

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

**In the Matter of the Accusation
Against:**

Digish Dinesh Shah, M.D.

**Physician's & Surgeon's
Certificate No A 116712**

Respondent.

Case No. 800-2018-043056

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 JUN 17 2020

IT IS SO ORDERED MAY 18 2020

MEDICAL BOARD OF CALIFORNIA



**Kristina D. Lawson, J.D., Chair
Panel B**

1 XAVIER BECERRA
Attorney General of California
2 ROBERT MCKIM BELL
Supervising Deputy Attorney General
3 CLAUDIA RAMIREZ
Deputy Attorney General
4 State Bar No. 205340
California Department of Justice
5 300 South Spring Street, Suite 1702
Los Angeles, CA 90013
6 Telephone: (213) 269-6482
Facsimile: (916) 731-2117
7 *Attorneys for Complainant*

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

12 In the Matter of the Accusation Against:

13 DIGISH DINESH SHAH, M.D.

14 1250 16th Street, Suite A454
Santa Monica, California 90404

15 Physician's and Surgeon's Certificate
16 No. A 116712,

17 Respondent.

Case No. 800-2018-043056

OAH No. 2019090524

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

18
19 **IT IS HEREBY STIPULATED AND AGREED** by and between the parties to the above-
20 entitled proceedings that the following matters are true:

21 **PARTIES**

22 1. Christine J. Lally ("Complainant") is the Interim Executive Director of the Medical
23 Board of California ("Board"). She brought this action solely in her official capacity and is
24 represented in this matter by Xavier Becerra, Attorney General of the State of California, by
25 Claudia Ramirez, Deputy Attorney General.

26 2. Respondent Digish Dinesh Shah, M.D. ("Respondent") is represented in this
27 proceeding by attorney Benjamin J. Fenton of the Fenton Law Group, LLP, 1990 South Bundy
28 Drive, Suite 777, Los Angeles, California 90025.

1 pursuant to Business and Professions Code section 2227, subdivision (a)(4). This public
2 reprimand, which is issued in connection with Respondent's conviction of driving under the
3 influence of alcohol, as set forth in Accusation No. 800-2018-043056, is as follows:

4 "On April 1, 2018, you were involved in a minor traffic collision while driving under the
5 influence of alcohol. Two breath tests showed that your blood alcohol concentration
6 ("BAC") level was 0.206 percent and 0.220 percent. On June 7, 2018, you pled nolo
7 contendere to and were convicted of violating Vehicle Code section 23152, subdivision (b),
8 a misdemeanor, for driving under the influence of alcohol with a BAC of 0.08 percent or
9 more. You have provided significant evidence of mitigation and rehabilitation."

10 **IT IS FURTHER ORDERED THAT** Respondent shall comply with the following:

11 2. PROFESSIONALISM PROGRAM (ETHICS COURSE). Within 60 calendar
12 days of the effective date of this Decision, Respondent shall enroll in a professionalism program,
13 that meets the requirements of Title 16, California Code of Regulations (CCR) section 1358.1.
14 Respondent shall participate in and successfully complete that program. Respondent shall
15 provide any information and documents that the program may deem pertinent. Respondent shall
16 successfully complete the classroom component of the program not later than six (6) months after
17 Respondent's initial enrollment, and the longitudinal component of the program not later than the
18 time specified by the program, but no later than one (1) year after attending the classroom
19 component. The professionalism program shall be at Respondent's expense and shall be in
20 addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

21 A professionalism program taken after the acts that gave rise to the charges in the
22 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board
23 or its designee, be accepted towards the fulfillment of this condition if the program would have
24 been approved by the Board or its designee had the program been taken after the effective date of
25 this Decision.

26 Respondent shall submit a certification of successful completion to the Board or its
27 designee not later than 15 calendar days after successfully completing the program or not later
28 than 15 calendar days after the effective date of the Decision, whichever is later.

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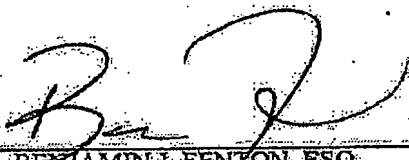
3. VIOLATION OF THIS ORDER. Failure to comply with any of the terms of this Disciplinary Order constitutes unprofessional conduct in violation of Business and Professions Code section 2234. If Respondent violates this Disciplinary Order in any respect, the Board may file an Accusation and, after a hearing, discipline Respondent's license for unprofessional conduct.

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Benjamin J. Fenton. I understand the stipulation and the effect it will have on my Physician's 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 of California.

DATED: 2/10/20 
DIGISH DINESH SHAH, M.D.
Respondent

I have read and fully discussed with Respondent Digish Dinesh Shah, M.D. the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 2/14/20 
BERNARD J. FENTON, ESQ.
Attorney for Respondent

ENDORSEMENT

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

DATED: 2/18/20

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
ROBERT MCKIM BELL
Supervising Deputy Attorney General



CLAUDIA RAMIREZ
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 800-2018-043056

1 XAVIER BECERRA
Attorney General of California
2 E. A. JONES III
Supervising Deputy Attorney General
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Deputy Attorney General
4 State Bar No. 205340
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7 *Attorneys for Complainant*

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO MAY 8 20 19
BY MIA PASTOR ANALYST

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

13 In the Matter of the Accusation Against:

Case No. 800-2018-043056

14 **DIGISH DINESH SHAH, M.D.**
1250 16th Street, Suite A454
Santa Monica, CA 90404

A C C U S A T I O N

15 Physician's and Surgeon's Certificate
No. A 116712,

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

20 1. Kimberly Kirchmeyer ("Complainant") brings this Accusation solely in her official
21 capacity as the Executive Director of the Medical Board of California, Department of Consumer
22 Affairs ("Board").

23 2. On or about April 22, 2011, the Board issued Physician's and Surgeon's Certificate
24 Number A 116712 to Digish Dinesh Shah, M.D. ("Respondent"). That Certificate was in full
25 force and effect at all times relevant to the charges brought herein and will expire on February 28,
26 2021, unless renewed.

27 **JURISDICTION**

28 3. This Accusation is brought before the Board, under the authority of the following

1 laws. All section references are to the Business and Professions Code ("Code") unless otherwise
2 indicated.

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

7 5. Section 2234 of the Code states:

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

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

13 "(b) Gross negligence.

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

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

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

24 "(d) Incompetence.

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

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

28 "(g) The practice of medicine from this state into another state or country without meeting

1 the legal requirements of that state or country for the practice of medicine. Section 2314 shall not
2 apply to this subdivision. This subdivision shall become operative upon the implementation of
3 the proposed registration program described in Section 2052.5.

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

7 6. Section 2236 of the Code states:

8 “(a) The conviction of any offense substantially related to the qualifications, functions, or
9 duties of a physician and surgeon constitutes unprofessional conduct within the meaning of this
10 chapter [Chapter 5, the Medical Practice Act]. The record of conviction shall be conclusive
11 evidence only of the fact that the conviction occurred.

12 “(b) The district attorney, city attorney, or other prosecuting agency shall notify the
13 Division of Medical Quality¹ of the pendency of an action against a licensee charging a felony or
14 misdemeanor immediately upon obtaining information that the defendant is a licensee. The
15 notice shall identify the licensee and describe the crimes charged and the facts alleged. The
16 prosecuting agency shall also notify the clerk of the court in which the action is pending that the
17 defendant is a licensee, and the clerk shall record prominently in the file that the defendant holds
18 a license as a physician and surgeon.

19 “(c) The clerk of the court in which a licensee is convicted of a crime shall, within 48 hours
20 after the conviction, transmit a certified copy of the record of conviction to the board. The
21 division may inquire into the circumstances surrounding the commission of a crime in order to fix
22 the degree of discipline or to determine if the conviction is of an offense substantially related to
23 the qualifications, functions, or duties of a physician and surgeon.

24 “(d) A plea or verdict of guilty or a conviction after a plea of nolo contendere is deemed to
25 be a conviction within the meaning of this section and Section 2236.1. The record of conviction

26
27 ¹ “Unless otherwise expressly provided, the term ‘board’ as used in this chapter means the
28 Medical Board of California. As used in this chapter or any other provision of law, ‘Division of
Medical Quality’ and ‘Division of Licensing’ shall be deemed to refer to the board. (Bus. & Prof.
Code, § 2002.)

1 shall be conclusive evidence of the fact that the conviction occurred.”

2 7. Section 2239 of the Code states:

3 “(a) The use or prescribing for or administering to himself or herself, of any controlled
4 substance; or the use of any of the dangerous drugs specified in Section 4022, or of alcoholic
5 beverages, to the extent, or in such a manner as to be dangerous or injurious to the licensee, or to
6 any other person or to the public, or to the extent that such use impairs the ability of the licensee
7 to practice medicine safely or more than one misdemeanor or any felony involving the use,
8 consumption, or self-administration of any of the substances referred to in this section, or any
9 combination thereof, constitutes unprofessional conduct. The record of the conviction is
10 conclusive evidence of such unprofessional conduct.

11 “(b) A plea or verdict of guilty or a conviction following a plea of nolo contendere is
12 deemed to be a conviction within the meaning of this section. The Division of Medical Quality
13 may order discipline of the licensee in accordance with Section 2227 or the Division of Licensing
14 may order the denial of the license when the time for appeal has elapsed or the judgment of
15 conviction has been affirmed on appeal or when an order granting probation is made suspending
16 imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4
17 of the Penal Code allowing such person to withdraw his or her plea of guilty and to enter a plea of
18 not guilty, or setting aside the verdict of guilty, or dismissing the accusation, complaint,
19 information, or indictment.”

20 8. Section 490 of the Code provides, in pertinent part, that a board may suspend or
21 revoke a license on the ground that the licensee has been convicted of a crime substantially
22 related to the qualifications, functions, or duties of the business or profession for which the
23 license was issued.

24 9. Section 493 of the Code states:

25 “Notwithstanding any other provision of law, in a proceeding conducted by a board within
26 the department pursuant to law to deny an application for a license or to suspend or revoke a
27 license or otherwise take disciplinary action against a person who holds a license, upon the
28 ground that the applicant or the licensee has been convicted of a crime substantially related to the

1 qualifications, functions, and duties of the licensee in question, the record of conviction of the
2 crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact,
3 and the board may inquire into the circumstances surrounding the commission of the crime in
4 order to fix the degree of discipline or to determine if the conviction is substantially related to the
5 qualifications, functions, and duties of the licensee in question.

6 “As used in this section, ‘license’ includes ‘certificate,’ ‘permit,’ ‘authority,’ and
7 ‘registration.’”

8 10. California Code of Regulations, title 16, section 1360, states:

9 “For the purposes of denial, suspension or revocation of a license, certificate or permit
10 pursuant to Division 1.5 (commencing with Section 475) of the code, a crime or act shall be
11 considered to be substantially related to the qualifications, functions or duties of a person holding
12 a license, certificate or permit under the Medical Practice Act if to a substantial degree it
13 evidences present or potential unfitness of a person holding a license, certificate or permit to
14 perform the functions authorized by the license, certificate or permit in a manner consistent with
15 the public health, safety or welfare. Such crimes or acts shall include but not be limited to the
16 following: Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
17 violation of, or conspiring to violate any provision of the Medical Practice Act.”

18 11. Vehicle Code Section 23152, subdivisions (a) and (b), provide, in pertinent part:

19 “(a) It is unlawful for a person who is under the influence of any alcoholic beverage to
20 drive a vehicle.

21 “(b) It is unlawful for a person who has 0.08 percent or more, by weight, of alcohol in his or
22 her blood to drive a vehicle.

23 “For purposes of this article [Article 2, Offenses involving Alcohol and Drugs] and
24 [Vehicle Code] [s]ection 34501.16, percent, by weight, of alcohol in a person’s blood is based
25 upon grams of alcohol per 100 milliliters of blood or grams of alcohol per 210 liters of breath.

26 “In any prosecution under this subdivision, it is a rebuttable presumption that the person
27 had 0.08 percent or more, by weight, of alcohol in his or her blood at the time of driving the
28 vehicle if the person had 0.08 percent or more, by weight, of alcohol in his or her blood at the

1 time of the performance of a chemical test within three hours after the driving.”

2 **FIRST CAUSE FOR DISCIPLINE**

3 **(Dangerous Use of Alcohol)**

4 12. Respondent is subject to disciplinary action under Code section 2239 in that he was
5 convicted of driving under the influence of alcohol, in violation of Vehicle Code section 23152,
6 subdivision (b), a misdemeanor. Respondent also used alcoholic beverages to the extent and in
7 such a manner as to be dangerous or injurious to himself, another person, or to the public. The
8 circumstances are as follows:

9 13. On or about April 1, 2018, at approximately 1:11 a.m., Los Angeles Police
10 Department Officers Miller and Lua received a radio call of a traffic collision at Wilshire and
11 Gayley in West Los Angeles. Upon arrival, the Officers observed the aftermath of a minor traffic
12 collision in which Respondent’s vehicle was facing eastbound on Wilshire behind another vehicle
13 belonging to a female driver.

14 14. The female driver informed the Officers that she was stopped at a red light when
15 Respondent’s vehicle collided with the rear of her car. She further stated that when she spoke to
16 Respondent after the accident, she believed that his speech was slurred and incoherent. Believing
17 Respondent was intoxicated, she called the police.

18 15. Officer Lua noticed Respondent showed objective symptoms of intoxication such as
19 bloodshot watery eyes, unsteady gait, and an odor of an alcoholic beverage emitting from his
20 breath. Respondent spontaneously stated he had been drinking alcohol. Officer Lua asked
21 Respondent if he would submit to a series of field sobriety tests. Respondent agreed to perform
22 the tests. Respondent was unable to complete the tests as explained and demonstrated.

23 16. Based upon Respondent’s performance on the field sobriety tests and objective
24 symptoms of intoxication exhibited by Respondent, Officer Lua formed the opinion that
25 Respondent had been driving under the influence of alcohol and was unable to safely operate a
26 motor vehicle. Respondent was arrested for driving under the influence of alcohol.

27 17. The female driver was transported to UCLA Westwood for treatment of back and
28 neck pain.

1 18. Respondent took two breath tests. A breath sample was collected at 2:10 a.m. and
2 registered a blood alcohol concentration (“BAC”) level of 0.206 percent, more than twice the
3 legal limit. The second sample was collected at 2:13 a.m. and registered a BAC of 0.220 percent.

4 19. On or about April 19, 2018, a Misdemeanor Complaint entitled *The People of the*
5 *State of California v. Digish Dinesh Shah* was filed in the Superior Court for the County of Los
6 Angeles bearing case number 8AR00741. Respondent was charged with one count of driving
7 under the influence of alcohol, in violation of Vehicle Code section 23152, subdivision (a), and
8 one count of driving under the influence of alcohol when BAC was 0.08 percent or more, in
9 violation of Vehicle Code section 23152, subdivision (b).

10 20. On or about April 26, 2018, Respondent entered a plea of not guilty to both counts.

11 21. On or about June 7, 2018, the court dismissed Count One in the furtherance of justice
12 pursuant to Penal Code section 1385. Respondent withdrew his plea of not guilty and pled nolo
13 contendere with the approval of the court as to Count Two. The court found Respondent guilty
14 and Respondent was duly convicted.

15 22. The court ordered that imposition of sentence be suspended. Respondent was placed
16 on summary probation for thirty six months subject to the following terms and conditions:
17 (1) Obey all laws and orders of the court; (2) Pay fines, fees, assessments, and restitution totaling
18 \$1,905. In lieu of paying the fines and other charges, Respondent could perform 12 days of
19 community service; (3) Pay restitution to the victim; (4) Complete a nine-month licensed first-
20 offender alcohol and other drug education and counseling program; (5) Enroll within 21 days in
21 an AB1353 Program (nine-month, first-time DUI offender education program); (6) Attend six
22 alcoholics anonymous/narcotics anonymous meetings; (7) Do not operate a car with a
23 measurable amount of alcohol or drugs in the blood or refuse to take and complete DUI-related
24 tests when requested by a peace officer; (8) Do not operate a car without a valid driver’s license
25 or without liability insurance in at least the minimum amounts required by law; and (9) Do not
26 communicate with any person believed to be or known to be a gang member.²

27 _____
28 ² There was no allegation in the criminal case and there is no allegation in the instant
administrative case that Respondent has or had any affiliation with a gang member.


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PRAYER

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

1. Revoking or suspending Physician's and Surgeon's Certificate Number A 116712, issued to Respondent Digish Dinesh Shah, M.D.;
2. Revoking, suspending or denying approval of Respondent Digish Dinesh Shah, M.D.'s authority to supervise physician assistants and advanced practice nurses;
3. Ordering Respondent Digish Dinesh Shah, M.D., if placed on probation, to pay the Board the costs of probation monitoring; and
4. Taking such other and further action as deemed necessary and proper.

DATED: May 8, 2019


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

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