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

In the Matter of the Accusation Against: Bharati Ghosh, M.D. Physician's and Surgeon's Certificate No. A 34230 Respondent.	Case No. 800-2020-066160

DECISION

The attached Stipulated Surrender of License 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 March 2, 2023.

IT IS SO ORDERED February 23, 2023.

MEDICAL BOARD OF CALIFORNIA

Reji Varghese
Interim Executive Director

ROB BONTA
Attorney General of California
ALEXANDRA M. ALVAREZ
Supervising Deputy Attorney General
ROSEMARY F. LUZON
Deputy Attorney General
State Bar No. 221544
600 West Broadway, Suite 1800
San Diego, CA 92101
P.O. Box 85266
San Diego, CA 92186-5266
Telephone: (619) 738-9074
Facsimile: (619) 645-2061

Attorneys for Complainant

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

In the Matter of the Accusation Against: **BHARATI GHOSH, M.D.** **9675 Monte Vista Ave., Ste. B1** **Montclair, CA 91763** **Physician's and Surgeon's Certificate No. A 34230,** Respondent.	Case No. 800-2020-066160 **STIPULATED SURRENDER OF LICENSE AND DISCIPLINARY ORDER**

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

PARTIES

1. William Prasifka (Complainant) is the Executive Director of the Medical Board of California (Board). He brought this action solely in his official capacity and is represented in this matter by Rob Bonta, Attorney General of the State of California, by Rosemary F. Luzon, Deputy Attorney General.

2. Bharati Ghosh, M.D. (Respondent) is represented in this proceeding by attorney Scott J. Harris, Esq., whose address is: 8383 Wilshire Blvd., Suite 210, Beverly Hills, CA 90211.

3. On or about August 3, 1979, the Board issued Physician's and Surgeon's Certificate No. A 34230 to 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. 800-2020-066160 and will expire on July 31, 2023, unless renewed. The Physician's and Surgeon's Certificate is currently in disabled status, prohibiting Respondent from engaging in the practice of medicine.

JURISDICTION

4. On or about September 13, 2022, Accusation No. 800-2020-066160 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 or about September 13, 2022, at her address of record. Respondent timely filed her Notice of Defense contesting the Accusation.

5. A true and correct copy of Accusation No. 800-2020-066160 is attached as Exhibit A and incorporated by reference as if fully set forth herein.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 800-2020-066160. Respondent also has carefully read, fully discussed with counsel, and understands the effects of this Stipulated Surrender of License and Order.

7. Respondent is fully aware of her 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 her; the right to present evidence and to testify on her 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, having been fully advised of same by her attorney, Scott J. Harris, Esq.

8. Having the benefit of counsel, Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

///

///

CULPABILITY

9. Respondent hereby gives up her rights to contest the charges and allegations in Accusation No. 800-2020-066160. Respondent further agrees that she has thereby subjected her Physician's and Surgeon's Certificate No. A 34230 to disciplinary action. Respondent hereby surrenders her Physician's and Surgeon's Certificate No. A 34230 for the Board's formal acceptance.

10. Respondent agrees that her Physician's and Surgeon's Certificate No. A 34230 is subject to discipline and she agrees to be bound the Board's imposition of discipline as set forth in the Disciplinary Order below.

11. Respondent further agrees that if she ever petitions for reinstatement of her Physician's and Surgeon's Certificate No. A 34230, or if an accusation or petition to revoke probation is ever filed against her before the Medical Board of California, all of the charges and allegations contained in Accusation No. 800-2020-066160 shall be deemed true, correct, and fully admitted by Respondent for purposes of any such proceeding or any other licensing proceeding involving Respondent in the State of California or elsewhere.

12. Respondent understands that, by signing this stipulation, she enables the Executive Director of the Board to issue an order, on behalf of the Board, accepting the surrender of her Physician's and Surgeon's Certificate No. A 34230 without further notice to, or opportunity to be heard by, Respondent.

CONTINGENCY

13. This stipulation shall be subject to approval by the Medical Board of California. Respondent understands and agrees that counsel for Complainant and the staff of the Board may communicate directly with the Board regarding this stipulation and surrender, without notice to or participation by Respondent or her counsel. By signing the stipulation, Respondent understands and agrees that she may not withdraw her 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 Surrender and Disciplinary Order 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.

14. This Stipulated Surrender of License and Disciplinary Order is intended by the parties herein to be an integrated writing representing the complete, final, and exclusive embodiment of the agreements of the parties in the above-entitled matter.

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

16. 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:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 34230, issued to Respondent Bharati Ghosh, M.D., is surrendered and accepted by the Medical Board of California.

1. The surrender of Respondent's Physician's and Surgeon's Certificate No. A 34230 and the acceptance of the surrendered license by the Medical Board shall constitute the imposition of discipline against Respondent. This stipulation constitutes a record of the discipline and shall become a part of Respondent's license history with the Medical Board of California.

2. Respondent shall lose all rights and privileges as a Physician and Surgeon in California as of the effective date of the Medical Board's Decision and Order.

3. Respondent shall cause to be delivered to the Medical Board her pocket license and, if one was issued, her wall certificate on or before the effective date of the Medical Board's Decision and Order.

4. If Respondent ever files an application for licensure or a petition for reinstatement in the State of California, the Medical Board shall treat it as a petition for reinstatement. Respondent must comply with all the laws, regulations and procedures for reinstatement of a revoked or surrendered license in effect at the time the petition is filed, and all of the charges and

allegations contained in Accusation No. 800-2020-066160 shall be deemed to be true, correct and admitted by Respondent when the Board determines whether to grant or deny the petition.

5. Respondent shall pay the Medical Board a portion of its costs of investigation and enforcement in this matter in the amount of $14,677.50 (fourteen thousand six hundred seventy-seven dollars and fifty cents) prior to issuance of a new or reinstated license.

6. If Respondent should ever apply or reapply for a new license or certification, or petition for reinstatement of a license, by any other health care licensing agency in the State of California, all of the charges and allegations contained in Accusation No. 800-2020-066160 shall be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or restrict licensure.

ACCEPTANCE

I have carefully read the above Stipulated Surrender of License and Disciplinary Order and have fully discussed it with my attorney, Scott J. Harris, Esq. I understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate No. A 34230. I enter into this Stipulated Surrender of License and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Medical Board of California.

DATED: 01/10/2023

Bharati Ghosh, M.D.
BHARATI GHOSH, M.D.
Respondent

I have read and fully discussed with Respondent Bharati Ghosh, M.D., the terms and conditions and other matters contained in this Stipulated Surrender of License and Disciplinary Order. I approve its form and content.

DATED: January 11, 2023

SCOTT J. HARRIS, ESQ.
Attorney for Respondent

///

///

ENDORSEMENT

The foregoing Stipulated Surrender of License and Disciplinary Order is hereby respectfully submitted for consideration by the Medical Board of California of the Department of Consumer Affairs.

DATED: 1/12/23

Respectfully submitted,

ROB BONTA
Attorney General of California
ALEXANDRA M. ALVAREZ
Supervising Deputy Attorney General

ROSEMARY F. LUZON
Deputy Attorney General
Attorneys for Complainant

SD2022801436
83731953.docx

Exhibit A

Accusation No. 800-2020-066160

ROB BONTA
Attorney General of California
ALEXANDRA M. ALVAREZ
Supervising Deputy Attorney General
ROSEMARY F. LUZON
Deputy Attorney General
State Bar No. 221544
600 West Broadway, Suite 1800
San Diego, CA 92101
P.O. Box 85266
San Diego, CA 92186-5266
Telephone: (619) 738-9074
Facsimile: (619) 645-2061

Attorneys for Complainant

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

In the Matter of the Accusation Against: **Bharati Ghosh, M.D.** **9675 Monte Vista Ave., Ste. B1** **Montclair, CA 91763** **Physician's and Surgeon's Certificate No. A 34230,** Respondent.	Case No. 800-2020-066160 **ACCUSATION**

PARTIES

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

2. On or about August 3, 1979, the Medical Board issued Physician's and Surgeon's Certificate No. A 34230 to Bharati Ghosh, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought herein and will expire on July 31, 2023, unless renewed. The Physician's and Surgeon's Certificate is currently in disabled status, prohibiting Respondent from engaging in the practice of medicine.

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 2220 of the Code states:

> Except as otherwise provided by law, the board may take action against all persons guilty of violating this chapter. . .

5. Section 2227 of the Code states:

> (a) A licensee whose matter has been heard by an administrative law judge of the Medical Quality Hearing Panel as designated in Section 11371 of the Government Code, or whose default has been entered, and who is found guilty, or who has entered into a stipulation for disciplinary action with the board, may, in accordance with the provisions of this chapter:
>
> (1) Have his or her license revoked upon order of the board.
>
> (2) Have his or her right to practice suspended for a period not to exceed one year upon order of the board.
>
> (3) Be placed on probation and be required to pay the costs of probation monitoring upon order of the board.
>
> (4) Be publicly reprimanded by the board. The public reprimand may include a requirement that the licensee complete relevant educational courses approved by the board.
>
> (5) Have any other action taken in relation to discipline as part of an order of probation, as the board or an administrative law judge may deem proper.
>
> . . .

6. 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:
>
> . . .
>
> (b) Gross negligence.
>
> . . .

///

///

7. Section 2266 of the Code states:

The failure of a physician and surgeon to maintain adequate and accurate records relating to the provision of services to their patients constitutes unprofessional conduct.

8. Unprofessional conduct under section 2234 of the Code is conduct which breaches the rules or ethical code of the medical profession, or conduct which is unbecoming a member in good standing of the medical profession, and which demonstrates an unfitness to practice medicine. (*Shea v. Board of Medical Examiners* (1978) 81 Cal.App.3d 564, 575.)

9. Section 822 of the Code states:

If a licensing agency determines that its licentiate's ability to practice his or her profession safely is impaired because the licentiate is mentally ill, or physically ill affecting competency, the licensing agency may take action by any one of the following methods:

(a) Revoking the licentiate's certificate or license.

(b) Suspending the licentiate's right to practice.

(c) Placing the licentiate on probation.

(d) Taking such other action in relation to the licentiate as the licensing agency in its discretion deems proper.

The licensing section shall not reinstate a revoked or suspended certificate or license until it has received competent evidence of the absence or control of the condition which caused its action and until it is satisfied that with due regard for the public health and safety the person's right to practice his or her profession may be safely reinstated.

COST RECOVERY

10. Section 125.3 of the Code states:

(a) Except as otherwise provided by law, in any order issued in resolution of a disciplinary proceeding before any board within the department or before the Osteopathic Medical Board, upon request of the entity bringing the proceeding, the administrative law judge may direct a licensee 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.

(b) In the case of a disciplined licensee that is a corporation or a partnership, the order may be made against the licensed corporate entity or licensed partnership.

///

///

(c) A certified copy of the actual costs, or a good faith estimate of costs where actual costs are not available, signed by the entity bringing the proceeding or its designated representative shall be prima facie evidence of reasonable costs of investigation and prosecution of the case. The costs shall include the amount of investigative and enforcement costs up to the date of the hearing, including, but not limited to, charges imposed by the Attorney General.

(d) The administrative law judge shall make a proposed finding of the amount of reasonable costs of investigation and prosecution of the case when requested pursuant to subdivision (a). The finding of the administrative law judge with regard to costs shall not be reviewable by the board to increase the cost award. The board may reduce or eliminate the cost award, or remand to the administrative law judge if the proposed decision fails to make a finding on costs requested pursuant to subdivision (a).

(e) If an order for recovery of costs is made and timely payment is not made as directed in the board's decision, the board may enforce the order for repayment in any appropriate court. This right of enforcement shall be in addition to any other rights the board may have as to any licensee to pay costs.

(f) In any action for recovery of costs, proof of the board's decision shall be conclusive proof of the validity of the order of payment and the terms for payment.

(g) (1) Except as provided in paragraph (2), the board shall not renew or reinstate the license of any licensee who has failed to pay all of the costs ordered under this section.

(2) Notwithstanding paragraph (1), the board may, in its discretion, conditionally renew or reinstate for a maximum of one year the license of any licensee who demonstrates financial hardship and who enters into a formal agreement with the board to reimburse the board within that one-year period for the unpaid costs.

(h) All costs recovered under this section shall be considered a reimbursement for costs incurred and shall be deposited in the fund of the board recovering the costs to be available upon appropriation by the Legislature.

(i) Nothing in this section shall preclude a board from including the recovery of the costs of investigation and enforcement of a case in any stipulated settlement.

(j) This section does not apply to any board if a specific statutory provision in that board's licensing act provides for recovery of costs in an administrative disciplinary proceeding.

///

///

///

///

///

///

FIRST CAUSE FOR DISCIPLINE

(Gross Negligence)

11. Respondent has subjected her Physician's and Surgeon's Certificate No. A 34230 to disciplinary action under sections 2227 and 2234, as defined by section 2234, subdivision (b), of the Code, in that she committed gross negligence in her care and treatment of Patient A,[1] as more particularly alleged hereinafter:

12. On or about January 9, 2020, Patient A, who was 13 years old at the time, had a visit with Respondent. Patient A's mother was also present. Patient A complained of difficulty breathing, yellow appearance, loss of weight and appetite, and coughing. According to the progress notes for this visit, however, Patient A's chief complaints were cough, constant nasal congestion, and difficulty sleeping. In addition, the progress notes included the mother's request that labs be performed. The progress notes documented a normal physical exam, except for a clear nasal drip. The progress notes did not include any notation regarding Patient A's complaints of difficulty breathing, yellow appearance, and loss of weight and appetite. No blood test or other follow-up was ordered. Respondent's assessment was post nasal drip and anemia, and her plan included over-the-counter chloraseptic spray and completion of Patient A's ongoing iron therapy.

13. On or about February 11, 2020, Patient A presented to Respondent with the same complaints that she reported during the prior visit on January 9, 2020. Patient A also complained of coughing blood, high fever, and constant sweating. During this visit, Patient A's father and sister were also present. Patient A's sister reported to Respondent that Patient A was extremely fatigued, underweight, unable to perform physical activities, had a yellowish tone, was coughing, could not breath consistently without having to blow her nose, and lacked an appetite. The progress notes for this visit, however, only noted Patient A's complaint that her cough was not going away, multiple instances of diarrhea, and her father's request for labs. A normal physical exam was noted, except for a clear nasal drip. The progress notes did not include any notation regarding Patient A's other complaints, including difficulty breathing, yellow appearance, loss of

[1] References to "Patient A" herein are used to protect patient privacy.

weight and appetite, coughing blood, high fever, and constant sweating. The sister's description of Patient A's symptoms also were not included. No blood test or other follow-up was ordered.

14. On or about February 23, 2020, Patient A presented to the hospital emergency room with a chief complaint of a left-sided neck mass, with a persistent cough for the past three months. Patient A was subsequently diagnosed with Stage IV Hodgkin lymphoma.

15. On or about March 16, 2020, Respondent submitted a letter to Patient A's health plan in response to a grievance filed by Patient A's father. According to Patient A's father, when the family raised concerns about Patient A's symptoms during the visits leading up to her Hodgkin lymphoma diagnosis, Respondent was dismissive, defensive, and denied their requests for follow-up testing. Respondent's response mainly asserted various complaints about the father.

16. On or about June 5, 2020, Respondent submitted a letter to the Board in response to a similar complaint filed by Patient A's father regarding Respondent's handling of Patient A's symptoms during the visits leading up to her Hodgkin lymphoma diagnosis. In her response, Respondent mainly asserted various complaints about Patient A's father and her interactions with him.

17. Respondent committed gross negligence in her care and treatment of Patient A, which included, but was not limited to the following:

A. Respondent failed to heed and act upon "red flag" symptoms concerning Patient A's medical condition, including by performing and documenting a more detailed history and physical, ordering baseline studies, or, alternatively, referring Patient A for further evaluation and management of her symptoms.

SECOND CAUSE FOR DISCIPLINE

(Failure to Maintain Adequate and Accurate Medical Records)

18. Respondent has subjected her Physician's and Surgeon's Certificate No. A 34230 to disciplinary action under sections 2227 and 2234, as defined by section 2266, of the Code, in that she failed to maintain adequate and accurate records regarding her care and treatment of Patient A, as more particularly alleged in paragraphs 12 to 17, above, which are hereby incorporated by reference and re-alleged as if fully set forth herein.

THIRD CAUSE FOR DISCIPLINE

(General Unprofessional Conduct)

19. Respondent has subjected her Physician's and Surgeon's Certificate No. A 34230 to disciplinary action under sections 2227 and 2234 of the Code, in that she has engaged in conduct which breaches the rules or ethical code of the medical profession, or conduct which is unbecoming to a member in good standing of the medical profession, and which demonstrates an unfitness to practice medicine, as more particularly alleged in paragraphs 15 and 16, above, which are hereby incorporated by reference and realleged as if fully set forth herein.

SECTION 822 CAUSE FOR ACTION

(Mental Illness and/or Physical Illness Affecting Competency)

20. Respondent has subjected her Physician's and Surgeon's Certificate No. A 34230 to action under section 822 of the Code in that her ability to practice medicine safely is impaired because she is mentally ill and/or physically ill affecting competency, as more particularly alleged hereinafter:

21. On or about December 9, 2021, Respondent submitted an application to the Board entitled, "Disabled Physician Application for Exemption from Payment or Renewal Fee." The application provides that "[t]he holder of a disabled license may not engage in the practice of medicine." In support of the application, Respondent's attending physician submitted an attachment under penalty of perjury, setting forth a description of Respondent's disability and an explanation of how the disability prevents Respondent from practicing medicine safely. According to the attending physician, Respondent has a long-term degenerative disorder and she is cognitively unable to safely care for patients. The attending physician further attested that Respondent's disability is permanent and began in or around June 2021.

22. Respondent's application was approved by the Board. Respondent's license is currently in disabled status and, as a result, Respondent is not permitted to engage in the practice of medicine.

///

///

DISCIPLINARY CONSIDERATIONS

23. To determine the degree of discipline, if any, to be imposed on Respondent, Complainant alleges that on or about October 26, 1994, in a prior disciplinary action titled *In the Matter of the Accusation Against Bharati Ghosh, M.D.*, before the Medical Board of California, in Case No. 07-1990-004011 (also designated as Case No. D-4011), Respondent's license was revoked, with revocation stayed and five years of probation imposed with certain conditions for repeated acts of negligence in the care and treatment of two patients and an act of dishonesty when applying for a medical staff hospital appointment, in violation of Code section 2234, subdivisions (c) and (e), respectively. That decision is now final and is incorporated by reference as if fully set forth herein.

24. Complainant further alleges that on or about February 28, 2007, in a prior disciplinary action titled *In the Matter of the Accusation Against Bharati Ghosh, M.D.*, before the Medical Board of California, in Case No. 09-2004-156433, Respondent's license was revoked, with revocation stayed and seven years of probation imposed with certain conditions for gross negligence, repeated acts of negligence, incompetency, and failure to maintain adequate and accurate records in the care and treatment of six patients, in violation of Code sections 2234, subdivisions (b), (c), and (d), and 2266, respectively. That decision is now final and is incorporated by reference as if fully set forth herein.

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 No. A 34230, issued to Respondent Bharati Ghosh, M.D.;

2. Revoking, suspending or denying approval of Respondent Bharati Ghosh, M.D.'s authority to supervise physician assistants, pursuant to section 3527 of the Code, and advanced practice nurses;

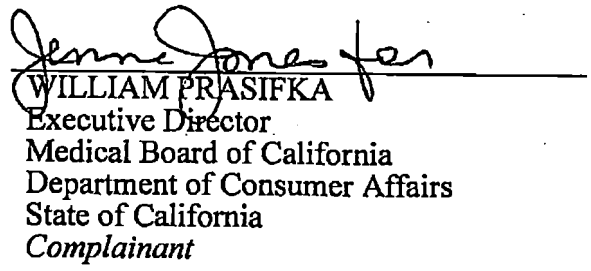
///

///

3. Ordering Respondent Bharati Ghosh, M.D., to pay the Board the costs of the investigation and enforcement of this case, and if placed on probation, the costs of probation monitoring; and

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

DATED: SEP 13 2022



WILLIAM PRASIFKA
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

SD2022801436
83593453.docx