

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

In the Matter of the Accusation Against:

Hector Hernandez Arnazzi, M.D.

Physician's and Surgeon's
Certificate No. G 40005

Respondent.

MBC File # 800-2017-030314

**ORDER CORRECTING NUNC PRO TUNC
CLERICAL ERROR IN "DISCIPLINARY ORDER" PORTION OF DECISION**

On its own motion, the Medical Board of California (hereafter "Board") finds that there is a clerical error in the "Disciplinary Order" portion of the Decision in the above-entitled matter, and that such clerical error should be corrected.

IT IS HEREBY ORDERED that the Decision in the above-entitled matter be and is hereby amended and corrected nunc pro tunc to reflect that the paragraph entitled "SUPERVISION OF PHYSICIAN ASSISTANTS AND ADVANCED PRACTICE NURSES" is numbered 8.5.

June 3, 2020



Ronald H. Lewis, M.D., Chair
Panel A

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

In the Matter of the Accusation Against:

Hector Hernandez Arnazzi, M.D.

Case No. 800-2017-030314

**Physician's & Surgeon's Certificate
No. G 40005**

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 June 4, 2020.

IT IS SO ORDERED: May 5, 2020.

MEDICAL BOARD OF CALIFORNIA



**Ronald H. Lewis, M.D., Chair
Panel A**

1 XAVIER BECERRA
Attorney General of California
2 JUDITH T. ALVARADO
Supervising Deputy Attorney General
3 VLADIMIR SHALKEVICH
Deputy Attorney General
4 State Bar No. 173955
California Department of Justice
5 300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
6 Telephone: (213) 269-6538
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 **HECTOR HERNANDEZ ARNAZZI, M.D.**
14 **3400 W LOMITA BLVD STE 201**
15 **TORRANCE, CA**
90505

16 **Physician's and Surgeon's Certificate No. G**
17 **40005,**

18 Respondent.

Case No. 800-2017-030314

OAH No. 2019090134

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

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

22 **PARTIES**

23 1. Christine J. Lally (Complainant) is the Interim Executive Director of the Medical
24 Board of California (Board). Kimberly Kirchmeyer, the Board's former Executive Director,
25 brought this action solely in her official capacity and is represented in this matter by Xavier
26 Becerra, Attorney General of the State of California, by Vladimir Shalkevich, Deputy Attorney
27 General.

28 ///

2. Respondent Hector Hernandez Arnazzi, M.D. (Respondent) is represented in this proceeding by attorney Keith Landrum, whose address is: 8840 Wilshire Blvd., Suite 321 Beverly Hills, CA 90211

3. On or about July 10, 1979, the Board issued Physician's and Surgeon's Certificate No. G 40005 to Hector Hernandez Arnazzi, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2017-030314, and will expire on September 30, 2020, unless renewed.

JURISDICTION

4. Accusation No. 800-2017-030314 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 22, 2019. Respondent timely filed his Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 800-2017-030314 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 800-2017-030314. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

7. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the 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.

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

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1 **CULPABILITY**

2 9. Respondent understands and agrees that the charges and allegations in Accusation
3 No. 800-2017-030314, if proven at a hearing, constitute cause for imposing discipline upon his
4 Physician's and Surgeon's Certificate.

5 10. For the purpose of resolving the Accusation without the expense and uncertainty of
6 further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual
7 basis for the charges in the Accusation, and that Respondent hereby gives up his right to contest
8 those charges.

9 11. Respondent agrees that if he ever petitions for reinstatement of his Physician's and
10 Surgeon's Certificate No. G 40005, all of the charges and allegations contained in Accusation No.
11 800-2017-030314 shall be deemed true, correct and fully admitted by respondent for purposes of
12 that reinstatement proceeding or any other licensing proceeding involving respondent in the State
13 of California

14 12. Respondent agrees that his Physician's and Surgeon's Certificate is subject to
15 discipline and he agrees to be bound by the Board's probationary terms as set forth in the
16 Disciplinary Order below.

17 **CONTINGENCY**

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

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14. The parties understand and agree that Portable Document Format (PDF) and facsimile copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile signatures thereto, shall have the same force and effect as the originals.

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

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. G 40005 issued to Respondent HECTOR HERNANDEZ ARNAZZI, M.D. is revoked. However, the revocation is stayed and Respondent is placed on probation for five (5) years on the following terms and conditions.

1. ACTUAL SUSPENSION. As part of probation, Respondent is suspended from the practice of medicine for 360 day, beginning the sixteenth (16th) day after the effective date of this decision.

2. CLINICAL COMPETENCE ASSESSMENT PROGRAM. Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a clinical competence assessment program approved in advance by the Board or its designee. Respondent shall successfully complete the program not later than six (6) months after Respondent's initial enrollment unless the Board or its designee agrees in writing to an extension of that time.

The program shall consist of a comprehensive assessment of Respondent's physical and mental health and the six general domains of clinical competence as defined by the Accreditation Council on Graduate Medical Education and American Board of Medical Specialties pertaining to Respondent's current or intended area of practice. The program shall take into account data obtained from the pre-assessment, self-report forms and interview, and the Decision(s), Accusation(s), and any other information that the Board or its designee deems relevant. The program shall require Respondent's on-site participation for a minimum of three (3) and no more than five (5) days as determined by the program for the assessment and clinical education evaluation. Respondent shall pay all expenses associated with the clinical competence

1 assessment program.

2 At the end of the evaluation, the program will submit a report to the Board or its designee
3 which unequivocally states whether the Respondent has demonstrated the ability to practice
4 safely and independently. Based on Respondent's performance on the clinical competence
5 assessment, the program will advise the Board or its designee of its recommendation(s) for the
6 scope and length of any additional educational or clinical training, evaluation or treatment for any
7 medical condition or psychological condition, or anything else affecting Respondent's practice of
8 medicine. Respondent shall comply with the program's recommendations.

9 Determination as to whether Respondent successfully completed the clinical competence
10 assessment program is solely within the program's jurisdiction.

11 If Respondent fails to enroll, participate in, or successfully complete the clinical
12 competence assessment program within the designated time period, Respondent shall receive a
13 notification from the Board or its designee to cease the practice of medicine within three (3)
14 calendar days after being so notified. The Respondent shall not resume the practice of medicine
15 until enrollment or participation in the outstanding portions of the clinical competence assessment
16 program have been completed. If the Respondent did not successfully complete the clinical
17 competence assessment program, the Respondent shall not resume the practice of medicine until a
18 final decision has been rendered on the accusation and/or a petition to revoke probation. The
19 cessation of practice shall not apply to the reduction of the probationary time period.

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

1 The Board or its designee shall provide the approved monitor with copies of the Decision(s)
2 and Accusation(s), and a proposed monitoring plan. Within 15 calendar days of receipt of the
3 Decision(s), Accusation(s), and proposed monitoring plan, the monitor shall submit a signed
4 statement that the monitor has read the Decision(s) and Accusation(s), fully understands the role
5 of a monitor, and agrees or disagrees with the proposed monitoring plan. If the monitor disagrees
6 with the proposed monitoring plan, the monitor shall submit a revised monitoring plan with the
7 signed statement for approval by the Board or its designee.

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

12 If Respondent fails to obtain approval of a monitor within 60 calendar days of the effective
13 date of this Decision, Respondent shall receive a notification from the Board or its designee to
14 cease the practice of medicine within three (3) calendar days after being so notified. Respondent
15 shall cease the practice of medicine until a monitor is approved to provide monitoring
16 responsibility.

17 The monitor(s) shall submit a quarterly written report to the Board or its designee which
18 includes an evaluation of Respondent's performance, indicating whether Respondent's practices
19 are within the standards of practice of medicine, and whether Respondent is practicing medicine
20 safely, billing appropriately or both. It shall be the sole responsibility of Respondent to ensure
21 that the monitor submits the quarterly written reports to the Board or its designee within 10
22 calendar days after the end of the preceding quarter.

23 If the monitor resigns or is no longer available, Respondent shall, within 5 calendar days of
24 such resignation or unavailability, submit to the Board or its designee, for prior approval, the
25 name and qualifications of a replacement monitor who will be assuming that responsibility within
26 15 calendar days. If Respondent fails to obtain approval of a replacement monitor within 60
27 calendar days of the resignation or unavailability of the monitor, Respondent shall receive a
28 notification from the Board or its designee to cease the practice of medicine within three (3)

1 calendar days after being so notified. Respondent shall cease the practice of medicine until a
2 replacement monitor is approved and assumes monitoring responsibility.

3 In lieu of a monitor, Respondent may participate in a professional enhancement program
4 approved in advance by the Board or its designee that includes, at minimum, quarterly chart
5 review, semi-annual practice assessment, and semi-annual review of professional growth and
6 education. Respondent shall participate in the professional enhancement program at
7 Respondent's expense during the term of probation.

8 4. PROHIBITED PRACTICE. During probation, Respondent is prohibited from
9 performing any out-patient surgical procedure at any office or facility that is not accredited
10 pursuant to Health and Safety Code section 1248.1. After the effective date of this Decision, all
11 patients being treated by the Respondent shall be notified that the Respondent is prohibited from
12 performing any surgical procedures outside of a facility accredited pursuant to Health and Safety
13 Code section 1248.1. Any new patients must be provided this notification at the time of their
14 initial appointment.

15 Respondent shall maintain a log of all patients to whom the required oral notification was
16 made. The log shall contain the: 1) patient's name, address and phone number; 2) patient's
17 medical record number, if available; 3) the full name of the person making the notification; 4) the
18 date the notification was made; and 5) a description of the notification given. Respondent shall
19 keep this log in a separate file or ledger, in chronological order, shall make the log available for
20 immediate inspection and copying on the premises at all times during business hours by the Board
21 or its designee, and shall retain the log for the entire term of probation.

22 5. MALPRACTICE LIABILITY COVERAGE. At all times during the period of
23 probation, Respondent shall maintain a policy of liability insurance that is in compliance with
24 Business and Professions Code section 2216.2. Respondent shall provide evidence of
25 malpractice liability coverage on a quarterly basis in conjunction with compliance with Condition
26 10 hereof, or upon demand made by the Board or its designee. If, during the period of probation,
27 Respondent's malpractice liability insurance coverage lapses for any reason, Respondent shall be
28 notified by the Board to cease performing surgical procedures outside of a general acute care

1 hospital. Upon receipt of such a notification, Respondent shall cease performing surgical
2 procedures outside of a general acute care hospital, until Respondent's malpractice liability
3 insurance coverage is restored and verified by the Board or its designee. Respondent shall
4 provide to the Board or its designee the evidence of restored malpractice liability coverage in
5 compliance with Business and Professions Code section 2216.2. The Board or its designee shall
6 verify said liability coverage with the insurer. Upon verification of liability coverage, and
7 delivery of the written notice of acceptance of the proof of coverage to Respondent, Respondent
8 may resume performing surgical procedures outside of a general acute care hospital. The
9 acceptance of the proof of coverage shall be in the sole discretion of the Board or its designee.

10 6. MEDICAL RECORD KEEPING COURSE. Within 60 calendar days of the effective
11 date of this Decision, Respondent shall enroll in a course in medical record keeping approved in
12 advance by the Board or its designee. Respondent shall provide the approved course provider
13 with any information and documents that the approved course provider may deem pertinent.
14 Respondent shall participate in and successfully complete the classroom component of the course
15 not later than six (6) months after Respondent's initial enrollment. Respondent shall successfully
16 complete any other component of the course within one (1) year of enrollment. The medical
17 record keeping course shall be at Respondent's expense and shall be in addition to the Continuing
18 Medical Education (CME) requirements for renewal of licensure.

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

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

27 7. PROFESSIONALISM PROGRAM (ETHICS COURSE). Within 60 calendar days of
28 the effective date of this Decision, Respondent shall enroll in a professionalism program, that

1 meets the requirements of Title 16, California Code of Regulations (CCR) section 1358.1.
2 Respondent shall participate in and successfully complete that program. Respondent shall
3 provide any information and documents that the program may deem pertinent. Respondent shall
4 successfully complete the classroom component of the program not later than six (6) months after
5 Respondent's initial enrollment, and the longitudinal component of the program not later than the
6 time specified by the program, but no later than one (1) year after attending the classroom
7 component. The professionalism program shall be at Respondent's expense and shall be in
8 addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

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

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

17 8. NOTIFICATION. Within seven (7) days of the effective date of this Decision, the
18 Respondent shall provide a true copy of this Decision and Accusation to the Chief of Staff or the
19 Chief Executive Officer at every hospital where privileges or membership are extended to
20 Respondent, at any other facility where Respondent engages in the practice of medicine,
21 including all physician and locum tenens registries or other similar agencies, and to the Chief
22 Executive Officer at every insurance carrier which extends malpractice insurance coverage to
23 Respondent. Respondent shall submit proof of compliance to the Board or its designee within 15
24 calendar days.

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

26 SUPERVISION OF PHYSICIAN ASSISTANTS AND ADVANCED PRACTICE NURSES.

27 During probation, Respondent is prohibited from supervising physician assistants and advanced
28 practice nurses.

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

4 10. QUARTERLY DECLARATIONS. Respondent shall submit quarterly declarations
5 under penalty of perjury on forms provided by the Board, stating whether there has been
6 compliance with all the conditions of probation.

7 Respondent shall submit quarterly declarations not later than 10 calendar days after the end
8 of the preceding quarter.

9 11. GENERAL PROBATION REQUIREMENTS.

10 Compliance with Probation Unit

11 Respondent shall comply with the Board's probation unit.

12 Address Changes

13 Respondent shall, at all times, keep the Board informed of Respondent's business and
14 residence addresses, email address (if available), and telephone number. Changes of such
15 addresses shall be immediately communicated in writing to the Board or its designee. Under no
16 circumstances shall a post office box serve as an address of record, except as allowed by Business
17 and Professions Code section 2021(b).

18 Place of Practice

19 Respondent shall not engage in the practice of medicine in Respondent's or patient's place
20 of residence, unless the patient resides in a skilled nursing facility or other similar licensed
21 facility.

22 License Renewal

23 Respondent shall maintain a current and renewed California physician's and surgeon's
24 license.

25 Travel or Residence Outside California

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

1 In the event Respondent should leave the State of California to reside or to practice
2 ,Respondent shall notify the Board or its designee in writing 30 calendar days prior to the dates of
3 departure and return.

4 12. INTERVIEW WITH THE BOARD OR ITS DESIGNEE. Respondent shall be
5 available in person upon request for interviews either at Respondent's place of business or at the
6 probation unit office, with or without prior notice throughout the term of probation.

7 13. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or
8 its designee in writing within 15 calendar days of any periods of non-practice lasting more than
9 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is
10 defined as any period of time Respondent is not practicing medicine as defined in Business and
11 Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct
12 patient care, clinical activity or teaching, or other activity as approved by the Board. If
13 Respondent resides in California and is considered to be in non-practice, Respondent shall
14 comply with all terms and conditions of probation. All time spent in an intensive training
15 program which has been approved by the Board or its designee shall not be considered non-
16 practice and does not relieve Respondent from complying with all the terms and conditions of
17 probation. Practicing medicine in another state of the United States or Federal jurisdiction while
18 on probation with the medical licensing authority of that state or jurisdiction shall not be
19 considered non-practice. A Board-ordered suspension of practice shall not be considered as a
20 period of non-practice.

21 In the event Respondent's period of non-practice while on probation exceeds 18 calendar
22 months, Respondent shall successfully complete the Federation of State Medical Boards's Special
23 Purpose Examination, or, at the Board's discretion, a clinical competence assessment program
24 that meets the criteria of Condition 18 of the current version of the Board's "Manual of Model
25 Disciplinary Orders and Disciplinary Guidelines" prior to resuming the practice of medicine.

26 Respondent's period of non-practice while on probation shall not exceed two (2) years.

27 Periods of non-practice will not apply to the reduction of the probationary term.

28 Periods of non-practice for a Respondent residing outside of 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; General Probation Requirements; Quarterly Declarations; Abstain from the Use of Alcohol and/or Controlled Substances; and Biological Fluid Testing.

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

15. 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 Respondent notice and the opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If an Accusation, or 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.

16. LICENSE SURRENDER. Following the effective date of this Decision, if Respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy the terms and conditions of probation, Respondent may request to surrender his or her license. The Board reserves the right to evaluate Respondent's request and to exercise its discretion in determining 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 Respondent's wallet and wall certificate 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. If Respondent re-applies for a medical license, the application shall be treated as a petition for reinstatement of a revoked certificate.

17. PROBATION MONITORING COSTS. Respondent shall pay the costs associated with probation monitoring each and every year of probation, as designated by the Board, which may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of

1 California and delivered to the Board or its designee no later than January 31 of each calendar
2 year.

3 **ACCEPTANCE**

4 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
5 discussed it with my attorney, Keith Landrum. I understand the stipulation and the effect it will
6 have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement and
7 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the
8 Decision and Order of the Medical Board of California.

9
10 DATED: 04/01/2020


11 HECTOR HERNANDEZ ARNAZZI, M.D.
Respondent

12 I have read and fully discussed with Respondent Hector Hernandez Arnazzi, M.D. the terms
13 and conditions and other matters contained in the above Stipulated Settlement and Disciplinary
14 Order. I approve its form and content.

15 DATED: 4/08/2020


16 KEITH LANDRUM
Attorney for Respondent

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ENDORSEMENT

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

DATED: April 8, 2020

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
JUDITH T. ALVARADO
Supervising Deputy Attorney General

Electronically signed



VLADIMIR SHALKEVICH
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 800-2017-030314

1 XAVIER BECERRA
Attorney General of California
2 ROBERT MCKIM BELL
Supervising Deputy Attorney General
3 VLADIMIR SHALKEVICH
Deputy Attorney General
4 State Bar No. 173955
California Department of Justice
5 300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
6 Telephone: (213) 269-6538
Facsimile: (213) 897-9395
7 Attorneys for Complainant

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO May 22 20 19
BY [Signature] ANALYST

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

12
13 In the Matter of the Accusation Against:

Case No. 800-2017-030314

14 **Hector Hernandez Arnazzi, M.D.**
15 **3400 West Lomita Blvd., Suite 201**
Torrance, California 90505

ACCUSATION

16 **Physician's and Surgeon's Certificate**
17 **No. G 40005,**

18 Respondent.

19
20 Complainant alleges:

21 **PARTIES**

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

25 2. On or about July 10, 1979, the Medical Board issued Physician's and Surgeon's
26 Certificate Number G 40005 to Hector Hernandez Arnazzi, M.D. (Respondent). The Physician's
27 and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought
28 herein and will expire on September 30, 2020, unless renewed.

JURISDICTION

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

5. 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. Outpatient settings where anxiolytics and analgesics are administered are excluded when administered, in compliance with the community standard of practice, in doses that do not have the probability of placing the patient at risk for loss of the patient's life-preserving protective reflexes.

“The definition of “outpatient settings” contained in subdivision (c) of Section 1248 shall apply to this section.”

6. Section 2216.2 of the Code, states:

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

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

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

“(d) The security required by this section shall be acceptable only if provided by any one of

1 the following:

2 “(1) An insurer admitted pursuant to Section 700 of the Insurance Code to transact liability
3 insurance in this state.

4 “(2) An insurer that is eligible pursuant to Section 1765.1 of the Insurance Code.

5 “(3) A cooperative corporation authorized by Section 1280.7 of the Insurance Code.

6 “(4) An insurer licensed to transact liability insurance in at least one state of the United
7 States.”

8 7. Section 2234 of the Code, states:

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

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

14 “(b) Gross negligence.

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

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

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

25 “(d) Incompetence.

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

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

1 “(g) The practice of medicine from this state into another state or country without meeting
2 the legal requirements of that state or country for the practice of medicine. Section 2314 shall not
3 apply to this subdivision. This subdivision shall become operative upon the implementation of the
4 proposed registration program described in Section 2052.5.

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

8 8. Section 2259.8 of the Code, states:

9 “(a) Notwithstanding any other provision of law, an elective cosmetic surgery procedure
10 may not be performed on a patient unless the patient has received, within 30 days prior to the
11 elective cosmetic surgery procedure, and confirmed as up-to-date on the day of the procedure, an
12 appropriate physical examination by, and written clearance for the procedure from, any of the
13 following:

14 “(1) The physician and surgeon who will be performing the surgery.

15 “(2) Another licensed physician and surgeon.

16 “(3) A certified nurse practitioner, in accordance with a certified nurse practitioner's scope
17 of practice, unless limited by protocols or a delegation agreement.

18 “(4) A licensed physician assistant, in accordance with a licensed physician assistant's
19 scope of practice, unless limited by protocols or a delegation agreement.

20 “(b) The physical examination described in subdivision (a) shall include the taking of an
21 appropriate medical history.

22 “(c) An appropriate medical history and physical examination done on the day of the
23 procedure shall be presumed to be in compliance with subdivisions (a) and (b).

24 “(d) “Elective cosmetic surgery” means an elective surgery that is performed to alter or
25 reshape normal structures of the body in order to improve the patient's appearance, including, but
26 not limited to, liposuction and elective facial cosmetic surgery.

27 “(e) Section 2314 shall not apply to this section.”

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1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Gross Negligence)**

3 9. Respondent Hector Hernandez Arnazzi, M.D. is subject to disciplinary action under
4 section 2234, subdivision (b), in that he was grossly negligent in his care and treatment of a
5 patient. The circumstances are as follows:

6 **Factual Allegations:**

- 7 A. Patient #1¹ saw Respondent on May 24, 2016, for a consultation regarding
8 liposuction and fat transfer to her buttocks. Respondent claims Patient #1 gave
9 informed consent. The patient's eldest daughter, A, went with her to this
10 consultation. A said Respondent did not discuss the risks and benefits prior to the
11 procedure. According to A, the consultation only took 10 minutes. Respondent did
12 not take any vital signs or blood.
- 13 B. On June 9, 2016, patient #1 went to Respondent's unaccredited office for the
14 procedures. She was given a combination of local anesthesia with lidocaine and
15 propofol. According to the medical assistant, the abdomen procedure started at 1:00
16 in the afternoon and ended within 45 minutes. The right flank procedure started at
17 2:15 p.m. and the left flank started at 3:13 p.m. She claims the patient was fine at that
18 point. The fat transfer procedure started at 4:14 p.m. and came to an unexpected stop
19 only 5 minutes later. The patient became unresponsive. Respondent flipped the
20 patient over to do chest compressions and when he did so, one of the electrode leads
21 broke.
- 22 C. The patient's other daughter, B, was in the waiting room and could hear Respondent
23 make a slapping sound and say in Spanish, "Wake up." B was told by the office
24 assistant that the patient had fainted. Respondent called 911 and the patient was
25 transferred to the hospital where she subsequently passed away.

26
27
28 ¹ The patients and other individuals are anonymized to protect their privacy. The
identities are available to Respondent upon request for Discovery.

1 D. Respondent is an obstetrician/gynecologist but mainly does liposuction procedures.
2 His office is not accredited; he has no hospital privileges and no medical malpractice
3 insurance.

4 Allegations of Gross Negligence:

5 E. The standard of care for informed consent requires that a physician explain the risks
6 of the procedures. Risks of fat transfer includes a discussion of pain, infection,
7 bleeding, pulmonary embolism, fat embolism and death. A document in the record
8 shows that Respondent allegedly discussed benefits and complications of liposuction
9 but not fat transfer to buttocks, therefore, this is an extreme departure from the
10 standard of care.

11 F. The standard of care requires physicians to perform certain procedures in an
12 accredited surgery center when the procedure requires anesthesia to be administered
13 in doses that have the probability of placing the patient at risk for loss of life-
14 preserving protective reflexes. Since Respondent used propofol, he should have
15 performed the surgery at an accredited facility. Conditions of accreditation require
16 hospital privileges and a variety of other protocols which Respondent did not have.
17 Performance by Respondent of the June 9, 2016, procedure at Respondent's
18 unaccredited office/surgery center was an extreme departure from the standard of
19 care.

20 **SECOND CAUSE FOR DISCIPLINE**

21 **(Repeated Negligent Acts)**

22 10. Respondent Hector Hernandez Arnazzi, M.D. is subject to disciplinary action under
23 section 2234, subdivision (c), in that he was negligent in his care and treatment of a patient. The
24 circumstances are as follows:

25 A. Complainant incorporates by reference the allegations in paragraph 9, subparagraphs
26 A through F, as though fully set forth herein.

27 B. Respondent injected fat into a large vessel. The cause of death was macro fat
28 pulmonary embolism which indicates that Respondent's cannula was not in the

1 subcutaneous plane when he caused the embolism. Accordingly, Respondent's
2 performance of the fat transfer procedure was a simple departure from the standard of
3 care.

4 **THIRD CAUSE FOR DISCIPLINE**

5 **(Improper Anesthesia)**

6 11. Respondent Hector Hernandez Arnazzi, M.D. is subject to disciplinary action under
7 Code section 2216 in that he performed procedures in an outpatient setting using anesthesia in
8 doses that, when administered, had the probability of placing a patient at risk for loss of the
9 patient's life-preserving protective reflexes. The circumstances are as follows:

10 A. Complainant incorporates by reference the allegations in paragraph 9,
11 subparagraphs A through F, as though fully set forth herein.

12 **FOURTH CAUSE FOR DISCIPLINE**

13 **(Lack of Liability Coverage)**

14 12. Respondent Hector Hernandez Arnazzi, M.D. is subject to disciplinary action under
15 Code section 2216.2 in that he engaged in unprofessional conduct when he failed to provide
16 adequate security by liability insurance, or by participation in an interindemnity trust, for claims
17 by patients arising out of surgical procedures performed outside of a general acute care hospital.
18 The circumstances are as follows:

19 A. Complainant incorporates by reference the allegations in paragraph 9,
20 subparagraphs A through F, as though fully set forth herein.

21 **FIFTH CAUSE FOR DISCIPLINE**

22 **(Lack of Pre-Operative History and Physical)**

23 13. Respondent Hector Hernandez Arnazzi, M.D. is subject to disciplinary action under
24 Code section 2259.8 in that he engaged in unprofessional conduct when he performed an elective
25 cosmetic surgery procedure on a patient without an appropriate physical examination and written
26 clearance for the procedure obtained within 30 days prior to the elective cosmetic surgery
27 procedure, and confirmed as up-to-date on the day of the procedure. The circumstances are as
28 follows:

1 A. Complainant incorporates by reference the allegations in paragraph 9,
2 subparagraphs A through F, as though fully set forth herein.

3 **DISCIPLINARY CONSIDERATIONS**

4 14. To determine the degree of discipline, if any, to be imposed on Respondent Hector
5 Hernandez Arnazzi, M.D., Complainant alleges that on or about March 11, 1994, in a prior
6 disciplinary action entitled In the Matter of the Accusation Against Hector Hernandez Arnazzi,
7 M.D. before the Medical Board of California, in Case Number D-4474, Respondent's license was
8 revoked, the revocation was stayed, and Respondent was placed on probation for three years with
9 terms and conditions. That decision is now final and is incorporated by reference as if fully set
10 forth herein.

11 15. To determine the degree of discipline, if any, to be imposed on Respondent Hector
12 Hernandez Arnazzi, M.D., Complainant alleges that on or about April 1, 2004, in a prior
13 disciplinary action entitled In the Matter of the Accusation Against Hector Hernandez Arnazzi,
14 M.D. before the Medical Board of California, in Case Number 17-1999-103974, Respondent's
15 license was revoked, the revocation was stayed, and Respondent was placed on probation for
16 seven years with terms and conditions. That decision is now final and is incorporated by
17 reference as if fully set forth herein.

18 **PRAYER**

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

21 1. Revoking or suspending Physician's and Surgeon's Certificate Number G 40005,
22 issued to Hector Hernandez Arnazzi, M.D.;

23 2. Revoking, suspending or denying approval of Hector Hernandez Arnazzi, M.D.'s
24 authority to supervise physician assistants and advanced practice nurses;


25 3. Ordering Hector Hernandez Arnazzi, M.D., if placed on probation, to pay the Board
26 the costs of probation monitoring; and

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

May 22, 2019
DATED:


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

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