2000, when Respondent was
9 out of town and patient T.R. was seen by Dr. R.H. and Dr. S.G. who was covering for him,
10 Patient T.R., developed a skin and soft tissue necrosis to the right mid portion of the skin
11 over her abdomen as a result of the liposuction surgeries. Respondent evaluated the
12 necrotic wound, prescribed antibiotics, and the wound was allowed to heal by secondary
13 intention, which it did eventually, leaving a residual area of scarification on the right mid
14 abdominal region.

15 C. On or about February 6, 2001, Respondent performed a second series of
16 surgical procedures involving liposuction to Patient T.R.'s back, axillary region, lateral
17 breasts, and buttocks and lateral thighs, taking a total aspirate of 7,800 ccs.

18 D. On or about April 25, 2001, Respondent performed the third series of
19 surgical procedures involving liposuction to Patient T.R.'s arms, axilla, breast, back and
20 flanks, taking a total aspirate of 7,225 ccs. After the third operation, T.R. had mild
21 complications that resolved.

22 E. On or about September 19, 2002, T. R. underwent a mastopexy by another
23 plastic surgeon, Dr. M.S. Respondent has alleged that Dr. M.S. made unflattering
24 comments to patient T.R. about the results of her surgery that had previously been
25 performed by Respondent.

26 F. On or about February 11, 2003, patient T.R. filed a malpractice lawsuit
27 against respondent.

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1 G. During on or about 2003, and prior to May 16, 2003, Respondent twice
2 called Dr. M.S. and asked him if he would review patient T.R.'s medical records, and testify
3 that Respondent's treatment of T.R. was within the standard of care. Dr. M.S. told
4 Respondent that he didn't want to get involved as an expert for either side, and if asked
5 would only testify as to what he did as a treating physician. Dr. M.S. told Respondent he
6 did not want to review Respondent's records or say that Respondent was within the standard
7 of care.

8 H. On or about May 2003, Respondent drafted an anonymous threatening letter
9 to Dr. M.S. and directed his sister-in-law, Ms. M.R., type the letter on her home typewriter.
10 Respondent had one of Ms. M.R.'s friends take the document to a local Mail Boxes Etc.-
11 type-store to fax it to Dr. M.S. in exchange for approximately \$25.00.

12 I. On or about May 16, 2003, Dr. M.S. received an anonymous and threatening
13 faxed letter telling him that he, in effect, must state in a letter to be sent to patient T.R.'s
14 attorney and Respondent's attorney that he (Dr. M.S.) has reviewed T.R.'s records and
15 examined her and feels that everything that Respondent did was within the standard of care,
16 and that he'd be willing to testify on behalf of Respondent. Dr. M.S. was threatened with
17 many actions against his character and reputation if he did not do this. The faxed letter also
18 reference that the anonymous author was "anxious to confront [Dr. M.] about his active role
19 in this also."

20 J. During on or about October 2003, Respondent telephoned Mr. D.G. and
21 asked him for "huge favor." D.G.'s wife had previously been Respondent's patient, and
22 D.G. had seen Respondent for a brief procedure during the summer of 2000. At the time of
23 the phone call, D.G. was a patient of another plastic surgeon named Dr. D.M. Respondent
24 told D.G. that Dr. D.M. had convinced a lady to sue him, and asked D.G. if he would write a
25 letter to Dr. D.M. telling him to "get off [Respondent's] case." D.G. asked Respondent to
26 write up the letter and send it to him for his review, and after his review he would send it to
27 Dr. D.M.

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1 K. On or about October 2003, Respondent drafted a letter and asked his
2 secretary Ms. S.D. to type it. Ms. S.D. was uncomfortable with the letter's wording and
3 asked Ms. M.R. to type it. Ms. M.R. typed the letter and faxed it to Mr. D.G.

4 L. On or about November 2, 2003, someone from Respondent's office called
5 D.G. and told him they were faxing a letter to him to sign and for him to then send to Dr.
6 D.M. D.G. received from Respondent's office a letter, dated November 2, 2003, [letter]
7 purportedly from him (D.G.), addressed to Dr. D.M. The letter told Dr. D.M. to call patient
8 T.R.'s attorney and inform him that he had reviewed the case and found no fault with
9 Respondent's care of her and that "everything" was within the standard of care. The letter
10 threatened that if Dr. D.M didn't do as instructed, or if he "ever again attack [Respondent]
11 to the Board, or personally slander him to any patients" the D.G. would notify the Medical
12 Board of California of his "poor outcome and excessive charges" and that he would take out
13 a full page ad in the newspaper with his complaints against Respondent. D.G. did not
14 prepare the letter and did not sign it because it was untrue and he never intended for
15 anything like that to be written for his signature. D.G. called Dr. D.M., read the letter to
16 him, and asked if the contents were true. Dr. D.M. said it was untrue and that he had never
17 treated nor knew patient T.R. At Dr. D.M.'s request, D.G. faxed the unsigned letter to him,
18 on or about November 5, 2003.

19 22. Respondent committed gross negligence by reason of, but not limited to, the
20 following:

21 A. The allegations stated above in paragraph 21 are incorporated by reference.

22 B. Respondent choice of patient T.R. to perform multiple extensive liposuction
23 surgical procedures was an extreme departure from the standard of care.

24 C. Respondent repeatedly took an excessive amount of total aspirate with
25 resulting skin necrosis, scarring, and permanent contour irregularity resulting from his errors
26 in judgment and errors in technique.

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1 D. Respondent violated the privacy of patient T.R.

2 E. Respondent orchestrated the creation of a threatening letter to another
3 physician, Dr. M.S.

4 F. Respondent orchestrated the creation of a threatening letter to another
5 physician, Dr. D.M.

6 **EIGHTH CAUSE FOR DISCIPLINE**

7 (Repeated Negligent Acts [Bus. & Prof. Code § 2234(c)])

8 23. Respondent is further subject to disciplinary action under section 2227 and 2234,
9 as defined by section 2234(c), in that he committed repeated negligent acts in his care and
10 treatment of patient T.R., as set forth in paragraphs 21 and 22, above, which are incorporated
11 herein by reference as if fully set forth.

12 **NINTH CAUSE FOR DISCIPLINE**

13 (Incompetence [Bus. & Prof. Code § 2234(d)])

14 24. Respondent is further subject to disciplinary action under sections 2227 and 2234,
15 as defined by 2234(d), in that he demonstrated incompetence in his care and treatment of patient
16 T.R., as set forth in paragraphs 21 and 22, above, which are incorporated herein by reference as if
17 fully set forth.

18 **TENTH CAUSE FOR DISCIPLINE**

19 (Violation of Professional Confidence [Bus. & Prof. Code §2263])

20 25. Respondent is further subject to disciplinary action under sections 2227 and 2234,
21 as defined by section 2263, in that he willfully, and without authorization, violated professional
22 confidence of patient T.R., as set forth in paragraphs 21, above, which is incorporated herein by
23 reference as if fully set forth.

24 **ELEVENTH CAUSE FOR DISCIPLINE**

25 (General Unprofessional Conduct [Bus. & Prof. Code § 2234])

26 26. Respondent is further subject to disciplinary action under sections 2227 and 2234
27 for general unprofessional conduct as more fully set forth in paragraph 21, above, which is
28 incorporated herein by reference.

1 **TWELFTH CAUSE FOR DISCIPLINE**

2 (Failure to Provide Required Liability Coverage [[Bus. & Prof. Code § 2216.2])

3 27. Respondent is further subject to disciplinary action under sections 2227 and 2234,
4 as defined by section 2216.2, in that he failed to provide required liability coverage as more fully
5 set forth in paragraph 21, above, which is incorporated herein by reference.

6 **THIRTEENTH CAUSE FOR DISCIPLINE**

7 (Dishonesty or Corruption [Bus. & Prof. Code § 2234 (e)])

8 28. Respondent is further subject to disciplinary action under sections 2227 and 2234,
9 as defined by section 2234(e), in that he committed acts involving dishonesty or corruption
10 which are substantially related to the qualifications, functions, or duties of a physician and
11 surgeon. The circumstances are set forth below.

12 A. On or about February 1, 2005, Riverside County Sheriff Investigator E.
13 conducted a videotape-recorded interview with Respondent during which Respondent
14 admitted that he: 1) had asked Ms. M.R. to alter the Certificate of Insurance to show five
15 extra years of malpractice insurance beyond the actual policy in order to obtain his
16 accreditation; 2) he held no malpractice insurance policy from approximately July 28, 2003,
17 to October 17, 2003; and 3) during that time he did not have malpractice insurance, he
18 continued to perform "AB595 surgeries", that is, anesthesia that has the probability of
19 placing a patient at risk for loss of the patient's life-preserving protective reflexes.

20 B. On or about February 3, 2005, Riverside County Sheriff Investigator E.
21 conducted another interview with Respondent during which he advised Respondent that
22 Respondent's admissions regarding the false malpractice insurance information would be in
23 his report because Respondent admitted he performed surgeries he shouldn't have
24 performed without insurance for almost four months, while already on probation.
25 Investigator E. told Respondent that he included it because Ms. M.R. alleged it was her
26 motivation for calling the Medical Board because she wanted to confess about her part in
27 creating the false document, which Respondent verified her story. Respondent became
28 visibly red, raised his voice, pointed his finger at the Investigator, and said, "I'm not losing

1 my license over [Ms. M.R.]! If they press me on the questions about the malpractice, I will
2 tell them I misunderstood the question!" Investigator E. asked Respondent if he was now
3 saying that he would lie about what he had previously told him during a tape-recorded
4 interview. Respondent terminated the interview and left.

5 C. On or about December 1, 2005, Medical Board Investigator T.C. conducted a
6 tape-recorded interview of Respondent, with his attorney present, in which Respondent
7 made numerous dishonest statements, including, but not limited to, the following: that he
8 "didn't tell anyone to do that" [prepare the false certificate]; "I don't know if [Ms. M.R.]
9 did it, or whoever did it;" "I didn't tell her to do that. I didn't do it. [forge the document];"
10 that he had no knowledge about the false certificate being faxed over to the AAAHC
11 surveyor, Ms. S.C.; that neither he nor his wife, L.B., ever asked Ms. M.R. while she
12 worked at Calvary Chapel to create the false certificate of insurance; that he "never, ever"
13 called Ms. M.R. at Calvary Chapel and gave her specific information to put in the false
14 certificate of insurance; that he never had any discussion with Ms. M.R. about the creation
15 of false document.

16 **CAUSES FOR REVOCATION**

17 (Violations of Probation)

18 29. Respondent's probation is subject to revocation, thus imposing the discipline that
19 was stayed, i.e., revocation of his Physician's and Surgeon's Certificate No. G 38467 in that at he
20 violated the terms and conditions of his probation in Case No. 11-2000-110596. The
21 circumstances are set forth below.

22 A. Respondent committed acts of dishonesty in violation of Business and
23 Profession Code section 2234(e) while on probation as more fully set forth in paragraphs 15,
24 21 and 28, above, which are incorporated herein by reference as if fully set forth.

25 B. Respondent failed to provide required liability coverage, while on probation,
26 in violation of Business and Profession Code section 2216.2 as more particularly described
27 in paragraph 14 and 20, above, which is incorporated herein by reference as if fully set forth.

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1 C. Respondent performed surgeries involving anesthesia under AB595 in
2 unaccredited outpatient surgery setting, while on probation, in violation of Health and Safety
3 Code sections 1248, 1248.1, and 1248.65, as more particularly described in paragraphs 14 and
4 20, above, which are incorporated herein by reference as if fully set forth.

5 **DISCIPLINE CONSIDERATIONS**

6 30. To determine the degree of discipline, if any, to be imposed on Respondent,
7 Complainant alleges:

8 **Re: Prior Case Number 11-98-86123, OAH Case Number L-199060517**

9 31. On or about March 29, 1999, a prior disciplinary action entitled *In the Matter of*
10 *the Accusation Against Craig James Ball, M.D.*, was filed before the Medical Board of
11 California, in Case Number 11-98-86123, OAH Case Number L-199060517.

12 32. On March 7, 2000, a "Conditional Agreement for a Public Letter of Reprimand"
13 in Case Number 11-1998-86123 was approved by the Chief of the Enforcement Program of the
14 Medical Board of California. On October 17, 2000 Respondent was issued a "Public Letter of
15 Reprimand" pursuant to Business and Professions Code section 2233.

16 33. On November 3, 2000, an "Order Issuing Public Letter of Reprimand" in Case
17 Number 11-98-86123 was ordered by the Division of Medical Quality, Medical Board of
18 California. The "Public Letter of Reprimand," "Order Issuing Public Letter of Reprimand,"
19 "Conditional Agreement for a Public Letter of Reprimand," and Accusation in Case Number 11-
20 98-86123 are now final, and are incorporated by reference.

21 **Re: Prior Case Number 11-2000-110596, OAH Case Number L-200100349**

22 34. On August 27, 2001, a prior disciplinary action entitled *In the Matter of the*
23 *Accusation Against Craig J. Ball, M.D.*, was filed before the Medical Board of California, in
24 Case Number 11-2000-110596, OAH Case Number L-200100349.

25 35. On April 22, 2003, the Division of Medical Quality ordered a "Decision" adopting
26 a "Stipulated Settlement and Disciplinary Order" in Case No. 11-2000-100596 to become
27 effective May 22, 2003.

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1 36. On May 22, 2003, a "Petition for Reconsideration and Limited Modification and
2 Application for Stay of Decision Pending Modification" was filed in Case Number 11-2000-
3 110596 by Complainant. On May 22, 2003, pursuant to Government Code section 11521, a stay
4 was granted until June 2, 2003, to allow the Board time to review and consider the Petition.

5 37. On June 2, 2003, the Medical Board issued its "Decision after Reconsideration" in
6 Case Number 11-2000-110596 adopting the Decision of the Division of Medical Quality dated
7 April 22, 2003, with the modification that Condition 2 of the Stipulation Settlement and
8 Disciplinary Order found on page 5 at lines 17 and 18 read as follows: "Commencing 90 days
9 after the effective date of this decision, Respondent shall not practice medicine until he has
10 successfully completed the PACE Program." Respondent's Physician and Surgeon's license No.
11 G38467 was revoked, the revocation stayed, and he was placed upon probation for seven years
12 upon terms and conditions. The Accusation, "Decision" ordered April 22, 2003, and the
13 "Decision After Reconsideration" ordered June 2, 2003, in *In the Matter of the Accusation*
14 *Against Craig J. Ball, M.D.*, Case Number 11-2000-110596 are now final and are incorporated
15 herein by reference.

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PRAYER

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

1. Revoking or suspending Physician's and Surgeon's Certificate Number G 38467, issued to CRAIG J. BALL, M.D..
2. Imposing the stayed discipline (revocation) from Case Number 11-2000-110596, *In the Matter of the Accusation Against Craig J. Ball, M.D.*;
3. Imposing a civil penalty of \$500.00 for each violation of Code section 2262;
4. Revoking, suspending or denying approval of CRAIG J. BALL, M.D.'s authority to supervise physician's assistants, pursuant to section 3527 of the Code;
5. Ordering CRAIG J. BALL, M.D. to pay the Division of Medical Quality the costs of probation monitoring, if placed on probation; and
6. Taking such other and further action as deemed necessary and proper.

DATED: August 16, 2006


DAVID T. THORNTON
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant