

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

In the Matter of the Accusation	)	
Against:	)	
	)	No. 11-2000-110596
<b>CRAIG J. BALL, M.D.</b>	)	
Certificate No. G-38467	)	
	)	
	)	
Petitioner	)	

**DECISION AFTER RECONSIDERATION**

A Petition for Reconsideration and Limited Modification and Application for Stay of Decision Pending Modification was filed by the complainant on May 22, 2003. On May 22, 2003, pursuant to Government Code Section 11521, a stay was granted until June 2, 2003, to allow the Board time to review and consider the Petition.


The Division of Medical Quality, having considered the matter, hereby grants the Petition for Reconsideration and Limited Modification and modifies that part of Condition 2 of the Stipulated Settlement and Disciplinary Order (Physician Assessment and Clinical Education Program) found on page 5 at lines 17 and 18 to read as follows: "Commencing 90 days after the effective date of this decision, Respondent shall not practice medicine until he has successfully completed the PACE Program."

The decision of the Division of Medical Quality dated April 22, 2003 is attached as Exhibit A and, except as modified above, is hereby adopted and incorporated by reference as if fully set forth herein.

This decision shall become effective on June 2, 2003.

IT IS SO ORDERED this 2<sup>nd</sup> day of June, 2003.

MEDICAL BOARD OF CALIFORNIA

By:   
**RONALD WENDER, M.D.**  
President  
Division of Medical Quality

**EXHIBIT A**  
**Decision dated April 22, 2003**

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

In the Matter of the Accusation Against: )

)

)

No. 11-2000-110596

**CRAIG J. BALL, M.D.** )

Certificate No. G-38467 )

)

)

Respondent )

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**ORDER GRANTING STAY**

Peter R. Osinoff, Esq., on behalf of Craig J. Ball, M.D., has filed a request for a stay of execution of the Decision in this matter with an effective date of May 22, 2003.


Execution is stayed until June 2, 2003.

This stay is granted solely for the purpose of allowing the Board time to review and consider the Petition for Reconsideration.

DATED: May 22, 2003

**DIVISION OF MEDICAL QUALITY  
MEDICAL BOARD OF CALIFORNIA**

By: \_\_\_\_\_

  
DAVID T. THORNTON  
Chief of Enforcement

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

In the Matter of the Accusation filed )  
Against: )  
)  
)  
**CRAIG J. BALL, M.D.** )  
Certificate No. G-38467 )  
)  
)  
)  
Respondent )

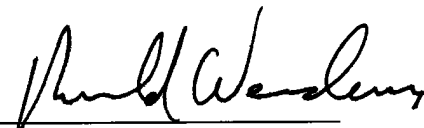
No: 11-2000-110596

**DECISION**

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Division of Medical Quality as its Decision in the above-entitled matter.

This Decision shall become effective at 5:00 p.m. on May 22, 2003.

IT IS SO ORDERED April 22, 2003

By:   
**RONALD WENDER, M.D.**  
Chair - Panel B  
Division of Medical Quality

1 BILL LOCKYER, Attorney General  
of the State of California  
2 CINDY M. LOPEZ, State Bar No. 119988  
Deputy Attorney General  
3 California Department of Justice  
300 So. Spring Street, Suite 1702  
4 Los Angeles, CA 90013  
Telephone: (213) 897-7373  
5 Facsimile: (213) 897-1071

6 Attorneys for Complainant

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

12 In the Matter of the Accusation Against:

13 CRAIG J. BALL, M.D.  
14 73 180 El Paseo  
15 Palm Desert, CA 92260

16 Physician & Surgeon Certificate No. G 38467

17 Respondent.

18 Case No. 11-2000-110596

19 OAH No. L 200100349

20 **STIPULATED SETTLEMENT AND**  
21 **DISCIPLINARY ORDER**

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

24 PARTIES

25 1. Ron Joseph (Complainant) is the Executive Director of the Medical Board  
26 of California. He brought this action solely in his official capacity and is represented in this  
27 matter by Bill Lockyer, Attorney General of the State of California, by Cindy M. Lopez, Deputy  
28 Attorney General.

29 2. Respondent Craig J. Ball, M.D. (Respondent) is represented in this  
30 proceeding by attorney Peter Osinoff, whose address is 3699 Wilshire Blvd., 10th Floor, Los  
31 Angeles, California 90010-2719.

32 3. On or about November 20, 1978, the Medical Board of California issued  
33 Physician & Surgeon Certificate No. G 38467 to Craig J. Ball, M.D. (Respondent). The

1 Certificate was in full force and effect at all times relevant to the charges brought in Accusation  
2 No. 11-2000-110596 and will expire on June 30, 2002, unless renewed.

3 JURISDICTION

4 4. Accusation No. 11-2000-110596 was filed before the Division of Medical  
5 Quality (Division), Medical Board of California, Department of Consumer Affairs,, and is  
6 currently pending against Respondent. The Accusation and all other statutorily required  
7 documents were properly served on Respondent on June 1, 2001. Respondent timely filed his  
8 Notice of Defense contesting the Accusation. A copy of Accusation No. 11-2000-110596 is  
9 attached as exhibit A and incorporated herein by reference.

10 ADVISEMENT AND WAIVERS

11 5. Respondent has carefully read, fully discussed with counsel, and  
12 understands the charges and allegations in Accusation No. 11-2000-110596. Respondent has  
13 also carefully read, fully discussed with counsel, and understands the effects of this Stipulated  
14 Settlement and Disciplinary Order.

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

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

24 CULPABILITY

25 8. For the purpose of resolving Accusation No. 11-2000-110596, without the  
26 expense and uncertainty of further proceedings, Respondent agrees that, at a hearing,  
27 Complainant could establish a factual basis for a violation of Business and Professions Code  
28 section 2234, subdivision (c), in failing to discuss with the anesthesiologist the potential

1 flammability of the ET tube, associated equipment, and the oxygen mixture used by the  
2 anesthesiologist during the laryngeal laser surgery, and in failing to change such equipment,  
3 which resulted in a fire in the patient's throat during surgery in 1996.

4                   9.       Respondent agrees that his Physician & Surgeon Certificate is subject to  
5 discipline and he agrees to be bound by the Division's imposition of discipline as set forth in the  
6 Disciplinary Order below.

7   CONTINGENCY

8                   10.       This stipulation shall be subject to approval by the Division of Medical  
9 Quality. Respondent understands and agrees that counsel for Complainant and the staff of the  
10 Medical Board of California may communicate directly with the Division regarding this  
11 stipulation and settlement, without notice to or participation by Respondent or his counsel. By  
12 signing the stipulation, Respondent understands and agrees that he may not withdraw his  
13 agreement or seek to rescind the stipulation prior to the time the Division considers and acts  
14 upon it. If the Division fails to adopt this stipulation as its Decision and Order, the Stipulated  
15 Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall  
16 be inadmissible in any legal action between the parties, and the Division shall not be disqualified  
17 from further action by having considered this matter.

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

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

24   DISCIPLINARY ORDER

25                   IT IS HEREBY ORDERED that Physician & Surgeon Certificate No. G 38467  
26 issued to Respondent Craig J. Ball, M.D. is revoked. However, the revocation is stayed and  
27 Respondent is placed on probation for seven (7) years on the following terms and conditions.

28                   Within 15 days after the effective date of this decision the respondent shall

1 provide the Division, or its designee, proof of service that respondent has served a true copy of  
2 this decision on the Chief of Staff or the Chief Executive Officer at every hospital where  
3 privileges or membership are extended to respondent or at any other facility where respondent  
4 engages in the practice of medicine and on the Chief Executive Officer at every insurance carrier  
5 where malpractice insurance coverage is extended to respondent.

6           1.       EDUCATION COURSE Within ninety (90) days of the effective date of  
7 this decision, and on an annual basis thereafter, respondent shall submit to the Division or its  
8 designee for its prior approval an educational program or course to be designated by the Division  
9 or its designee which shall be aimed at correcting any areas of deficient practice or knowledge  
10 which shall not be less than 25 hours per year, for each year of probation. This program shall be  
11 in addition to the Continuing Medical Education (CME) requirements for re-licensure.  
12 Following the completion of each course, the Division or its designee may administer an  
13 examination to test respondent's knowledge of the course. Respondent shall provide proof of  
14 attendance for his continuing medical education of which 25 hours were in satisfaction of this  
15 condition and were approved in advance by the Division or its designee.

16           2.       PHYSICIAN ASSESSMENT AND CLINICAL EDUCATION  
17 PROGRAM Within 90 days from the effective date of this decision, respondent, at his/her  
18 expense, shall enroll in The Physician Assessment and Clinical Education Program at the  
19 University of California, San Diego School of Medicine (hereinafter the "PACE Program"). The  
20 PACE Program consists of the Comprehensive Assessment Program which is comprised of two  
21 mandatory components: Phase 1 and Phase 2. Phase 1 is a two-day program which assesses  
22 physical and mental health; neuropsychological performance; basic clinical and communication  
23 skills common to all clinicians; and medical knowledge, skill and judgment pertaining to the  
24 specialty or sub-specialty of the respondent. After the results of Phase 1 are reviewed,  
25 respondent shall complete Phase 2. Phase 2 comprises five (5) days (40 hours) of Clinical  
26 Education in respondent's field of specialty. The specific curriculum of Phase 2 is designed by  
27 PACE Faculty and the Department or Division of respondent's specialty, and utilizes data  
28 obtained from Phase 1. After respondent has completed Phase 1 and Phase 2, the PACE



1 Evaluation Committee will review all results and make a recommendation to the Division or its  
2 designee as to whether further education, clinical training (including scope and length), treatment  
3 of any medical and/or psychological condition and any other matters affecting respondent's  
4 practice of medicine will be required or recommended. The Division or its designee may at any  
5 time request information from PACE regarding the respondent's participation in PACE and/or  
6 information derived therefrom. The Division may order respondent to undergo additional  
7 education, medical and/or psychological treatment based upon the recommendations received  
8 from PACE.

9           Upon approval of the recommendation by the Division or its designee, respondent  
10 shall undertake and complete the recommended and approved PACE Program. At the completion  
11 of the PACE Program, respondent shall submit to an examination on its contents and substance.  
12 The examination shall be designed and administered by the PACE Program faculty. Respondent  
13 shall not be deemed to have successfully completed the program unless he/she passes the  
14 examination. Respondent agrees that the determination of the PACE Program faculty as to  
15 whether or not he passed the examination and/or successfully completed the PACE Program  
16 shall be binding.

17           **Respondent cannot practice medicine until he has successfully completed the**  
18 **PACE Program.**

19           Respondent shall complete the PACE Program no later than six months after his  
20 initial enrollment unless the Division or its designee agrees in writing to a later time for  
21 completion.

22           If respondent successfully completes the PACE Program, including the  
23 examination referenced above, he agrees to cause the PACE Program representative to forward a  
24 Certification of Successful Completion of the program to the Division or its designee. If  
25 respondent fails to successfully complete the PACE Program within the time limits outlined  
26 above, he shall be suspended from the practice of medicine.

27           Failure to participate in, and successfully complete all phases of the PACE  
28 Program, as outlined above, shall constitute a violation of probation.

1                   3.     PROCTORING Within thirty (30) days of the effective date of this  
2 decision, respondent shall submit to the Division or its designee for its prior approval the name  
3 of another physician in respondent's field of practice, who shall proctor respondent's first 15  
4 surgical procedures following the Division's approval of the proctor. The physician shall  
5 provide reports to the Division or its designee.

6                   If the proctor resigns or is no longer available, respondent shall, within fifteen  
7 (15) days, move to have a new monitor appointed, through nomination by respondent and  
8 approval by the Division or its designee.

9                   4.     PROHIBITED PRACTICE During probation, respondent is prohibited  
10 from performing laryngeal laser surgery. At the earliest opportunity, respondent shall inform  
11 applicable patients that respondent is unable to perform this treatment or procedure.

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

15                  6.     QUARTERLY REPORTS Respondent shall submit quarterly  
16 declarations under penalty of perjury on forms provided by the Division, stating whether there  
17 has been compliance with all the conditions of probation.

18                  7.     PROBATION SURVEILLANCE PROGRAM COMPLIANCE  
19 Respondent shall comply with the Division's probation surveillance program. Respondent shall,  
20 at all times, keep the Division informed of his business and residence addresses which shall both  
21 serve as addresses of record. Changes of such addresses shall be immediately communicated in  
22 writing to the Division. Under no circumstances shall a post office box serve as an address of  
23 record, except as allowed by Business and Professions Code section 2021(b).

24                  Respondent shall, at all times, maintain a current and renewed physician's and  
25 surgeon's license.

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

1                   8.       INTERVIEW WITH THE DIVISION, ITS DESIGNEE OR ITS  
2 DESIGNATED PHYSICIAN(S) Respondent shall appear in person for interviews with the  
3 Division, its designee or its designated physician(s) upon request at various intervals and with  
4 reasonable notice.

5                   9.       TOLLING FOR OUT-OF-STATE PRACTICE, RESIDENCE OR IN-  
6 STATE NON-PRACTICE In the event respondent should leave California to reside or to  
7 practice outside the State or for any reason should respondent stop practicing medicine in  
8 California, respondent shall notify the Division or its designee in writing within ten (10) days of  
9 the dates of departure and return or the dates of non-practice within California. Non-practice is  
10 defined as any period of time exceeding thirty (30) days in which respondent is not engaging in  
11 any activities defined in Sections 2051 and 2052 of the Business and Professions Code. All time  
12 spent in an intensive training program approved by the Division or its designee shall be  
13 considered as time spent in the practice of medicine. A Board-ordered suspension of practice  
14 shall not be considered as a period of non-practice. Periods of temporary or permanent residence  
15 or practice outside California or of non-practice within California, as defined in this condition,  
16 will not apply to the reduction of the probationary order.

17                   10.      COMPLETION OF PROBATION Upon successful completion of  
18 probation, respondent's certificate shall be fully restored.

19                   11.      VIOLATION OF PROBATION If respondent violates probation in any  
20 respect, the Division, after giving respondent notice and the opportunity to be heard, may revoke  
21 probation and carry out the disciplinary order that was stayed. If an accusation or petition to  
22 revoke probation is filed against respondent during probation, the Division shall have continuing  
23 jurisdiction until the matter is final, and the period of probation shall be extended until the matter  
24 is final.

25                   12.      COST RECOVERY The respondent is hereby ordered to reimburse the  
26 Division the amount of \$2,000 within ninety (90) days of the effective date of this decision for its  
27 investigative and prosecution costs. Failure to reimburse the Division's cost of investigation and  
28 prosecution shall constitute a violation of the probation order, unless the Division agrees in

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1 writing to payment by an installment plan because of financial hardship. The filing of  
2 bankruptcy by the respondent shall not relieve the respondent of his responsibility to reimburse  
3 the Division for its investigative and prosecution costs.

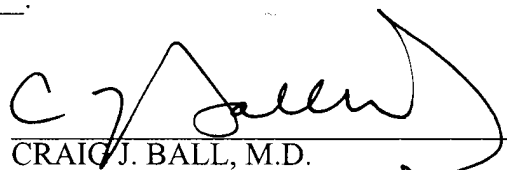
4 13. PROBATION COSTS Respondent shall pay the costs associated with  
5 probation monitoring each and every year of probation, as designated by the Division, which are  
6 currently set at \$2,488, but may be adjusted on an annual basis. Such costs shall be payable to  
7 the Division of Medical Quality and delivered to the designated probation surveillance monitor  
8 no later than January 31 of each calendar year. Failure to pay costs within 30 days of the due  
9 date shall constitute a violation of probation.

10 14. LICENSE SURRENDER Following the effective date of this decision, if  
11 respondent ceases practicing due to retirement, health reasons or is otherwise unable to satisfy  
12 the terms and conditions of probation, respondent may voluntarily tender his certificate to the  
13 Board. The Division reserves the right to evaluate the respondent's request and to exercise its  
14 discretion whether to grant the request, or to take any other action deemed appropriate and  
15 reasonable under the circumstances. Upon formal acceptance of the tendered license, respondent  
16 will not longer be subject to the terms and conditions of probation.

17  
18 ACCEPTANCE

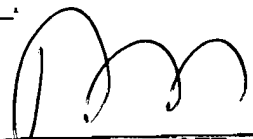
19 I have carefully read the above Stipulated Settlement and Disciplinary Order and  
20 have fully discussed it with my attorney, Peter Osinoff. I understand the stipulation and the  
21 effect it will have on my Physician & Surgeon Certificate. I enter into this Stipulated Settlement  
22 and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the  
23 Decision and Order of the Division of Medical Quality, Medical Board of California.

24 DATED: 9.4.02

25  
26   
27 CRAIG J. BALL, M.D.  
28 Respondent

1 I have read and fully discussed with Respondent Craig J. Ball, M.D. the terms and  
 2 conditions and other matters contained in the above Stipulated Settlement and Disciplinary  
 3 Order. I approve its form and content.

4 DATED: 9/5/02



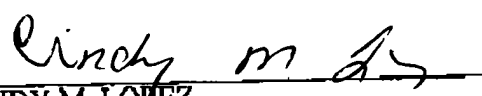
6 PETER OSINOFF  
 7 Attorney for Respondent

8  
 9 ENDORSEMENT

10 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully  
 11 submitted for consideration by the Division of Medical Quality, Medical Board of California of  
 12 the Department of Consumer Affairs.

13  
 14 DATED: 10. 3. 02

15 BILL LOCKYER, Attorney General  
 16 of the State of California



17 CINDY M. LOPEZ  
 18 Deputy Attorney General

19 Attorneys for Complainant

20  
 21 DOJ Docket Number: 03573160-LA01 1744  
 22 Stipulation 8/31/01

23  
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**EXHIBIT A**

1 BILL LOCKYER, Attorney General  
of the State of California  
2 RICHARD AVILA, State Bar No. 91214  
Deputy Attorney General  
3 CINDY M. LOPEZ,  
Deputy Attorney General  
4 California Department of Justice  
300 South Spring Street, Suite 1702  
5 Los Angeles, CA 90013  
Telephone: (213) 897-7373  
6 Facsimile: (213) 897-1071

7 Attorneys for Complainant

**FILED**  
**STATE OF CALIFORNIA**  
**MEDICAL BOARD OF CALIFORNIA**  
SACRAMENTO August 27 20 01  
BY Aileen M. [unclear] ANALYST

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

13 In the Matter of the Accusation Against:

Case No. 11-2000-110596

14 CRAIG J. BALL, M.D.  
73 180 El Paseo  
Palm Desert, California 92260

**ACCUSATION**

15 Physician and Surgeon's Certificate No. G  
38467.  
16 Physician Assistant Supervisor Approval No. SA  
22516,

17 Respondent.

18  
19 Complainant alleges:

20 PARTIES

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

24 2. On or about November 20, 1978, the Medical Board of California issued  
25 Physician and Surgeon's Certificate Number G 38467 to Craig J. Ball, M.D. ("Respondent").  
26 The Physician and Surgeon's Certificate was in full force and effect at all times relevant to the  
27 charges brought herein and will expire on June 30, 2002, unless renewed.

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JURISDICTION

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

4. Section 2004 of the Code states:

"The Division of Medical Quality shall have the responsibility for the following:

"(a) The enforcement of the disciplinary and criminal provisions of the Medical Practice Act.

"(b) The administration and hearing of disciplinary actions.

"(c) Carrying out disciplinary actions appropriate to findings made by a medical quality review committee, the division, or an administrative law judge.

"(d) Suspending, revoking, or otherwise limiting certificates after the conclusion of disciplinary actions.

"(e) Reviewing the quality of medical practice carried out by physician and surgeon certificate holders under the jurisdiction of the board."

5. 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 Division deems proper.

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, or 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.



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"(d) Incompetence.

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

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

7. Section 2266 of the Code provides that 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.

8. Section 14124.12 of the Welfare and Institutions Code states, in pertinent part:

"(a) Upon receipt of written notice from the Medical Board of California, the Osteopathic Medical Board of California, or the Board of Dental Examiners of California, that a licensee's license has been placed on probation as a result of a disciplinary action, the department may not reimburse any Medi-Cal claim for the type of surgical service or invasive procedure that gave rise to the probation, including any dental surgery or invasive procedure, that was performed by the licensee on or after the effective date of probation and until the termination of all probationary terms and conditions or until the probationary period has ended, whichever occurs first. This section shall apply except in any case in which the relevant licensing board determines that compelling circumstances warrant the continued reimbursement during the probationary period of any Medi-Cal claim, including any claim for dental services, as so described. In such a case, the department shall continue to reimburse the licensee for all procedures, except for those invasive or surgical procedures for which the licensee was placed on probation."

9. Section 125.3 of the Code provides, in pertinent part, that the Division may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

///

FIRST CAUSE FOR DISCIPLINE

(Gross Negligence)

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2  
3           10.     Respondent is subject to disciplinary action under section 2234,  
4 subdivision (b) of the Code, in that respondent has engaged in acts and omissions in the care and  
5 treatment of a surgery patient which constitute multiple extreme departures from the standard of  
6 practice. The circumstances are as follows:

7                     A.     On or about November 11, 1996, Patient N.C., age 12, was cleared  
8 for surgery involving suspension microlaryngoscopy and laser of vocal cord nodules as  
9 well as bilateral tonsillectomy. Respondent, an otolaryngologist, scheduled N.C. for  
10 these procedures to address her difficulty with breathing and swallowing from enlarged  
11 tonsils and hoarseness from suspected nodules on her vocal cords.

12                     B.     On or about November 12, 1996, around 11:00 a.m., Dr. Samuel  
13 Loh, an anesthesiologist, saw N.C. at the White Memorial Medical Center for a  
14 presurgery examination and consultation. Respondent did not discuss the planned  
15 operation and its possible complications with N.C., or with N.C.'s parents, prior to the  
16 surgery. Nor did respondent discuss with Dr. Loh the gases and type of endotracheal  
17 tube to be used during the procedure prior to its commencement. Around 12:30 p.m.,  
18 N.C. was brought into the operating room. Dr. Loh induced anesthesia with  
19 thiopental. After administering succinylcholine 100 mg., Dr. Loh took a 5.5 uncuffed  
20 polyvinylchloride (PVC) endotracheal tube, wrapped it with 3-M Scotchlite Plus 580  
21 flexible reflective sheeting down to the level of the cuff, and placed it into N.C.'s throat.  
22 Dr. Loh noted that the endotracheal tube had a big leak, and informed respondent of this  
23 fact. After discussing the big leak in the tube, respondent and Dr. Loh decided that the  
24 tube would be satisfactory for use during the surgery. Respondent did not pack wet  
25 cottonoids in the larynx prior to the start of the laser surgery, even though the scrub nurse  
26 asked if this needed to be done. Dr. Loh maintained anesthesia with oxygen 4 l/min and  
27 nitrous oxide 2 l/min for an inspired oxygen concentration measured at 69 percent.  
28 Rocuronium was given to provide muscle relaxation.

1 C. Respondent started the laser treatment about 12:45 p.m. At about  
2 12:55 p.m., near the end of the laser treatment, respondent and Dr. Loh saw black smoke  
3 coming from N.C.'s mouth. Dr. Loh grabbed a basin of water from a side table and  
4 poured it into N.C.'s mouth. Dr. Loh then removed the endotracheal tube, and  
5 reintubated N.C.'s trachea with another 5.5 tube. The surgery was terminated, and N.C.  
6 was taken to the recovery room.

7 D. On the first postoperative day, an X-ray revealed a foreign body in  
8 the right main stem bronchus. N.C.'s inability to swallow or handle normal oral  
9 secretions was noted. A bronchoscopy was performed under general anesthesia and the  
10 foreign body was removed. This foreign body was identified as the burned, distal end of  
11 the endotracheal tube used to perform the laser treatment. A tracheostomy was then  
12 undertaken so that N.C. could handle airway secretions, and a gastrostomy tube was  
13 inserted so that N.C. could be fed. Over the next several days, N.C. developed  
14 pulmonary edema, subcutaneous emphysema, pneumomediastinum, pneumopericardium,  
15 facial edema, and burns of the tongue and lips. N.C. subsequently developed a complete  
16 closure of the upper esophagus, requiring another surgery to establish a patent esophagus  
17 through the placement of a small bowel in the neck.

18 E. On or about December 20, 1996, N.C. was discharged from the  
19 White Memorial Medical Center. Though N.C. has made some progress since this date in  
20 the restoration of voice through the use of her one remaining, functional vocal cord, she  
21 continues to rely on a tracheostomy in lieu of an epiglottis to protect her airway from  
22 aspiration. She also continues unable to swallow, and must rely on a gastrostomy tube to  
23 receive nutrition. Without a functional epiglottis and swallowing mechanism, it is  
24 doubtful that N.C. will ever be able to take food or fluids by mouth again.

25 F. Respondent engaged in multiple extreme departures from the  
26 standard of practice in the care and treatment of Patient N.C., as follows:

- 27 (1) He proceeded with a surgery using a CO2 laser without  
28 understanding that such a laser may cause combustion when

1 brought into contact with nitrous oxide and oxygen gases of the  
2 type used for anesthesia.

3 (2) He failed to terminate the surgery and investigate the odor of  
4 gas for a possible leak of a flammable substance.

5 (3) He failed to pack wet cottonoids in the larynx prior to the  
6 laser surgery, even though reminded of the need to do so by his  
7 scrub nurse; and/or failed to document same.

8 SECOND CAUSE FOR DISCIPLINE

9 (Repeated Negligent Acts)

10 11. Respondent is subject to disciplinary action under section 2234,  
11 subdivision (c) of the Code, in that respondent has engaged in multiple departures from the  
12 standard of practice in the care and treatment of a surgery patient. The circumstances are as  
13 follows:

14 A. The facts stated at above numbered paragraph 9 are incorporated  
15 by reference herein as if fully set forth.

16 B. Respondent engaged in multiple departures from the standard of  
17 practice in the care and treatment of Patient N.C., as follows:

18 (1) He proceeded with the surgery using a CO2 laser without  
19 understanding that such a laser may cause combustion when  
20 brought into contact with nitrous oxide and oxygen gases  
21 of the type used for anesthesia.

22 (2) He failed to terminate the surgery and investigate the odor of  
23 gas for a possible leak of a flammable substance.

24 (3) He failed to pack wet cottonoids in the larynx prior to the  
25 laser surgery, even though reminded of the need to do so by his  
26 scrub nurse; and/or failed to document same.

27 (4) He failed to discuss the surgery and its possible  
28 complications with N.C., or her parents, prior thereto; and/or failed

1 to document same.

2 (5) He failed to discuss the surgery, especially with regard to the  
3 type of gases and endotracheal tube to be used, with the  
4 anesthesiologist prior thereto; and/or failed to document same.

5 (6) He scheduled surgery for the removal of vocal nodules in a  
6 child rather than waiting to see if the nodules would regress with  
7 the maturing of the child, and selected lasers to perform the surgery  
8 rather than the micro-instruments usually used to meet the surgical  
9 objective of nodule removal from the vocal cords.

10 THIRD CAUSE FOR DISCIPLINE

11 (Incompetence)

12 12. Respondent is subject to disciplinary action under section 2234,  
13 subdivision (d) of the Code, in that respondent has demonstrated a lack of medical knowledge,  
14 judgment and ability in the care and treatment of a patient. The circumstances are as follows:

15 A. The facts, circumstances and opinions stated at above numbered  
16 paragraphs 10 and 11 are incorporated by reference herein as if fully set forth.

17 FOURTH CAUSE FOR DISCIPLINE

18 (Inadequate Records)

19 13. Respondent is subject to disciplinary action under section 2266 of the  
20 Code, in that respondent failed to make and maintain adequate and accurate records of his care  
21 and treatment of a patient. The circumstances are as follows:

22 A. The facts, circumstances and opinions stated at above numbered  
23 paragraph 11 are incorporated by reference herein as if fully set forth.

24 PRIOR DISCIPLINE

25 14. On or about March 29, 1999, an Accusation was filed against respondent  
26 in Case No. 11-1998-86123. The Accusation alleged that respondent had engaged in gross  
27 negligence, repeated negligent acts and incompetence in the care and treatment of two patients,  
28 in violation of section 2234, subdivisions (b), (c) and (d) of the Code. On or about March 7,

1 2000, the allegations raised by said Accusation were resolved by an Agreement, which included  
2 a provision for the issuance of a Public Letter of Reprimand. On or about October 17, 2000, a  
3 Public Letter of Reprimand was issued against respondent.

4 P R A Y E R

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


7 1. Revoking or suspending Physician and Surgeon's Certificate Number G  
8 38467, issued to CRAIG J. BALL, M.D.;

9 2. Revoking, suspending or denying approval of CRAIG J. BALL, M.D.'s  
10 authority to supervise physician's assistants, pursuant to section 3527 of the Code;

11 3. Ordering CRAIG J. BALL, M.D. to pay the Division of Medical Quality  
12 the reasonable costs of the investigation and enforcement of this case, and, if placed on  
13 probation, the costs of probation monitoring;

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

15 DATED: August 27, 2001.

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18   
19 \_\_\_\_\_  
20 RON JOSEPH  
21 Executive Director  
22 Medical Board of California  
23 Department of Consumer Affairs  
24 State of California  
25 Complainant

22 2Accusation.wpt 9/28/00