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

In the Matter of the Accusation Against:	)	
MICHAEL OMIDI, M.D.	)	File No. 05-2005-170875
Physician's and Surgeon's Certificate No. A 84519	)	
Respondent	)	

DECISION

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

This Decision shall become effective at 5:00 p.m. on **October 3, 2008.**

IT IS SO ORDERED **September 4, 2008.**

MEDICAL BOARD OF CALIFORNIA

By: _____
Barbara Yaroslavsky
Chair, Panel B

EDMUND G. BROWN JR., Attorney General
of the State of California
ROBERT MCKIM BELL
Supervising Deputy Attorney General
GLORIA L. CASTRO, State Bar No. 193304
Deputy Attorney General
300 South Spring Street, Suite 1702
Los Angeles, California 90013
Telephone: (213) 897-6804
Facsimile: (213) 897-9395

Attorneys for Complainant

**BEFORE THE
MEDICAL BOARD
OF THE STATE OF CALIFORNIA**

In the Matter of the Accusation Against: MICHAEL OMIDI, M.D. 10600 Wilshire Boulevard, #523 Los Angeles, California 90024 Physician & Surgeon's Certificate No. A-84519, Respondent.	Case No. 05-2005-170875 OAH No. LA2007110488 **STIPULATED SETTLEMENT AND DISCIPLINARY ORDER**

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

PARTIES

1. Barbara Johnston (Complainant) is the Executive Director of the Medical Board of California (Board). She has brought this action solely in her official capacity and is represented in this matter by Edmund G. Brown Jr., Attorney General of the State of California, by Gloria L. Castro, Deputy Attorney General.

2. Michael Omidi, M.D. (Respondent) is represented in this proceeding by attorneys Gene Livingston and Jeremy A. Meier of Greenberg Traurig LLP, 1201 K Street, Suite 1100, Sacramento, California 95814.

3. On or about September 5, 2003, the Medical Board of California issued Physician and Surgeon's Certificate No. A84519 to Respondent Michael Omidi, M.D. The Physician and Surgeon's Certificate was in full force and effect at all times relevant to the

charges brought in Accusation No. 05-2005-170875 and will expire on September 30, 2009, unless renewed.

JURISDICTION

4. Accusation No. 05-2005-170875 was filed before the Board and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on May 17, 2007. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation No. 05-2005-170875 is attached as Exhibit A and is incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with both counsel, and understands the charges and allegations in Accusation No. 05-2005-170875. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

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

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

CULPABILITY

8. Respondent admits that he violated section 2216 of the Business and Professions Code and section 1248.1, subdivision (g), of the Health and Safety Code with respect to the surgeries that he performed on Clinton J., Jennifer C. and Charlsetta R.

///

///

9. Respondent agrees that his Physician and Surgeon's Certificate is subject to discipline pursuant to paragraph 8 herein and he agrees to be bound by the Medical Board's imposition of discipline as set forth in the Disciplinary Order below.

CONTINGENCY

10. This Stipulated Settlement and Disciplinary Order shall be subject to the approval of the Board. Respondent understands and agrees that the Board's staff and its counsel may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent or his counsel. In the event the Board fails to approve this stipulation, with the exception of this paragraph, the Stipulated Settlement and Disciplinary Order shall be of no force or effect. It shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

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

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

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Physician and Surgeon's Certificate No. A84519 issued to Respondent Michael Omidi, M.D. is revoked. However, the revocation is stayed and Respondent is placed on probation for three (3) years on the following terms and conditions.

1. ETHICS COURSE Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a course in ethics, at Respondent's expense, approved in advance by the Board or its designee. Failure to successfully complete the course during the first year of probation is a violation of probation.

///

An ethics course taken after the acts that gave rise to the charges in the Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board or its designee, be accepted toward the fulfillment of this condition if the course would have been approved by the Board or its designee had the course been taken after the effective date of this Decision.

Respondent shall submit a certification of successful completion to the Board or its designee not later than 30 calendar days after successfully completing the course, or not later than 30 calendar days after the effective date of the Decision, whichever is later.

2. PROFESSIONAL ENHANCEMENT PROGRAM Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in the Professional Enhancement Program offered by the Physician Assessment and Clinical Education Program at the University of California, San Diego School of Medicine ("PEP"), which shall include (1) quarterly chart review, (2) semiannual practice assessment, and (3) semiannual review of professional growth and education. The PEP monitor shall have no prior or current business or personal relationship with Respondent, or any other relationship that could reasonably be expected to compromise the ability of the monitor to render fair and unbiased reports to the Board, including, but not limited to, any form of bartering or any association for profit with any surgeon in the employ of Respondent, shall be in Respondent's field of practice, and must agree to serve as Respondent's monitor. The PEP monitor may be a local physician residing or practicing in Respondent's community, as long as approved in advance by the PEP administrator.

The Board or its designee shall provide the PEP monitor with copies of the Decision and Accusation in this matter. Within 15 calendar days of receipt of the Decision and Accusation, the PEP monitor shall submit a signed statement that the monitor (1) has read the Decision and Accusation, (2) fully understands the role of a monitor pursuant to the PEP program, and (3) that the monitor is to immediately notify PEP and the Board if his/her ability to render fair and unbiased reports to PEP and the Board has been compromised.

///

Within 60 calendar days of the effective date of this Decision, and continuing throughout probation, Respondent and his medical practice shall be monitored by the PEP monitor. Respondent shall make all records available for immediate inspection and copying on the premises by the PEP monitor at all times during business hours, and shall retain the records for the entire term of probation.

The PEP monitor shall submit a quarterly written report to the Board or its designee which includes an evaluation of Respondent's performance, indicating whether Respondent is practicing within the standards of practice of medicine, and whether Respondent is practicing medicine safely.

It shall be the sole responsibility of Respondent to make all reasonable efforts to ensure that the monitor submits the quarterly written reports to the Board or its designee within 15 calendar days after the end of the preceding quarter.

If the monitor resigns or is no longer available, Respondent shall, within fifteen calendar days of such resignation or unavailability, submit a notification to the Board or its designee. If Respondent fails to obtain the approval of a replacement monitor within 60 days of the resignation or unavailability of the monitor, Respondent shall be suspended from the practice of medicine until a replacement monitor is approved and prepared to assume immediate monitoring responsibility. Respondent shall cease the practice of medicine within three calendar days after being so notified by the Board or designee.

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

Respondent shall participate in PEP at his own expense during the term of probation, or until the Board or its designee determines that further participation is no longer necessary. Failure to participate in and complete successfully all phases of the PEP program outlined above is a violation of probation.

3. SOLO PRACTICE Respondent is prohibited from engaging in the solo practice of medicine.

4. NOTIFICATION Prior to engaging in the practice of medicine, the Respondent shall provide a true copy of the Decision and Accusation to the Chief of Staff or the Chief Executive Officer at every hospital where privileges or membership are extended to Respondent, at any other facility where Respondent engages in the practice of medicine, including all physician and locum tenens registries or other similar agencies, and to the Chief Executive Officer at every insurance carrier which extends malpractice insurance coverage to Respondent. Respondent shall submit proof of compliance to the Board or its designee within 15 calendar days of providing such notification. This condition shall apply to any change(s) in hospitals, other facilities or insurance carrier.

5. SUPERVISION OF PHYSICIAN ASSISTANTS During probation, Respondent is prohibited from supervising physician assistants.

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

7. QUARTERLY DECLARATIONS Respondent shall submit quarterly declarations under penalty of perjury on forms provided by the Board, stating whether there has been compliance with all the conditions of probation. Respondent shall submit quarterly declarations not later than 15 calendar days after the end of the preceding quarter.

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

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

///

Respondent shall immediately inform the Board, 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 calendar days.

9. INTERVIEW WITH THE BOARD, OR ITS DESIGNEE Respondent shall be available in person for interviews either at Respondent's place of business or at the Board's office, with the Board 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 Board or its designee in writing 15 calendar days prior to the dates of departure and return. Non-practice is defined as any period of time exceeding 30 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 spent in an intensive training program outside the State of California which has been approved by the Board 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 total two 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-year period shall begin on the date probation is completed or terminated in that state.

11. FAILURE TO PRACTICE MEDICINE - CALIFORNIA RESIDENT In the event Respondent resides in the State of California and for any reason he stops practicing medicine in California, he shall notify the Board or its designee in writing within 30 calendar days prior to the dates of non-practice and return to practice. Any period of non-practice within California, as defined in this condition, will not apply to the reduction of the probationary term and does not relieve Respondent of the responsibility to comply with the terms and conditions of probation. Non-practice is defined as any period of time exceeding 30 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 spent in an intensive training program which has been approved by the Board or its designee shall be considered time spent in the practice of medicine. For purposes of this condition, non-practice due to a Board-ordered suspension or in compliance with any other condition of probation, shall not be considered a period of non-practice.

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

12. COMPLETION OF PROBATION Respondent shall comply with all financial obligations (e.g., probation costs, as discussed at paragraph 15 below) not later than 120 calendar days prior to the completion of probation. Upon successful completion of probation, Respondent's certificate shall be fully restored.

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

///

14. LICENSE SURRENDER Following the effective date of this Decision, if Respondent ceases practicing due to retirement, health reasons or is otherwise unable to satisfy the terms and conditions of probation, he may request the voluntary surrender of his medical license. The Board reserves the right to evaluate Respondent's request and to exercise its discretion whether or not to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent shall within 15 calendar days deliver his wallet and wall certificates to the Board or its designee and Respondent shall no longer practice medicine. Respondent will no longer be subject to the terms and conditions of probation and the surrender of his license shall be deemed to be disciplinary action. If Respondent re-applies for a medical license, the application shall be treated as a petition for reinstatement of a revoked certificate.

15. PROBATION MONITORING COSTS Respondent shall pay the costs associated with probation monitoring each and every year of probation, as designated by the Board. These costs are currently set at $3,173.00, and may be adjusted on an annual basis. Probation monitoring costs shall be made payable to the Medical Board of California and delivered to the Board or its designee no later than January 31 of each calendar year. Failure to pay costs within 30 calendar days of the due date is a violation of probation.

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorneys, Gene Livingston and Jeremy A. Meier. I understand the stipulation and the effect it will have on my Physician and Surgeon's Certificate. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Medical Board.

DATED: 6/19/08.

MICHAEL OMIDI, M.D.
Respondent

///

We have read and fully discussed with our client, Respondent Michael Omidi, M.D., the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. We approve its form and content.

DATED: June 20, 2008.

JEREMY A. MEIER

GENE LIVINGSTON

Attorneys for Respondent
MICHAEL OMIDI, M.D.

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Medical Board of the State of California.

DATED: _____

EDMUND G. BROWN JR.
Attorney General of the State of California
ROBERT MCKIM BELL
Supervising Deputy Attorney General

GLORIA L. CASTRO
Deputy Attorney General

Attorneys for Complainant
MEDICAL BOARD OF THE
STATE OF CALIFORNIA

DOJ Matter ID: LA2007500972
50263681_2.wpd

We have read and fully discussed with our client, Respondent Michael Omidi, M.D., the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. We approve its form and content.

DATED: _____.

_____
JEREMY A. MEIER

_____
GENE LIVINGSTON

Attorneys for Respondent
MICHAEL OMIDI, M.D.

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Medical Board of the State of California.

DATED: 6/23/08

EDMUND G. BROWN JR.
Attorney General of the State of California
ROBERT MCKIM BELL
Supervising Deputy Attorney General

_____
GLORIA L. CASTRO
Deputy Attorney General

Attorneys for Complainant
MEDICAL BOARD OF THE
STATE OF CALIFORNIA

DOJ Matter ID: LA2007500972
50263681_2.wpd

Exhibit A

Accusation No. 05-2005-170875

EDMUND G. BROWN, Attorney General
of the State of California
ROBERT MCKIM BELL
Supervising Deputy Attorney General
GLORIA L. CASTRO, State Bar No. 193304
Deputy Attorney General
California Department of Justice
300 South Spring Street, Suite 1702
Los Angeles, California 90013
Telephone: (213) 897-6804
Facsimile: (213) 897-9395

Attorneys for Complainant

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

In the Matter of the Accusation Against: MICHAEL OMIDI, M.D. 10600 Wilshire Boulevard, # 523 Los Angeles, California 90024 Physician and Surgeon's Certificate A-84519, Respondent.	Case No. 05-2005-170875 **A C C U S A T I O N**

Complainant alleges:

PARTIES

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

2. On or about September 5, 2003, the Board issued Physician and Surgeon's certificate A-84519 to Michael Omidi, M.D. ("Respondent"). This certificate was in full force and effect at all times relevant to the charges stated herein and will expire on September 30, 2007, unless renewed.

///

JURISDICTION

3. This Accusation is brought before the Board's Division of Medical Quality ("Division") under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4.Section 2227 of the Code states:

"(a) A licensee whose matter has been heard by an administrative law judge of the Medical Quality Hearing Panel as designated in Section 11371 of the Government Code, or whose default has been entered, and who is found guilty, or who has entered into a stipulation for disciplinary action with the division, may, in accordance with the provisions of this chapter:

"(1) Have his or her license revoked upon order of the division.

"(2) Have his or her right to practice suspended for a period not to exceed one year upon order of the division.

"(3) Be placed on probation and be required to pay the costs of probation monitoring upon order of the division.

"(4) Be publicly reprimanded by the division.

"(5) Have any other action taken in relation to discipline as part of an order of probation, as the division or an administrative law judge may deem proper.

"(b) Any matter heard pursuant to subdivision (a), except for warning letters, medical review or advisory conferences, professional competency examinations, continuing education activities, and cost reimbursement associated therewith that are agreed to with the division and successfully completed by the licensee, or other matters made confidential or privileged by existing law, is deemed public, and shall be made available to the public by the board pursuant to Section 803.1."

5. Section 2228 of the Code states:

"The authority of the board or a division of the board [...] to discipline a

///

licensee by placing him or her on probation includes, but is not limited to, the following:

"(a) Requiring the licensee to obtain additional professional training and to pass an examination upon the completion of the training. The examination may be written or oral, or both, and may be a practical or clinical examination, or both, at the option of the board or division or the administrative law judge.

"(b) Requiring the licensee to submit to a complete diagnostic examination by one or more physicians and surgeons appointed by the division. If an examination is ordered, the board or division shall receive and consider any other report of a complete diagnostic examination given by one or more physicians and surgeons of the licensee's choice.

"(c) Restricting or limiting the extent, scope, or type of practice of the licensee, including requiring notice to applicable patients that the licensee is unable to perform the indicated treatment, where appropriate.

"(d) Providing the option of alternative community service in cases other than violations relating to quality of care, as defined by the Division of Medical Quality."

6.Section 2234 of the Code states:

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

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

"(b) Gross negligence.

"(c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or omissions. An initial negligent act or omission followed by a

///

separate and distinct departure from the applicable standard of care shall constitute repeated negligent acts.

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

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

"(d) Incompetence.

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

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

7. Section 3502 of the Code provides that medical services performed by a physician assistant must be performed "under the supervision of a licensed physician and surgeon . . . ."

8. Section 3501, subdivision (f), of the Code provides that "'[s]upervision' means that a licensed physician and surgeon oversees the activities of, and accepts responsibility for, the medical services rendered by a physician assistant."

9. Section 3502.1 of the Code states:

"(a) In addition to the services authorized in the regulations adopted by the board, and except as prohibited by Section 3502, while under the supervision of a licensed physician and surgeon or physicians and surgeons authorized by law to supervise a physician assistant, a physician assistant may administer or provide medication to a patient, or transmit orally, or in writing on a patient's record or in a

drug order, an order to a person who may lawfully furnish the medication or medical device pursuant to subdivisions (c) and (d).

"(1) A supervising physician and surgeon who delegates authority to issue a drug order to a physician assistant may limit this authority by specifying the manner in which the physician assistant may issue delegated prescriptions.

"(2) Each supervising physician and surgeon who delegates the authority to issue a drug order to a physician assistant shall first prepare or adopt a written, practice specific, formulary and protocols that specify all criteria for the use of a particular drug or device, and any contraindications for the selection. The drugs listed shall constitute the formulary and shall include only drugs that are appropriate for use in the type of practice engaged in by the supervising physician and surgeon. When issuing a drug order, the physician assistant is acting on behalf of and as an agent for a supervising physician and surgeon.

"(b) "Drug order" for purposes of this section means an order for medication which is dispensed to or for a patient, issued and signed by a physician assistant acting as an individual practitioner within the meaning of Section 1306.02 of Title 21 of the Code of Federal Regulations. Notwithstanding any other provision of law, (1) a drug order issued pursuant to this section shall be treated in the same manner as a prescription or order of the supervising physician, (2) all references to "prescription" in this code and the Health and Safety Code shall include drug orders issued by physician assistants pursuant to authority granted by their supervising physicians, and (3) the signature of a physician assistant on a drug order shall be deemed to be the signature of a prescriber for purposes of this code and the Health and Safety Code.

"(c) A drug order for any patient cared for by the physician assistant that is issued by the physician assistant shall either be based on the protocols described in

///

subdivision (a) or shall be approved by the supervising physician before it is filled or carried out.

"(1) A physician assistant shall not administer or provide a drug or issue a drug order for a drug other than for a drug listed in the formulary without advance approval from a supervising physician and surgeon for the particular patient. At the direction and under the supervision of a physician and surgeon, a physician assistant may hand to a patient of the supervising physician and surgeon a properly labeled prescription drug prepackaged by a physician and surgeon, manufacturer as defined in the Pharmacy Law, or a pharmacist.

"(2) A physician assistant may not administer, provide or issue a drug order for Schedule II through Schedule V controlled substances without advance approval by a supervising physician and surgeon for the particular patient.

"(3) Any drug order issued by a physician assistant shall be subject to a reasonable quantitative limitation consistent with customary medical practice in the supervising physician and surgeon's practice.

"(d) A written drug order issued pursuant to subdivision (a), except a written drug order in a patient's medical record in a health facility or medical practice, shall contain the printed name, address, and phone number of the supervising physician and surgeon, the printed or stamped name and license number of the physician assistant, and the signature of the physician assistant. Further, a written drug order for a controlled substance, except a written drug order in a patient's medical record in a health facility or a medical practice, shall include the federal controlled substances registration number of the physician assistant. The requirements of this subdivision may be met through stamping or otherwise imprinting on the supervising physician and surgeon's prescription blank to show the name, license number, and if applicable, the federal controlled substances number of the physician assistant, and shall be signed by the physician assistant.

///

When using a drug order, the physician assistant is acting on behalf of and as the agent of a supervising physician and surgeon.

"(e) The medical record of any patient cared for by a physician assistant for whom the supervising physician and surgeon's drug order has been issued or carried out shall be reviewed and countersigned and dated by a supervising physician and surgeon within seven days.

"(f) All physician assistants who are authorized by their supervising physicians to issue drug orders for controlled substances shall register with the United States Drug Enforcement Administration (DEA)."

10. California Code of Regulations (CCR), title 16, section 1399.540 states:

"A physician assistant may only provide those medical services which he or she is competent to perform and which are consistent with the physician assistant's education, training, and experience, and which are delegated in writing by a supervising physician who is responsible for the patients cared for by that physician assistant. The committee or division or their representative may require proof or demonstration of competence from any physician assistant for any tasks, procedures or management he or she is performing. A physician assistant shall consult with a physician regarding any task, procedure or diagnostic problem which the physician assistant determines exceeds his or her level of competence or shall refer such cases to a physician."

11. CCR, title 16, section 1399.545 states:

" (a) A supervising physician shall be available in person or by electronic communication at all times when the physician assistant is caring for patients.

" (b) A supervising physician shall delegate to a physician assistant only those tasks and procedures consistent with the supervising physician's specialty or usual and customary practice and with the patient's health and condition.

///

"(c) A supervising physician shall observe or review evidence of the physician assistant's performance of all tasks and procedures to be delegated to the physician assistant until assured of competency.

"(d) The physician assistant and the supervising physician shall establish in writing transport and back-up procedures for the immediate care of patients who are in need of emergency care beyond the physician assistant's scope of practice for such times when a supervising physician is not on the premises.

"(e) A physician assistant and his or her supervising physician shall establish in writing guidelines for the adequate supervision of the physician assistant which shall include one or more of the following mechanisms:

"(1) Examination of the patient by a supervising physician the same day as care is given by the physician assistant;

"(2) Countersignature and dating of all medical records written by the physician assistant within thirty (30) days that the care was given by the physician assistant;

"(3) The supervising physician may adopt protocols to govern the performance of a physician assistant for some or all tasks. The minimum content for a protocol governing diagnosis and management as referred to in this section shall include the presence or absence of symptoms, signs, and other data necessary to establish a diagnosis or assessment, any appropriate tests or studies to order, drugs to recommend to the patient, and education to be given the patient. For protocols governing procedures, the protocol shall state the information to be given the patient, the nature of the consent to be obtained from the patient, the preparation and technique of the procedure, and the follow-up care. Protocols shall be developed by the physician, adopted from, or referenced to, texts or other sources. Protocols shall be signed and dated by the supervising physician and the physician assistant. The supervising physician shall review, countersign, and date a

minimum of 10% sample of medical records of patients treated by the physician assistant functioning under these protocols within thirty (30) days. The physician shall select for review those cases which by diagnosis, problem, treatment or procedure represent, in his or her judgment, the most significant risk to the patient;

"(4) Other mechanisms approved in advance by the committee.

" (f) In the case of a physician assistant operating under interim approval, the supervising physician shall review, sign and date the medical record of all patients cared for by that physician assistant within seven (7) days if the physician was on the premises when the physician assistant diagnosed or treated the patient. If the physician was not on the premises at that time, he or she shall review, sign and date such medical records within 48 hours of the time the medical services were provided.

"(g) The supervising physician has continuing responsibility to follow the progress of the patient and to make sure that the physician assistant does not function autonomously. The supervising physician shall be responsible for all medical services provided by a physician assistant under his or her supervision.

12.Section 2051 of the Code states:

"The physician's and surgeon's certificate authorizes the holder to use drugs or devices in or upon human beings and to sever or penetrate the tissue of human beings and to use any and all other methods in the treatment of diseases, injuries, deformities, and other physical and mental conditions."

13.Section 2052 of the Code states:

"(a) Notwithstanding Section 146, any person who practices or attempts to practice, or who advertises or holds himself or herself out as practicing, any system or mode of treating the sick or afflicted in this state, or who diagnoses, treats, operates for, or prescribes for any ailment, blemish, deformity, disease, disfigurement, disorder, injury, or other physical or mental condition of any person,

without having at the time of so doing a valid, unrevoked, or unsuspended certificate as provided in this chapter [Chapter 5, the Medical Practice Act], or without being authorized to perform the act pursuant to a certificate obtained in accordance with some other provision of law, is guilty of a public offense, punishable by a fine not exceeding ten thousand dollars ($10,000), by imprisonment in the state prison, by imprisonment in a county jail not exceeding one year, or by both the fine and either imprisonment.

"(b) Any person who conspires with or aids or abets another to commit any act described in subdivision (a) is guilty of a public offense, subject to the punishment described in that subdivision.

"(c) The remedy provided in this section shall not preclude any other remedy provided by law."

14.Section 2264 of the Code states:

"The employing, directly or indirectly, the aiding, or the abetting of any unlicensed person or any suspended, revoked, or unlicensed practitioner to engage in the practice of medicine or any other mode of treating the sick or afflicted which requires a license to practice constitutes unprofessional conduct."

15.Section 2069 of the Code states:

"(a)(1) Notwithstanding any other provision of law, a medical assistant may administer medication only by intradermal, subcutaneous, or intramuscular injections and perform skin tests and additional technical supportive services upon the specific authorization and supervision of a licensed physician and surgeon [...]

"(b) As used in this section and Sections 2070 and 2071, the following definitions shall apply:

"(1) 'Medical assistant' means a person who may be unlicensed, who performs basic administrative, clerical, and technical supportive services in compliance with this section and Section 2070 for a licensed

physician and surgeon or a licensed podiatrist, or group thereof, for a medical or podiatry corporation, for a physician assistant, a nurse practitioner, or a nurse-midwife as provided in subdivision (a), or for a health care service plan, who is at least 18 years of age, and who has had at least the minimum amount of hours of appropriate training pursuant to standards established by the Division of Licensing. The medical assistant shall be issued a certificate by the training institution or instructor indicating satisfactory completion of the required training. A copy of the certificate shall be retained as a record by each employer of the medical assistant.

"(2) 'Specific authorization' means a specific written order prepared by the supervising physician and surgeon . . . or the physician assistant, [or] the nurse practitioner, . . . as provided in subdivision (a), authorizing the procedures to be performed on a patient, which shall be placed in the patient's medical record, or a standing order prepared by the supervising physician and surgeon, . . . the physician assistant, [or] the nurse practitioner as provided in subdivision (a), authorizing the procedures to be performed, the duration of which shall be consistent with accepted medical practice. A notation of the standing order shall be placed on the patient's medical record.

"(3) 'Supervision' means the supervision of procedures authorized by this section by the following practitioners, within the scope of their respective practices, who shall be physically present in the treatment facility during the performance of those procedures:

"(A) A licensed physician and surgeon; [...]

"(C) A physician assistant, nurse practitioner, [...] as provided in subdivision (a).

///

"(4) 'Technical supportive services' means simple routine medical tasks and procedures that may be safely performed by a medical assistant who has limited training and who functions under the supervision of a licensed physician and surgeon or a licensed podiatrist, or a physician assistant, a nurse practitioner, or a nurse-midwife as provided in subdivision (a).

"(c) Nothing in this section shall be construed as authorizing the licensure of medical assistants. Nothing in this section shall be construed as authorizing the administration of local anesthetic agents by a medical assistant. Nothing in this section shall be construed as authorizing the division to adopt any regulations that violate the prohibitions on diagnosis or treatment in Section 2052. [...]"

16.Code section 2836.1 states as follows:

"Neither this chapter nor any other provision of law shall be construed to prohibit a nurse practitioner from furnishing or ordering drugs or devices when all of the following apply:

"(a) The drugs or devices are furnished or ordered by a nurse practitioner in accordance with standardized procedures or protocols developed by the nurse practitioner and the supervising physician and surgeon when the drugs or devices furnished or ordered are consistent with the practitioner's educational preparation or for which clinical competency has been established and maintained.

"(b) The nurse practitioner is functioning pursuant to standardized procedure, as defined by Section 2725, or protocol. The standardized procedure or protocol shall be developed and approved by the supervising physician and surgeon, the nurse practitioner, and the facility administrator or the designee.

///

"(c)(1) The standardized procedure or protocol covering the furnishing of drugs or devices shall specify which nurse practitioners may furnish or order drugs or devices, which drugs or devices may be furnished or ordered, under what circumstances, the extent of physician and surgeon supervision, the method of periodic review of the nurse practitioner's competence, including peer review, and review of the provisions of the standardized procedure.

"(2) In addition to the requirements in paragraph (1), for Schedule II controlled substance protocols, the provision for furnishing Schedule II controlled substances shall address the diagnosis of the illness, injury, or condition for which the Schedule II controlled substance is to be furnished.

(d) The furnishing or ordering of drugs or devices by a nurse practitioner occurs under physician and surgeon supervision. Physician and surgeon supervision shall not be construed to require the physical presence of the physician, but does include (1) collaboration on the development of the standardized procedure, (2) approval of the standardized procedure, and (3) availability by telephonic contact at the time of patient examination by the nurse practitioner.

"(e) For purposes of this section, no physician and surgeon shall supervise more than four nurse practitioners at one time.

"(f)(1) Drugs or devices furnished or ordered by a nurse practitioner may include Schedule II through Schedule V controlled substances under the California Uniform Controlled Substances Act (Division 10 (commencing with Section 11000) of the Health and Safety Code) and shall be further limited to those drugs agreed upon by the nurse practitioner and physician and surgeon and specified in the standardized procedure.

"(2) When Schedule II or III controlled substances, as defined in Sections 11055 and 11056, respectively, of the Health and Safety Code, are

furnished or ordered by a nurse practitioner, the controlled substances shall be furnished or ordered in accordance with a patient-specific protocol approved by the treating or supervising physician. A copy of the section of the nurse practitioner's standardized procedure relating to controlled substances shall be provided, upon request, to any licensed pharmacist who dispenses drugs or devices, when there is uncertainty about the nurse practitioner furnishing the order.

"(g)(1) The board has certified in accordance with Section 2836.3 that the nurse practitioner has satisfactorily completed (1) at least six month's physician and surgeon-supervised experience in the furnishing or ordering of drugs or devices and (2) a course in pharmacology covering the drugs or devices to be furnished or ordered under this section.

"(2) Nurse practitioners who are certified by the board and hold an active furnishing number, who are authorized through standardized procedures or protocols to furnish Schedule II controlled substances, and who are registered with the United States Drug Enforcement Administration, shall complete, as part of their continuing education requirements, a course including Schedule II controlled substances based on the standards developed by the board. The board shall establish the requirements for satisfactory completion of this subdivision.

"(h) Use of the term "furnishing" in this section, in health facilities defined in Section 1250 of the Health and Safety Code, shall include (1) the ordering of a drug or device in accordance with the standardized procedure and (2) transmitting an order of a supervising physician and surgeon.

"(i) 'Drug order' or 'order' for purposes of this section means an order for medication which is dispensed to or for an ultimate user, issued by a nurse practitioner as an individual practitioner, within the meaning of Section 1306.02 of Title 21 of the Code of Federal Regulations.

Notwithstanding any other provision of law, (1) a drug order issued pursuant to this section shall be treated in the same manner as a prescription of the supervising physician; (2) all references to 'prescription' in this code and the Health and Safety Code shall include drug orders issued by nurse practitioners; and (3) the signature of a nurse practitioner on a drug order issued in accordance with this section shall be deemed to be the signature of a prescriber for purposes of this code and the Health and Safety Code."

17.Section 2216 of the Code states:

"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 [of the Health and Safety Code]. [...]

"The definition of 'outpatient settings' contained in subdivision (c) of Section 1248 [of the Health and Safety Code] shall apply to this section."

18. Section 2216.1 of the Code states:

"On and after July 1, 2000, it is unprofessional conduct for a physician and surgeon to perform procedures in any outpatient setting except in compliance with Section 2216, unless the setting has a minimum of two staff persons on the premises, one of whom shall either be a licensed physician and surgeon or a licensed health care professional with current certification in advanced cardiac life support (ACLS) as long as a patient is present who has not been discharged from supervised care."

19. Health and Safety Code section 1248 states:

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

"[...]

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

"[...]

"Nothing in this section shall relieve an association, corporation, firm, partnership, or person from complying with all other provisions of law that are otherwise applicable."

20. Health and Safety Code Section 1248.15 states:

"(a) The division shall adopt standards for accreditation and, in approving accreditation agencies to perform accreditation of outpatient settings, shall ensure that the certification program shall, at a minimum, include standards for the following aspects of the settings' operations:

"(1) Outpatient setting allied health staff shall be licensed or certified to the extent required by state or federal law.

"(2) (A) Outpatient settings shall have a system for facility safety and emergency training requirements.

"(B) There shall be onsite equipment, medication, and trained personnel to facilitate handling of services sought or provided and to facilitate handling of any medical emergency that may arise in connection with services sought or provided.

"(C) In order for procedures to be performed in an outpatient setting as defined in Section 1248, the outpatient setting shall do one of the following:

"(i) Have a written transfer agreement with a local accredited or licensed acute care hospital, approved by the facility's medical staff.

"(ii) Permit surgery only by a licensee who has admitting privileges at a local accredited or licensed acute care hospital, with the exception that licensees who may be precluded from having admitting privileges by their professional classification or other administrative limitations, shall have a

written transfer agreement with licensees who have admitting privileges at local accredited or licensed acute care hospitals.

"(iii) Submit for approval by an accrediting agency a detailed procedural plan for handling medical emergencies that shall be reviewed at the time of accreditation. No reasonable plan shall be disapproved by the accrediting agency.

"(D) All physicians and surgeons transferring patients from an outpatient setting shall agree to cooperate with the medical staff peer review process on the transferred case, the results of which shall be referred back to the outpatient setting, if deemed appropriate by the medical staff peer review committee. If the medical staff of the acute care facility determines that inappropriate care was delivered at the outpatient setting, the acute care facility's peer review outcome shall be reported, as appropriate, to the accrediting body, the Health Care Financing Administration, the State Department of Health Services, and the appropriate licensing authority.

"(3) The outpatient setting shall permit surgery by a dentist acting within his or her scope of practice under Chapter 4 (commencing with Section 1600) of the Business and Professions Code or physician and surgeon, osteopathic physician and surgeon, or podiatrist acting within his or her scope of practice under Chapter 5 (commencing with Section 2000) of the Business and Professions Code or the Osteopathic Initiative Act. The outpatient setting may, in its discretion, permit anesthesia service by a certified registered nurse anesthetist acting within his or her scope of practice under Article 7 (commencing with Section 2825) of Chapter 6 of the Business and Professions Code.

"(4) Outpatient settings shall have a system for maintaining clinical records.

"(5) Outpatient settings shall have a system for patient care and

monitoring procedures.

"(6) (A) Outpatient settings shall have a system for quality assessment and improvement.

"(B) Members of the medical staff and other practitioners who are granted clinical privileges shall be professionally qualified and appropriately credentialed for the performance of privileges granted. The outpatient setting shall grant privileges in accordance with recommendations from qualified health professionals, and credentialing standards established by the outpatient setting.

"(C) Clinical privileges shall be periodically reappraised by the outpatient setting. The scope of procedures performed in the outpatient setting shall be periodically reviewed and amended as appropriate.

"(7) Outpatient settings regulated by this chapter that have multiple service locations governed by the same standards may elect to have all service sites surveyed on any accreditation survey. Organizations that do not elect to have all sites surveyed shall have a sample, not to exceed 20 percent of all service sites, surveyed. The actual sample size shall be determined by the division. The accreditation agency shall determine the location of the sites to be surveyed. Outpatient settings that have five or fewer sites shall have at least one site surveyed. When an organization that elects to have a sample of sites surveyed is approved for accreditation, all of the organizations' sites shall be automatically accredited.

"(8) Outpatient settings shall post the certificate of accreditation in a location readily visible to patients and staff.

"(9) Outpatient settings shall post the name and telephone number of the accrediting agency with instructions on the submission of complaints in a location readily visible to patients and staff.

"(10) Outpatient settings shall have a written discharge criteria.

"(b) Outpatient settings shall have a minimum of two staff persons on the premises, one of whom shall either be a licensed physician and surgeon or a licensed health care professional with current certification in advanced cardiac life support (ACLS), as long as a patient is present who has not been discharged from supervised care. Transfer to an unlicensed setting of a patient who does not meet the discharge criteria adopted pursuant to paragraph (10) of subdivision (a) shall constitute unprofessional conduct.

"(c) An accreditation agency may include additional standards in its determination to accredit outpatient settings if these are approved by the division to protect the public health and safety.

"(d) No accreditation standard adopted or approved by the division, and no standard included in any certification program of any accreditation agency approved by the division, shall serve to limit the ability of any allied health care practitioner to provide services within his or her full scope of practice. Notwithstanding this or any other provision of law, each outpatient setting may limit the privileges, or determine the privileges, within the appropriate scope of practice, that will be afforded to physicians and allied health care practitioners who practice at the facility, in accordance with credentialing standards established by the outpatient setting in compliance with this chapter. Privileges may not be arbitrarily restricted based on category of licensure."

21. CCR, title 19, section 1356.6 states:

"(a) A liposuction procedure that is performed under general anesthesia or intravenous sedation or that results in the extraction of 5,000 or more cubic centimeters of total aspirate shall be performed in a general acute-care hospital or in a setting specified in Health and Safety Code Section 1248.1.

"(b) The following standards apply to any liposuction procedure not required by subsection (a) to be performed in a general acute-care hospital or a setting specified in Health and Safety Code Section 1248.1:

"(1) Intravenous Access and Emergency Plan. Intravenous access shall be available for procedures that result in the extraction of less than 2,000 cubic centimeters of total aspirate and shall be required for procedures that result in the extraction of 2,000 or more cubic centimeters of total aspirate. There shall be a written detailed plan for handling medical emergencies and all staff shall be informed of that plan. The physician shall ensure that trained personnel, together with adequate and appropriate equipment, oxygen, and medication, are onsite and available to handle the procedure being performed and any medical emergency that may arise in connection with that procedure. The physician shall either have admitting privileges at a local general acute-care hospital or have a written transfer agreement with such a hospital or with a licensed physician who has admitting privileges at such a hospital.

"(2) Anesthesia. Anesthesia shall be provided by a qualified licensed practitioner. The physician who is performing the procedure shall not also administer or maintain the anesthesia or sedation unless a licensed person certified in advanced cardiac life support is present and is monitoring the patient.

"(3) Monitoring. The following monitoring shall be available for volumes greater than 150 and less than 2,000 cubic centimeters of total aspirate and shall be required for volumes between 2,000 and 5,000 cubic centimeters of total aspirate:

"(A) Pulse oximeter

"(B) Blood pressure (by manual or automatic means)

"(C) Fluid loss and replacement monitoring and recording

"(D) Electrocardiogram

"(4) Records. Records shall be maintained in the manner necessary to meet the standard of practice and shall include sufficient information to determine the quantities of drugs and fluids infused and the volume of fat, fluid and supranatant extracted and the nature and duration of any other surgical procedures performed during the same session as the liposuction procedure.

"(5) Discharge and Postoperative-care Standards.

"(A) A patient who undergoes any liposuction procedure, regardless of the amount of total aspirate extracted, shall not be discharged from professionally supervised care unless the patient meets the discharge criteria described in either the Aldrete Scale or the White Scale. Until the patient is discharged, at least one staff person who holds a current certification in advanced cardiac life support shall be present in the facility.

"(B) The patient shall only be discharged to a responsible adult capable of understanding postoperative instructions."

22.Code section 4172 states as follows:

"A prescriber who dispenses drugs pursuant to Section 4170 shall store all drugs to be dispensed in an area that is secure. The Medical Board of California shall, by regulation, define the term "secure" for purposes of this section."

23. CCR, title 19, section 1356.3 states:

"For purposes of section 4172 of the code, the phrase "area which is secure" means a locked storage area within a physician's office. The area shall be secure at all times. The keys to the locked storage area shall be available only to staff authorized by the physician to have access thereto."

24. The following medications are dangerous drugs within the meaning of Business and Professions Code section 4022 and, where indicated, controlled

substances within the meaning of Health and Safety Code sections 11055, 11056 and 11507:

A. Oxycodone is a Schedule II controlled substance both as a single agent and in combination products containing acetaminophen, ibuprofen or aspirin. It is a semisynthetic opioid analgesic with multiple actions qualitatively similar to those of morphine. It is an opioid substance which has the highest potential for abuse and associated risk of fatal overdose due to respiratory depression.

B. Fentanyl is a Schedule II controlled substance and is a potent narcotic analgesic. A dose of 100 mcg (0.1 mg) (2 mL) is approximately equivalent in analgesic activity to 10 mg of morphine or 75 mg of meperidine. The principal actions of therapeutic value are analgesia and sedation. Alterations in respiratory rate and alveolar ventilation, associated with narcotic analgesics, may last longer than the analgesic effect. As the dose of narcotic is increased, the decrease in pulmonary exchange becomes greater. Large doses may produce apnea. Fentanyl appears to have less emetic activity than either morphine or meperidine. It is an opioid substance which has the highest potential for abuse and associated risk of fatal overdose due to respiratory depression. Fentanyl can be abused and is subject to criminal diversion.

C. Glycopyrrolate Glycopyrrolate antagonizes muscarinic symptoms (e.g., bronchorrhea, bronchospasm, bradycardia, and intestinal hypermotility) induced by cholinergic drugs such as the anticholinesterases.

D. Ketamine Ketamine is Schedule III controlled substance and is a rapid-acting general anesthetic producing an anesthetic state characterized by profound analgesia, normal pharyngeal-laryngeal reflexes, normal or slightly enhanced skeletal muscle tone, cardiovascular and respiratory stimulation, and occasionally a transient and minimal respiratory depression. A patent airway is maintained partly by virtue of unimpaired pharyngeal and laryngeal reflexes. Ketamine has been reported being used as a drug of abuse. Reports suggest that

Ketamine produces a variety of symptoms including, but not limited to anxiety, dysphoria, disorientation, insomnia, flashbacks, hallucinations, and psychotic episodes. Ketamine dependence and tolerance are possible following prolonged administration. A withdrawal syndrome with psychotic features has been described following discontinuation of long-term Ketamine use. Therefore, Ketamine should be prescribed and administered with caution.

E. Lidocaine with Epinephrine Lidocaine Hydrochloride and Epinephrine Injection is indicated for production of local or regional anesthesia by infiltration techniques.

F. Labetolol Labetolol is primarily a beta blocking agent with minor alpha blocking effects. The principle intra-operative use of Labetolol is the treatment of unwanted tachycardia or rapid heart rate. The effect of this medication is to slow the heart rate. Labetalol produces dose-related falls in blood pressure without reflex tachycardia and without significant reduction in heart rate, presumably through a mixture of its alpha-blocking and beta-blocking effects.

G. Merepidine (Demerol) is a Schedule III controlled substance and is a narcotic analgesic with multiple actions qualitatively similar to those of morphine; the most prominent of these involve the central nervous system and organs composed of smooth muscle. The principal actions of therapeutic value are analgesia and sedation. Meperidine should be used with great caution and in reduced dosage in patients who are concurrently receiving other narcotic analgesics, general anesthetics, phenothiazines, other tranquilizers. peridine may be habit forming. Physical and/or psychological dependence can occur, and withdrawal effects are possible if the medication is stopped suddenly after prolonged or high-dose treatment.

H. Morphine is a Schedule II controlled substance and is a systemic narcotic analgesic for administration by the intravenous route. It is used for the management of pain not responsive to non-narcotic analgesics. Morphine provides

pain relief for extended periods without attendant loss of motor, sensory or sympathetic function. Administration should be limited to use by those familiar with the management of respiratory depression. Facilities where morphine is administered must be equipped with resuscitative equipment, oxygen, naloxone injection, and other resuscitative drugs.

I. Propofol (Dipravan) is a Schedule IV sedative-hypnotic agent that can be used for both induction and/or maintenance of anesthesia as part of a balanced anesthetic technique for inpatient and outpatient surgery. It can also be used for maintenance of anesthesia as part of a balanced anesthetic technique for outpatient surgery and may also be used for monitored anesthesia care (MAC) sedation in conjunction with local/regional anesthesia in patients undergoing surgical procedures. During MAC sedation, attention must be given to the cardiorespiratory effects of Diprivan. Hypotension, oxyhemoglobin desaturation, apnea, airway obstruction, and/or oxygen desaturation can occur, especially following a rapid bolus of Diprivan Injectable Emulsion. During initiation of MAC sedation, slow infusion or slow injection techniques are preferable over rapid bolus administration, and during maintenance of MAC sedation, a variable rate infusion is preferable over intermittent bolus administration in order to minimize undesirable cardiorespiratory effects. In the elderly, debilitated, or ASA III/IV patients, rapid (single or repeated) bolus dose administration should not be used for MAC sedation.

J. Midazolam (Versed) is a Schedule IV controlled substance and is a benzodiazepine derivative. It has powerful anxiolytic, amnestic, hypnotic, anticonvulsant, skeletal muscle relaxant and sedative properties. It is considered a fast-acting benzodiazepine, with a short elimination half-life. Midazolam has infrequently caused very serious breathing problems (e.g., rapid/slow/shallow breathing, trouble breathing), especially if used with other medications that cause drowsiness (e.g., narcotic pain medications such as morphine). This medication

should be used only in a hospital or medical office under the care of a health professional.

25. Section 2266 of the Code states: "The failure of a physician and surgeon to maintain adequate and accurate records relating to the provision of services to their patients constitutes unprofessional conduct."

26. Section 2285 of the Code states:

"The use of any fictitious, false, or assumed name, or any name other than his or her own by a licensee either alone, in conjunction with a partnership or group, or as the name of a professional corporation, in any public communication, advertisement, sign, or announcement of his or her practice without fictitious-name permit obtained pursuant to Section 2415 constitutes unprofessional conduct. This section shall not apply to the following:

"(a) Licensees who are employed by a partnership, a group, or a professional corporation that holds s fictitious name permit.

"(b) Licensees who contract with, are employed by, or are on the staff of, any clinic licensed by the State Department of Health Services under Chapter 1 (commencing with Section 1200) of Division 2 of the Health and Safety Code.

"(c) An outpatient surgery setting granted a certificate of accreditation from an accreditation agency approved by the medical board.

"(d) Any medical school approved by the division or a faculty practice plan connected with the medical school."

PRELIMINARY STATEMENT

27. The care and treatment of the patients named in this Accusation was rendered by persons employed by Respondent including Tammi Isaacs RN ("RN Isaacs"), Michelle Pollock RN ("RN Pollock"), Elizabeth Wong CRNA ("CRNA Wong"), Natalie Ngapirin ("PA Ngapirin"), medical assistant Michelle McLean ("McLean"), medical assistant Matthew Sheets ("Sheets"), medical assistant Cindy Sandoval ("Sandoval"), Nurse Practitioner Furnisher Richard Staggs ("NPF Staggs"), and/or Respondent at his

clinic Pacific West Plastic Surgery, Dermatology, and Laser Center, also known as the Woodlake Ambulatory Surgery Center, located at 7320 Woodlake Avenue, Suite 320, West Hills, California 91307.[1] These individuals also worked at Respondent's offices located at Pacific West Dermatology 18182 Highway 18, Suite 106, Apple Valley, California 92307, 465 North Roxbury Drive, Suite 1012, Beverly Hills, California 90210, and/or 44404 16th Street, Lancaster, California. Because these individuals were supervised by Respondent, their negligence is therefore imputed to Respondent pursuant to the Medical Practices Act, including Code section 3502, subdivision (f), and Title 16, California Code of Regulations, section 1399.656(g) [physicians assistants]; section 2052, subdivision (b)(2) [medical assistants], section 2069, subdivision (b), and 2836, subdivision (f) [nurses] and section 2264 [unlicensed persons and for persons exceeding the scope of their authority].

28. At all times relevant to this Accusation, the West Hills facility was not accredited pursuant to Business and Professions Code sections 2216, 2216.1 and Health and Safety Code sections 1248 and 1248.15.

FIRST CAUSE FOR DISCIPLINE

(Grossly Negligent Acts)

29. Respondent is subject to disciplinary action under section 2234, subdivision (b), of the Code in that he committed grossly negligent acts in his care and treatment of patients Clinton J., Jennifer C. and Charlsetta R.[2] The circumstances are as follows:

PATIENT CLINTON J.

30. Patient Clinton J., a 6'3," 27-year-old, 300 pound male, was first seen by Respondent on or around July 29, 2005 at Respondent's Apple Valley office for

---

1. Respondent co-owns this facility with his brother, Julian Omidi, M.D., who is the subject of Medical Board Accusation No. 17-2004-162146.

2. The full names of the patients will be disclosed to Respondent upon an appropriate request for discovery.

fifteen minutes.

31. On September 14, 2005 Clinton J. went to the West Hills facility where he signed consents for liposuction and anesthesia. Respondent completed a history and physical exam of Clinton J. He did not complete an anesthesia plan. Respondent performed a liposuction of Clinton J.'s abdomen, flanks, thighs and chest at the West Hills facility, which was not accredited at that time. The surgery was taped for an episode of the television show *Dr. 90210.* RN Pollock, CRNA Wong, PA Dooley and medical assistant McLean assisted Respondent.

32. The intra-operative anesthesia record records that a total of 300 mg of Fentanyl was administered. However, this drug is administered in micrograms. Further, the post-operative narcotics disposition only accounts for "200" without referencing the relevant measuring units.

33. The intra-operative anesthesia record also notes that Clinton J.'s oxygen saturation was between 95 and 98% under controlled ventilation through an endotracheal tube.

34. The operative report lists Dr. Omidi as the surgeon, Elizabeth Wong as the anesthetist and Michael Dooley P.A. as the assistant. The patient was prepped standing then placed on the operating table where Wong induced the patient with general anesthesia. Liposuction was performed with the infusion of 4200cc tumescent solution and aspiration of 5900 cc. There is no description of the composition of the tumescent solution used. Operating room and recovery records were completed and signed by Michelle Pollock RN who also functioned as a circulating nurse. Recovery room time was 2 hours with stable vital signs.

35. Once in the recovery area, Clinton J.'s oxygen saturation was a 94 and he is described as able to breathe deeply and cough freely, an inconsistency in patients with oxygen saturation of between 90 and 94.

36. Post operative visits were recorded on September 21, 2005 and October 10, 2005.

37. Dr. Omidi was grossly negligent in his care and treatment of Clinton J. as follows:

A. Due to Fentanyl's well-established reputation for abuse, dependency, and illicit diversion to the black or "street" market, this drug should be precisely accounted for. The intra-operative anesthesia record records a total of 300 *milligrams* of Fentanyl being administered to the patient (Fentanyl is administered in *micrograms*). However, the postoperative narcotics disposition record only accounts for "200" without any reference to units. Dr. Omidi's failure to properly document the disposition of the remaining 100 micrograms of Fentanyl is an extreme departure from the standard of care.

B. Dr. Omidi's failure to provide a date and time on his preoperative note is a simple departure in the standard of care.

C. Dr. Omidi's did not fill out an anesthesia plan for this patient, other than to describe in his undated and untimed preoperative report that "[...] Anesthesia service described the risks of sedation anesthesia and general anesthesia. Anesthesia plan was changed to general from sedation due to the patient's size and airway per discretion of the anesthesia service [...]." This is a simple departure.

D. Dr. Omidi's use of general anesthesia on this patient with a loss of his life preserving reflexes at an unaccredited outpatient facility is an extreme departure from the standard of care

E. Dr. Omidi performance of the liposuction procedure on Clinton J. at an unaccredited facility is an extreme departure from the standard of care.

PATIENT JENNIFER C.

38. Patient Jennifer C., a 5' 7" 182 pound 26 year-old female, was first seen by Respondent in a consultation for a liposuction procedure on September 8, 2005. Consent forms for surgery were signed at that visit.

///

39. On September 8, 2005, NPF Staggs wrote a prescription for Jennifer C. for thirty Percocet (oxycodone). The prescription listed "Pacific West Dermatology 18182 HWY 18, Suite 106, Apple Valley, California 92307." There is no annotation in the medical record regarding this prescription.

40. On the morning of October 11, 2005, Dr. Omidi performed a liposuction procedure on Jennifer C.'s abdomen, back, flank, and inner and outer thighs at the West Hills Surgery Center, which was not accredited at the time. RN Isaacs assisted him.

41. Documents in the medical record reference Respondent's Lancaster facility but a line has been drawn through that and the West Hills facility written in.

42. A typed operative report lists the surgery date as October 11, 2005 and the surgeon as Dr. Omidi but no assistants, operating staff or anesthetist/anesthesiologist. Sedation is listed as the anesthesia. The patient was prepped standing, placed on the operating table and then sedated with versed and Propofol. There is no record of IV placement regarding position, needle gauge or who placed it or any record of the sedation cocktail described above being given. A tumescent solution of unlisted composition was injected, total 1900cc, and 2950cc aspirated.

43. Tammy Isaacs RN completed the pre-anesthesia history and physical, post-anesthesia evaluation, recovery room record and anesthesia record. The anesthesia plan lists the patient as an ASA I and the anesthesia provider as "Omidi."The anesthesia record lists anesthesia time as 1 hr 25 min and surgery time 1 hr 10 min. Initial medications are Listed as 40cc Dipravan, 50mg Benadryl, 2cc Glycopyrrolate, 2mg Versed, 2cc Ketamine, 1 Gm Ancef and 4 Mg Dexamethasone. An Additional 2mg Versed was given about 15 minutes later and 2cc Dipravan about 30 Minutes Later. No supplemental oxygen is listed. Vital signs are listed. The anesthesia record fails to note any charting for sinus rhythm (SR) and normal sinus rhythm (NSR) meaning that no EKG was applied intraoperatively. The anesthesia record is also vague and ambiguous by the improper use of an "x" to denote pulse rate, when it is used to denote arterial pressure

(MAP), and the use of a "." to denote oxygenation, when it should be used to denote heart rate. The anesthesia record fails to include the totals for the Versed, Ketamine, and Propofol administered to this patient according to the operative report. Heart rate, blood pressure and oxygen saturation were stable throughout the procedure.

44. 50 mg of Demerol IM was given in recovery. There is no indication in the record who actually gave the patient these medications. In fact, a negative is listed under anesthesia provider. There is no description of the composition of the tumescent solution used. The patient also received 500 cc of normal saline IV during the course of surgery. Recovery room time is listed as 40 minutes with stable vital signs. There is a brief discharge summary completed by Omidi.

45. The patient was seen again on October 20, 2005 and that note was signed by Dr. Omidi. No other office visits or problems were recorded.

46. Dr. Omidi was grossly negligent in his care and treatment of Jennifer C. as follows:

A. Dr. Omidi's failure to provide a total of the anesthetic agents administered for the case is a simple departure from the standard of care.

B. Dr. Omidi's failure to note in the operative report the fact that Ketamine was administered to the patient and his failure to note in the anesthesia record the total Versed and Propofol administered to the patient is an extreme departure from the standard of care. It is the standard of care that the medical record reflect the patient's anesthetic experience by the charting of both the drugs administered to the patient *and* the effect on the patient's vital signs.

C. Dr. Omidi's failure to monitor the patient with an EKG during conscious sedation indicates a lack of basic knowledge of this standard of care used by anesthesiologists and surgeons and as required by California Code of Regulations, section 1356.6, subdivision (b)(3)(D). Dr. Omidi's failure to use an EKG intraoperatively, suggested by the failure to record sinus rhythm (SR) and Normal Sinus Rhythm (NSR), is an extreme departure from the standard of care.

D. Dr. Omidi's failure to have all personnel present in the operating room documented in the medical record is a simple departure from the standard of care.

E. Dr. Omidi's failure to use the standardized notations in the patient's anesthesia record for heart rate and pulse oxymeter data constitutes a simple departure from the standard of care. Minimal monitoring standards for sedation *include* EKG, blood pressure, and pulse oximeter. It is also standard to record the respiratory rate of the patient and whether or not the patient was breathing spontaneously, with assistance or by controlled ventilation.

F. Dr. Omidi's performance of the liposuction procedure on Jennifer C. at an unaccredited facility is an extreme departure from the standard of care.

G. Dr. Omidi's failure to document that Jennifer C. was prescribed oxycodone is a simple departure from the standard of care.

PATIENT CHARLSETTA R.

47. Patient Charlsetta R., a 5'4," 168 pound, 34-year-old female, was first seen by Respondent at his office in Apple Valley on or around July 21, 2005 for fifteen minutes.

48. Charlsetta R. returned to the office on July 28, 2005 and September 22, 2005. The note for July 28, 2005 lists "sedation."

49. On September 22, 2005, NPF Staggs wrote a prescription for Charlsetta R. for thirty Percocet (Oxycodone). The prescription listed "Pacific West Dermatology 18182 HWY 18, Suite 106, Apple Valley, California 92307." There is no annotation in the medical record regarding this prescription. The documents in the medical record have headings for medical offices in Lancaster and Beverly Hills facilities, however, a line was drawn through this heading and "Wood Lake Ambulatory Surgery Center" was written instead.

///

50. On the afternoon of October 11, 2005, Dr. Omidi performed a liposuction procedure on Charlsetta R.'s abdomen, flanks, back, and inner and outer thighs at the West Hills facility, which was not accredited at the time. RN Isaacs assisted him. The medical records for Charlsetta R., including the intra-operative reports, fails to list any other personnel present during the procedure. The consent for anesthesia signed by the patient lists "general anesthesia." The patient was also asked to sign preoperative instructions on the same day of her surgery.

51. An operative report only lists the surgeon as Dr. Omidi. Anesthesia is listed as "sedation." The patient was prepped standing, placed on the operating table and then sedated with Versed, Ketamine and Propofol. There is no record of IV placement regarding position, needle gauge or who placed it or any record of the sedation cocktail described above being given. The operative report however fails to reflect that Mereperidine (Demerol) was administered to the patient as reflected in the anesthesia record. A tumescent solution of unlisted composition was injected totaling 1900cc, and 2650cc were aspirated.

52. RN Isaacs completed the preanesthesia history and physical, post-anesthesia evaluation, recovery room record and anesthesia. There is no ASA designation for this patient. The anesthesia record lists anesthesia time as 2 hours and 19 minutes; surgery time as 2 hours and 11 minutes. The is no ASA designation for the patient. Initial medications are listed as 40cc Dipravan, 50mg. Benadryl, 2cc Glycopyrrolate, 2mg. Versed, 2cc Ketamine and 4mg. Dexamethasone. The patient was placed on 2 liters NC oxygen. An additional 4cc, 2cc, 3cc and 2cc of Dipravan, 25 mg. Meperidine, 3mg. Versed, 50 mg. Ketamine, 19 mg Ancef and 5 mg. Labetolol were given during surgery. There is no documentation of Propofol being administered, as cited in the operative report. Vital signs are listed. The timing of vital signs recording is unclear because uneven values have apparently been given to the squares on the record. Heart rate, blood pressure and oxygen saturation were stable throughout the procedure. However, the anesthesia record fails to note any charting for sinus rhythm (SR) and normal sinus rhythm (NSR), which

means that no EKG was applied intraoperatively. The anesthesia record is also vague and ambiguous by the improper use of an "x" to denote pulse rate, when it is used to denote arterial pressure. Likewise, the use of a "." to denote oxygenation when it is used to denote heart rate. The anesthesia record fails to includes the totals for the Versed, Ketamine, and Propofol administered to this patient, drugs which are referenced in the operative report. 50 mg. of Demerol IM was given in recovery. The anesthesia provider is listed as Dr. Omidi. There is no description of the composition of the tumescent solution used, other than a later citation to "lidocaine (with) ep. 1% 20 ml." The patient also received 500 cc of normal saline IV during the course of surgery. Recovery room time is listed as 45 minutes with stable vital signs. There is a brief discharge summary signed by Respondent.

53. The patient was seen again on October 20, 2005 and December 1, 2005. Dr. Omidi signed notes relating to these visits that listed both the Apple Valley and West Hills facilities.

54. Dr. Omidi was grossly negligent in his care and treatment of Charlsetta R. as follows:

A. Dr. Omidi's failure to monitor the patient with an EKG during conscious sedation indicates a lack of basic knowledge of this standard of care used by anesthesiologists and surgeons and as required by California Code of Regulations, section 1356.6, subdivision (b)(3)(D). Dr. Omidi's failure to use an EKG intraoperatively, suggested by the failure to record sinus rhythm (SR) and Normal Sinus Rhythm (NSR), is an extreme departure from the standard of care.

B. Dr. Omidi's failure to use the standardized notations in the patient's anesthesia record for heart rate and pulse oximeter data constitutes a simple departure from the standard of care. Minimal monitoring standards for sedation *include* EKG, blood pressure, and pulse oximeter. It is also standard to record the respiratory rate of the patient and whether or not the patient was breathing spontaneously, with assistance or by controlled ventilation.

C. Dr. Omidi's failure to note in the operative report the fact that Demerol was administered to the patient and his failure to note in the anesthesia record the total Versed, Ketamine, and Propofol administered to the patient is an extreme departure from the standard of care. It is the standard of care to chart the drugs administered to the patient and the effect on the vital signs to reflect the patient's anesthetic experience.

D. Dr. Omidi's use of Demerol in the patient is an extreme departure from the standard of care because its use in this case decreased the patient's life preserving reflexes, thereby subjecting her to great risk. Demerol was administered to this patient intraoperatively and in the recovery room.

E. The administration of Propofol to the patient by RN Isaacs who is a non-dedicated anesthesia provider is an extreme departure from the standard of care because it may result in deeper than intended levels of sedation and anesthesia and, consequently, needless risk for the patient.

F. Dr. Omidi's use of Labetolol during surgery without documentation of the patient's heart rate both before and after the administration of it is an extreme departure from the standard of care.

G. Dr. Omidi's failure to have all personnel present in the operating room documented in the medical record is a simple departure from the standard of care.

H. Dr. Omidi's failure to document that the patient was prescribed Oxycodone is a simple departure from the standard of care.

I. Dr. Omidi's performance of the liposuction at an unaccredited facility is an extreme departure from the standard of care.

SECOND CAUSE FOR DISCIPLINE

(Repeatedly Negligent Acts)

55. By reason of the matters alleged in paragraphs 27 through 54 above, Respondent is subject to disciplinary action under section 2234, subdivision (c), of the

Business and Professions Code in that in his care of patients Clinton J., Charlsetta R. and Jennifer C., he committed acts and omissions constituting repeatedly negligent acts.

THIRD CAUSE FOR DISCIPLINE

(Failure to Supervise Physician Assistants)

56. Respondent is subject to disciplinary action under sections 2234, 2264 and 3501.2 of the Code and under California Code of Regulations (CCR), title 16, section 1399.540, 1399.545(d), 1399.545(e) and 1399.545(g) in that he failed to properly supervise physician assistants Natalie Ngaripin by failing to have a delegation of services for their duties. The circumstances are as follows:

57. In May 2005, PA Ngapirin began working as a Physician Assistant at Respondent's Lancaster facility. She was hired to assist during surgeries. Respondent, however, did not establish written guidelines for supervision as required by CCR section 1399.545.(e); did not establish written transport and back up procedures as required by CCR 1399.545(d); and, did not establish written protocols as authorized by Code section 3502.1(b)(2) until September 2006.

FOURTH CAUSE FOR DISCIPLINE

(Aiding or Abetting the Unlicensed Practice of Medicine)

58. Respondent is subject to disciplinary action under section 2264 in that he aided or abetted the unlicensed practice of medicine of his employees McLean, Sheets, and Sandoval. The circumstances are as follows:

59. Respondent employed Michelle McLean, Matthew Sheets, and Cindy Sandoval who, at all times relevant to the Causes for Discipline alleged herein, did not possess a physician and surgeon's certificate, a license as a registered nurse, or any other health care professional license issued by the State of California. McLean possessed a medical assistant certificate. These facts were known to Dr. Omidi. He conspired with, aided and/or abetted with McLean, Sheets, and Sandoval for the latter to practice medicine at his medical clinic. Dr. Omidi engaged in a scheme to allow McLean, Sheets, and

///

Sandoval to practice medicine. Specifically, McLean, Sheets, and Sandoval treated the physical condition of at least four of Dr. Omidi's patients as described below.

60. Michelle McLean began working for Respondent and/or his brother, Julian Omidi, M.D., at their office located at 44404 16th Street West, Suite 205 in Lancaster, California in November 2004, a month before receiving a medical assistant certificate from Antelope Valley Medical College. In July 2005, Respondent taught McLean how to suture patients, including a triple layer closure of an abdominoplasty incision. While employed with Respondent and with his consent but outside his presence, McLean performed sutures on patients at least twice a week, closed patients' surgical sites, injected marcaine into abdominoplasty drains, injected intravenous (IV) antibiotics into an IV line at least five times, used the liposuction machine on a patient's thigh, and mixed tumescent liposuction solution, IV bags of sedatives (Propofol, Versed and Benadryl) and conscious sedation drips (Propofol in normal saline). Respondent would routinely leave McLean alone for ten to twenty minutes to suture patients during surgery so that he could do patient consultations elsewhere in the office or start on another patient surgery. In June 2006, McLean assisted in breast augmentation surgeries by injecting saline to fill up the implant. Although Dr. Omidi was present while she injected saline into implants, he was usually working on the other breast to create the pocket for the implant. She also has removed sutures and staples from patients during the post operative appointment. She also removed drains by herself.

61. Matthew Sheets was employed at Respondent's Lancaster office from August 2005 to February 2006. Respondent was aware that Sheets did not have a medical assistant certificate at the time. During this time, Respondent taught him how to suture patients and allowed him to suture ten patients. While employed with Respondent and with his consent, Sheets mixed bags of medication for conscious sedation (Propofol in normal saline) and liposuction (Epinephrine and Lidocaine in saline), and giving IV boluses of Propofol and other medications to patients. At least ten times during his employment, he monitored patients under conscious sedation during surgery by sitting by

the patient's head and monitoring blood pressure, oxygen saturation, and heart rate readings. Additionally, Respondent allowed him to liposuction a patient's leg for about five minutes in his presence.

62. Cindy Sandoval was employed by Respondent from around August 2005 until around February 2006. While employed with Respondent and with his consent, Sandoval sutured patients, mixed bags of sedatives (Propofol, Versed and Benadryl) into an IV bag, and acted as a recovery room nurse and surgery circulating nurse during patients' surgeries.

63. Dr. Omidi aided and abetted the unlicensed practice of medicine as follows:

A. Respondent allowed Mc Lean and Sheets to administer local anesthetic agents to his patients in violation of section 2264.

B. Respondent allowed McLean, Sheets, and Sandoval to suture patients' incisions, including allowing McLean to perform a triple-layer suture.

C. Respondent allowed McLean, Sheets and Sandoval to mix bags of sedatives (Propofol, Versed and Benadryl) into an IV bag,

D. Respondent allowed McLean, Sheets, and Sandoval to act as recovery room, scrub and surgery circulating nurses during patients' surgeries.

E. Respondent allowed McLean to fill a breast implant with saline.

F. Respondent allowed McLean to inject marcaine into abdominoplasty drains.

G. Respondent allowed McLean to mix tumescent liposuction solution, IV bags of sedatives (Propofol, versed and benadryl) and conscious sedation drips (Propofol in normal saline).

H. Respondent allowed Sheets to perform liposuction.

I. Respondent allowed Sheets to mix bags of medication for conscious sedation (Propofol in normal saline) and liposuction (epinephrine and lidocaine in

///

saline), solutions and to give IV boluses of Propofol and other medications to patients.

FIFTH CAUSE FOR DISCIPLINE

(Failure to supervise Medical Assistants)

64. By reason of the matters alleged in paragraphs 27 through 64 above Respondent is subject to disciplinary action under section 2069 of the Code in that he failed to properly supervise medical assistants Michelle Mc Lean, Matthew Sheets and Cindy Sandoval.

SIXTH CAUSE FOR DISCIPLINE

(Grossly Negligent Acts)

65. By reason of the matters alleged in paragraphs 58 through 65 above, Respondent is subject to disciplinary action under section 2234, subdivision (b), of the Business and Professions Code in that in his employment, supervision and failure to supervise McLean, Sheets, and Sandoval he committed acts and omissions constituting gross negligence.

SEVENTH CAUSE FOR DISCIPLINE

(Failure to Supervise Nurse Practitioner Furnisher)

66. Respondent is subject to disciplinary action under Code section 2234 by failing to have a protocol or standardized procedure for nurse practitioner furnisher Richard Staggs (NPF Staggs) as required by Code section 2836.1. The circumstances are as follows:

67. In September 2005, NPF Staggs worked for Respondent as a nurse practitioner furnisher at his West Hills facility. Respondent, however, did not establish written standards or protocols as required by Code section 2836.1.

68. On September 8, 2005, NPF Staggs wrote a prescription for Jennifer C. for thirty Percocet (oxycodone) for pain. The prescription pad listed "Pacific West Dermatology 18182 HWY 18, Suite 106, Apple valley, California 92307." This

///

medication was not meant to be taken until the date of patient Jennifer C.'s surgery on October 11, 2005.

69. On September 22, 2005, NPF Staggs wrote a prescription for Charlsetta R. for thirty Percocet (oxycodone) for pain. The prescription pad listed "Pacific West Dermatology 18182 HWY 18, Suite 106, Apple valley, California 92307." This medication was not meant to be taken until the date of patient Charlsetta R.'s surgery on October 11, 2005.

EIGHTH CAUSE FOR DISCIPLINE

(Improper Surgery - Outpatient Surgery Center)

70. By reason of the matters alleged in paragraphs 27 through 54, Respondent is subject to disciplinary action under sections 2216 and 2216.1 of the Code and Health and Safety Code section 1248 and 1248.15 in that he performed surgery on Clinton J., Jennifer C. and Charlsetta R. at an unaccredited center. The circumstances are as follows:

71. Dr. Omidi performed cosmetic surgery procedures in an outpatient setting and administered anesthesia in doses that had the probability of placing patients Cilnton J., Jennifer C. and Charlsetta R. at risk for loss of their life-preserving protective reflexes at his West Hills facility, which at the time did not comply with the requirements of an 'outpatient settings' as contained in the definition cited in Health and Safety Code section 1248.1, subdivision (c).

72. Dr. Omidi engaged in unprofessional conduct in violation of section 2216.1 because he performed procedures on patients Jennifer C. and Charlsetta R. in an outpatient setting that did not comply with section 2216 and did not have a minimum of two staff persons on the premises, one of whom shall either be a licensed physician and surgeon or a licensed health care professional with current certification in advanced cardiac life support (ACLS).

73. Dr. Omidi violated Health and Safety Code section 1248, subdivision (g), by operating, managing, conducting, and/or maintain an outpatient setting

in this state that was not accredited by the division pursuant to Health and Safety Code Section 1248.15. Dr. Omidi's facilities not only were not accredited, but they also did not meet the minimum accreditation standards which include allied health staff shall be licensed or certified to the extent required by state or federal law, onsite equipment, medication, and trained personnel to facilitate handling of services sought or provided and to facilitate handling of any medical emergency that may arise in connection with services sought or provided, and for the facility to have a written transfer agreement with a local accredited or licensed acute care hospital, approved by the facility's medical staff and permit surgery only by a licensee who either (1) has admitting privileges at a local accredited or licensed acute care hospital or (2) have a written transfer agreement with licensees who have admitting privileges at local accredited or licensed acute care hospitals; and have a detailed procedural plan approved by an accrediting agency for handling medical emergencies.

74. Dr. Omidi performed liposuction procedures on Clinton J., Jennifer C. and Charlsetta R. in violation of section 1356.6 of title 19 of the California Code of Regulations due to the following:

A. Dr. Omidi performed liposuction procedures on Clinton J. under general anesthesia and/or intravenous sedation which resulted in the extraction of 5,000 or more cubic centimeters of total aspirate at his facility which did not meet the requirements of Health and Safety Code Section 1248.1.

B. Dr. Omidi performed liposuction procedures on Clinton J., Jennifer C. and Charlsetta R without a written detailed plan for handling medical emergencies and all staff shall be informed of that plan, allowed anesthesia to be provided by unqualified licensed practitioners.

C. Dr. Omidi performed liposuction procedures on Jennifer C. while also administering or maintaining the anesthesia or sedation without having a licensed person certified in advanced cardiac life support present and monitoring the patient.

D. Dr. Omidi did not have the appropriate monitoring when he performed the procedures on Jennifer C. and Charlsetta R. While there is evidence that he used a pulse oximeter, the records do not reflect the use of an electrocardiogram.

NINTH CAUSE FOR DISCIPLINE

(Failure to Maintain Effective Control of Controlled Substances)

75. Respondent is subject to discipline pursuant to section 4170 of the Code in that he dispensed drugs pursuant to Section 4170 but failed to store all drugs to be dispensed in a locked and secure storage area within a physician's office and allowed unauthorized staff access to the storage area in violation of section 1356.3 of title 19 of the Regulations from May 2005 to September 2005 at his Lancaster, Beverly Hills and West Hills facility. Dr. Omidi failed to maintain effective control over Propofol (Dipravan), Fentanyl, Ketamine, Merepidine, and Morphine, in addition to other dangerous drugs. He also failed to maintain required drug logs.

TENTH CAUSE FOR DISCIPLINE

(Failure to Maintain Adequate and Accurate Records–

Patients Clinton J., Charlsetta R. and Jennifer C.)

76. By reason of the matters alleged in paragraphs 27 through 54, Respondent is subject to disciplinary action under section 2266 of the Code and CCR, title 19, section 1356.6, subdivision (b)(4) in that he failed to maintain adequate and accurate records relating to his provision of services to patients Clinton J., Charlsetta R. and Jennifer C. The circumstances are as follows:

77. Respondent failed to maintain records in the manner necessary to meet the standard of practice for patients Clinton J., Charsletta R. and Jennifer C. in that he failed to include sufficient information to determine the quantities of drugs and fluids infused and the volume of fat, fluid and supranatant extracted and the nature and duration of any other surgical procedures performed during the same session as the liposuction procedure, in violation of section 1356.6, subdivision (b)(4), of title 19 of the Regulations.

78. Respondent failed to maintain records in the manner necessary to meet the standard of practice for patients Charsletta R. and Jennifer C. in that he failed to describe the persons present in the surgery setting.

TENTH CAUSE FOR DISCIPLINE

(Dishonest and Corrupt Acts)

79. By reason of the matters alleged in paragraphs 27 through 80, Respondent is subject to disciplinary action under section 2234, subdivision (e) in that Respondent has committed dishonest and corrupt acts which is substantially related to the qualifications, functions, or duties of a physician and surgeon.

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 and Surgeon's Number A84519, issued to Michael Omidi, M.D.

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

3. Revoking, suspending or denying approval of his authority to supervise medical assistants, pursuant to section 2069 of the Code;

4. Ordering him to pay the Division of Medical Quality the costs of probation monitoring if placed on probation;

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

DATED: May 15, 2007

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