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

In the Matter of the Accusation **Against** **Anil Gupta, M.D.** **Physician's and Surgeon's** **Certificate No. A46009** **Respondent.**	**Case No. 800-2018-040336**

DECISION

The attached Stipulated Settlement and Disciplinary Order for Public Reprimand 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 August 13, 2020.

IT IS SO ORDERED July 14, 2020.

MEDICAL BOARD OF CALIFORNIA

By: Ronald H Lewis, MD
Ronald H. Lewis, M.D., Chair
Panel A

XAVIER BECERRA
Attorney General of California
E. A. JONES III
Supervising Deputy Attorney General
JOSHUA M. TEMPLET
Deputy Attorney General
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Attorneys for Complainant

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

In the Matter of the Accusation Against: **ANIL GUPTA, M.D.** **417 East Merced Avenue** **West Covina, CA 91790** **Physician's and Surgeon's Certificate No. A 46009,** Respondent.	Case No. 800-2018-040336 OAH No. 2019120716 **STIPULATED SETTLEMENT AND DISCIPLINARY ORDER FOR PUBLIC REPRIMAND**

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

PARTIES

1. Christine J. Lally (Complainant) is the Interim Executive Director of the Medical Board of California (Board). She brought this action solely in her official capacity and is represented in this matter by Xavier Becerra, Attorney General of the State of California, via Joshua M. Templet, Deputy Attorney General.

2. Respondent Anil Gupta, M.D. (Respondent) is represented in this proceeding by attorneys Peter R. Osinoff and Carolyn Lindholm, Bonne Bridges Mueller O'Keefe & Nichols, 355 South Grand Avenue, Suite 1750, Los Angeles, CA 90071.

3. On April 17, 1989, the Board issued Physician's and Surgeon's Certificate No. A 46009 to Anil Gupta, 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. 800-2018-040336 (Accusation), and will expire on March 31, 2021, unless renewed.

JURISDICTION

4. The Accusation 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 August 30, 2019. Respondent timely filed his Notice of Defense contesting the Accusation.

5. A copy of the Accusation 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 the Accusation. Respondent has also carefully read, fully discussed with his counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order for Public Reprimand.

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.

CULPABILITY

9. Respondent understands and agrees that the charges and allegations in the Accusation, if proven at a hearing, constitute cause for imposing discipline on his Physician's and Surgeon's Certificate.

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

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

CONTINGENCY

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

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

14. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or opportunity to be heard by the Respondent, issue and enter the following Disciplinary Order:

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DISCIPLINARY ORDER

Public Reprimand

IT IS HEREBY ORDERED that Respondent Anil Gupta, M.D., as holder of Physician's and Surgeon's Certificate No. A 46009, shall be and hereby is **publicly reprimanded** pursuant to Business and Professions Code section 2227. This Public Reprimand is issued as a result of the following conduct by Respondent as set forth in the Accusation:

> Respondent did not test the level of cardiac troponin (the results of which are used to diagnose myocardial infarction) for nearly 48 hours in a patient with coronary artery disease, until a repeat electrocardiogram heightened concern for cardiac ischemia.

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order for Public Reprimand and have fully discussed it with my attorneys, Peter R. Osinoff and Carolyn Lindholm. 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 for Public Reprimand voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Medical Board of California.

DATED: 05/26/2020

ANIL GUPTA, M.D.
Respondent

I have read and fully discussed with Respondent Anil Gupta, M.D. the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order for Public Reprimand. I approve its form and content.

DATED: 5/27/2020

PETER R. OSINOFF AND CAROLYN LINDHOLM
Bonne Bridges Mueller O'Keefe & Nichols
Attorneys for Respondent

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ENDORSEMENT

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

DATED: May 26, 2020

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
E. A. JONES III
Supervising Deputy Attorney General

Joshua M. Templet
JOSHUA M. TEMPLET
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 800-2018-040336

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FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO AUGUST 30 2019
BY A. GERMIA ANALYST

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

In the Matter of the Accusation Against: ANIL GUPTA, M.D. 417 East Merced Avenue West Covina, California 91790 Physician's and Surgeon's Certificate A 46009, Respondent.	Case No. 800-2018-040336 **ACCUSATION**

PARTIES

1. Kimberly Kirchmeyer (Complainant) brings this Accusation solely in her official capacity as the Executive Director of the Medical Board of California (Board).

2. On April 17, 1989, the Board issued Physician's and Surgeon's Certificate number A 46009 to Anil Gupta, M.D. (Respondent). That license was in full force and effect at all times relevant to the charges brought herein and will expire on March 31, 2021, 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 (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 2234 of the Code states:

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

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

"(b) Gross negligence.

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

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

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

"(d) Incompetence.

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

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

"(g) The practice of medicine from this state into another state or country without meeting the legal requirements of that state or country for the practice of medicine. Section 2314 shall not apply to this subdivision. This subdivision shall become operative upon the implementation of the

proposed registration program described in Section 2052.5.

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

CAUSE FOR DISCIPLINE

(Gross Negligence)

6. Respondent's license is subject to disciplinary action under section 2234, subdivision (b), in that he committed gross negligence in his care and treatment of Patient 1. The circumstances are as follows:

7. At all times relevant to the allegations herein, Respondent was a physician practicing internal medicine.

8. On January 2, 2018, Patient 1, a 79-year-old male, presented to the emergency department with rectal bleeding. Patient 1 had a history of diabetes mellitus, hypertension, chronic obstructive pulmonary disease, and severe coronary artery disease. Respondent admitted Patient 1 to the hospital and noted in his history and physical that Patient 1's electrocardiogram (EKG) showed "inferolateral ST and T-wave changes." The formal read of the EKG, however, noted "marked ST abnormality, possible anterior subendocardial injury" as well as new ST segment depressions in the inferior and anterolateral leads and new T-wave inversions in the inferior and lateral leads. The EKG performed on January 3, 2018, was even more abnormal with "acute anterior ischemia."

9. Respondent did not order troponin levels until January 4, 2018, with the first value not resulting until January 5, 2018. The first values of CK and CK-MB also were not checked until January 5, 2018.

10. The standard of care is to promptly measure levels of cardiac enzymes, such as troponin, or CK and CK-MB, in the evaluation of a patient where there is concern for cardiac ischemia.

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11. Respondent's failure to check the levels of cardiac enzymes for nearly 48 hours, in a patient with both severe coronary artery disease and an EKG concerning for ischemia, was an extreme departure from the standard of care.

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 46009, issued to Anil Gupta, M.D.;

2. Revoking, suspending or denying approval of Anil Gupta, M.D.'s authority to supervise physician assistants and advanced practice nurses;

3. If placed on probation, ordering Anil Gupta, M.D. to pay the Board the costs of probation monitoring; and

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

DATED: August 30, 2019

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

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