

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

In the Matter of the Accusation Against:)

SANJAY GIANCHANDANI, M.D.)

File No. 04-2006-172445

**Physician's and Surgeon's
Certificate No. G 74989)**

Respondent.)

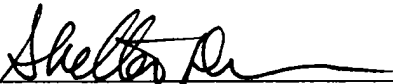
DECISION

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 March 27, 2009.

IT IS SO ORDERED February 25, 2009.

MEDICAL BOARD OF CALIFORNIA

By: 
Shelton Duruisseau, Ph.D., Chair
Panel A

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 THOMAS S. LAZAR
Supervising Deputy Attorney General
3 ALEXANDRA M. ALVAREZ, State Bar No. 187442
Deputy Attorney General
4 110 West "A" Street, Suite 1100
San Diego, CA 92101
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8 Attorneys for Complainant

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

12 In the Matter of the Accusation Against:

Case No. 04-2006-172445

13 SANJAY GIANCHANDANI, M.D.
27882 Forbes Road, Suite 201
14 Laguna Niguel, CA 92677

OAH No. L-2007120742

15 Physician's and Surgeon's Certificate No.
G 74989

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

16
17 Respondent.

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

20 PARTIES

21 1. Barbara Johnston (Complainant) is the Executive Director of the Medical
22 Board of California. She brought this action solely in her official capacity and is represented in
23 this matter by Edmund G. Brown Jr., Attorney General of the State of California, by Alexandra
24 M. Alvarez, Deputy Attorney General.

25 2. Respondent Sanjay Gianchandani, M.D. (Respondent), is represented in
26 this proceeding by attorney Scott A. Martin, Esq., whose address is 535 Anton Boulevard, Suite
27 800, Costa Mesa, CA 92626.

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3. On or about August 25, 1992, the Medical Board of California issued Physician's and Surgeon's Certificate No. G 74989 to Sanjay Gianchandani, 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. 04-2006-172445 and will expire on April 30, 2010, unless renewed.

JURISDICTION

4. On October 10, 2007, Accusation No. 04-2006-172445 was filed before the Medical Board of California (Medical Board) for the Department of Consumer Affairs, State of California, and is currently pending against Respondent. A true and correct copy of the Accusation and all other statutorily required documents were properly served on Respondent on October 24, 2007. Respondent timely filed his Notice of Defense contesting the Accusation. A true and correct copy of Accusation No. 04-2006-172445 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 04-2006-172445. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

6. 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.

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

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1 CULPABILITY

2 8. Respondent admits the truth of each and every charge and allegation in
3 Accusation No. 04-2006-172445.

4 9. Respondent agrees that his Physician's and Surgeon's Certificate No.
5 G 74989 is subject to discipline and he agrees to be bound by the Medical Board's imposition of
6 discipline as set forth in the Disciplinary Order below.

7 CONTINGENCY

8 10. This stipulation shall be subject to approval by the Medical Board of
9 California. Respondent understands and agrees that counsel for Complainant and the staff of the
10 Medical Board of California may communicate directly with the Medical Board 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 Medical Board considers and
14 acts upon it. If the Medical Board fails to adopt this stipulation as its Decision and Order, the
15 Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this
16 paragraph, it shall be inadmissible in any legal action between the parties, and the Medical Board
17 shall not be disqualified from further action by having considered this matter.

18 OTHER MATTERS

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

22 12. This Stipulated Settlement and Disciplinary Order is intended by the
23 parties herein to be an integrated writing representing the complete, final and exclusive
24 embodiment of the agreements of the parties in the above-entitled matter.

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

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1 would have been approved by the Medical Board or its designee had the course been taken after
2 the effective date of this Decision.

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

6 4. ETHICS COURSE Within 60 calendar days of the effective date of this
7 Decision, respondent shall enroll in a course in ethics, at respondent's expense, approved in
8 advance by the Medical Board or its designee. Failure to successfully complete the course during
9 the first year of probation is a violation of probation.

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

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

18 5. MEDICAL EVALUATION AND TREATMENT Within 30 calendar
19 days of the effective date of this Decision, and on a periodic basis thereafter as may be required
20 by the Medical Board or its designee, respondent shall undergo a medical evaluation by a
21 Medical Board-appointed physician who shall consider any information provided by the Medical
22 Board or designee, and any other information the evaluating physician deems relevant, and shall
23 furnish a medical report to the Medical Board or its designee.

24 Following the evaluation, respondent shall comply with all restrictions or
25 conditions recommended by the evaluating physician within 15 calendar days after being notified
26 by the Medical Board or its designee.

27 If respondent is required by the Medical Board or its designee to undergo medical
28 treatment, respondent shall, within 30 calendar days of the requirement notice, submit to the

1 Medical Board or its designee for prior approval the name and qualifications of a treating
2 physician of respondent's choice. Upon approval of the treating physician, respondent shall
3 within 15 calendar days undertake medical treatment and shall continue such treatment until
4 further notice from the Medical Board or its designee.

5 The treating physician shall consider any information provided by the Medical
6 Board or its designee or any other information the treating physician may deem pertinent prior to
7 commencement of treatment. Respondent shall have the treating physician submit quarterly
8 reports to the Medical Board or its designee indicating whether or not the respondent is capable
9 of practicing medicine safely. Respondent shall provide the Medical Board or its designee with
10 any and all medical records pertaining to treatment that the Medical Board or its designee deems
11 necessary.

12 If, prior to the completion of probation, respondent is found to be physically
13 incapable of resuming the practice of medicine without restrictions, the Medical Board shall
14 retain continuing jurisdiction over respondent's license, and the period of probation shall be
15 extended until the Medical Board determines that respondent is physically capable of resuming
16 the practice of medicine without restrictions. Respondent shall pay the cost of the medical
17 evaluation(s) and treatment.

18 Failure to undergo and continue medical treatment or comply with the required
19 additional conditions or restrictions is a violation of probation.

20 6. NOTIFICATION Prior to engaging in the practice of medicine, the
21 respondent shall provide a true copy of the Decision(s) and Accusation(s) to the Chief of Staff or
22 the Chief Executive Officer at every hospital where privileges or membership are extended to
23 respondent, at any other facility where respondent engages in the practice of medicine, including
24 all physician and locum tenens registries or other similar agencies, and to the Chief Executive
25 Officer at every insurance carrier which extends malpractice insurance coverage to respondent.
26 Respondent shall submit proof of compliance to the Medical Board or its designee within 15
27 calendar days.

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

3 7. SUPERVISION OF PHYSICIAN ASSISTANTS During probation,
4 respondent is prohibited from supervising physician assistants.

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

8 9. QUARTERLY DECLARATIONS Respondent shall submit quarterly
9 declarations under penalty of perjury on forms provided by the Medical Board, stating whether
10 there has been compliance with all the conditions of probation. Respondent shall submit
11 quarterly declarations not later than 10 calendar days after the end of the preceding quarter.

12 10. PROBATION UNIT COMPLIANCE Respondent shall comply with the
13 Medical Board's probation unit. Respondent shall, at all times, keep the Medical Board informed
14 of respondent's business and residence addresses. Changes of such addresses shall be
15 immediately communicated in writing to the Medical Board or its designee. Under no
16 circumstances shall a post office box serve as an address of record, except as allowed by
17 Business and Professions Code section 2021(b).

18 Respondent shall not engage in the practice of medicine in respondent's place of
19 residence. Respondent shall maintain a current and renewed California physician's and
20 surgeon's license.

21 Respondent shall immediately inform the Medical Board, or its designee, in
22 writing, of travel to any areas outside the jurisdiction of California which lasts, or is
23 contemplated to last, more than 30 calendar days.

24 11. INTERVIEW WITH THE MEDICAL BOARD, OR ITS DESIGNEE
25 Respondent shall be available in person for interviews either at respondent's place of business or
26 at the probation unit office, with the Medical Board or its designee, upon request at various
27 intervals, and either with or without prior notice throughout the term of probation.

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1 12. RESIDING OR PRACTICING OUT-OF-STATE In the event respondent
2 should leave the State of California to reside or to practice, respondent shall notify the Medical
3 Board or its designee in writing 30 calendar days prior to the dates of departure and return. Non-
4 practice is defined as any period of time exceeding 30 calendar days in which respondent is not
5 engaging in any activities defined in Sections 2051 and 2052 of the Business and Professions
6 Code.

7 All time spent in an intensive training program outside the State of California
8 which has been approved by the Medical Board or its designee shall be considered as time spent
9 in the practice of medicine within the State. A Board-ordered suspension of practice shall not be
10 considered as a period of non-practice. Periods of temporary or permanent residence or practice
11 outside California will not apply to the reduction of the probationary term. Periods of temporary
12 or permanent residence or practice outside California will relieve respondent of the responsibility
13 to comply with the probationary terms and conditions with the exception of this condition and
14 the following terms and conditions of probation: Obey All Laws; Probation Unit Compliance;
15 and Cost Recovery.

16 Respondent's license shall be automatically cancelled if respondent's periods of
17 temporary or permanent residence or practice outside California total two years. However,
18 respondent's license shall not be cancelled as long as respondent is residing and practicing
19 medicine in another state of the United States and is on active probation with the medical
20 licensing authority of that state, in which case the two year period shall begin on the date
21 probation is completed or terminated in that state.

22 13. FAILURE TO PRACTICE MEDICINE - CALIFORNIA RESIDENT

23 In the event respondent resides in the State of California and for any reason
24 respondent stops practicing medicine in California, respondent shall notify the Medical Board or
25 its designee in writing within 30 calendar days prior to the dates of non-practice and return to
26 practice. Any period of non-practice within California, as defined in this condition, will not
27 apply to the reduction of the probationary term and does not relieve respondent of the
28 responsibility to comply with the terms and conditions of probation. Non-practice is defined as

1 any period of time exceeding 30 calendar days in which respondent is not engaging in any
2 activities defined in sections 2051 and 2052 of the Business and Professions Code.

3 All time spent in an intensive training program which has been approved by the
4 Medical Board or its designee shall be considered time spent in the practice of medicine. For
5 purposes of this condition, non-practice due to a Board-ordered suspension or in compliance with
6 any other condition of probation, shall not be considered a period of non-practice.

7 Respondent's license shall be automatically cancelled if respondent resides in
8 California and for a total of two years, fails to engage in California in any of the activities
9 described in Business and Professions Code sections 2051 and 2052.

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

14 15. VIOLATION OF PROBATION Failure to fully comply with any term or
15 condition of probation is a violation of probation. If respondent violates probation in any respect,
16 the Medical Board, after giving respondent notice and the opportunity to be heard, may revoke
17 probation and carry out the disciplinary order that was stayed. If an Accusation, Petition to
18 Revoke Probation, or an Interim Suspension Order is filed against respondent during probation,
19 the Medical Board shall have continuing jurisdiction until the matter is final, and the period of
20 probation shall be extended until the matter is final.

21 16. LICENSE SURRENDER Following the effective date of this Decision, if
22 respondent ceases practicing due to retirement, health reasons or is otherwise unable to satisfy
23 the terms and conditions of probation, respondent may request the voluntary surrender of
24 respondent's license. The Medical Board reserves the right to evaluate respondent's request and
25 to exercise its discretion whether or not to grant the request, or to take any other action deemed
26 appropriate and reasonable under the circumstances. Upon formal acceptance of the surrender,
27 respondent shall within 15 calendar days deliver respondent's wallet and wall certificate to the
28 Medical Board or its designee and respondent shall no longer practice medicine. Respondent

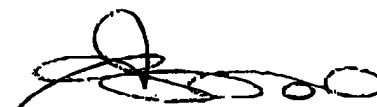
1 will no longer be subject to the terms and conditions of probation and the surrender of
2 respondent's license shall be deemed disciplinary action. If respondent re-applies for a medical
3 license, the application shall be treated as a petition for reinstatement of a revoked certificate.

4 17. PROBATION MONITORING COSTS Respondent shall pay the costs
5 associated with probation monitoring each and every year of probation, as designated by the
6 Medical Board, and which may be adjusted on an annual basis. Such costs shall be payable to
7 the Medical Board of California and delivered to it or its designee no later than January 31 of
8 each calendar year. Failure to pay costs within 30 calendar days of the due date is a violation of
9 probation.

10 ACCEPTANCE

11 I have carefully read the above Stipulated Settlement and Disciplinary Order and
12 have fully discussed it with my attorney, Scott A. Martin, Esq. I understand the stipulation and
13 the effect it will have on my Physician's and Surgeon's Certificate No. G 74989. I enter into this
14 Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree
15 to be bound by the Decision and Order of the Medical Board of California, Department of
16 Consumer Affairs.

17 DATED: 10/15/2008

18 
19
20 SANJAY GIANCHANDANI, M.D.
21 Respondent

22 I have read and fully discussed with Respondent SANJAY GIANCHANDANI,
23 M.D. the terms and conditions and other matters contained in the above Stipulated Settlement
24 and Disciplinary Order. I approve its form and content.

25 DATED: October 15, 2008

26 
27
28 SCOTT A. MARTIN, ESQ.
Attorney for Respondent

1 ENDORSEMENT

2 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
3 submitted for consideration by the Medical Board of California, Department of Consumer Affairs
4 of the State of California.

5
6 DATED: 10/20/08

7 EDMUND G. BROWN JR., Attorney General
8 of the State of California

9 THOMAS S. LAZAR
Supervising Deputy Attorney General

10
11 
12 ALEXANDRA M. ALVAREZ
13 Deputy Attorney General

14 Attorneys for Complainant

15 DOJ Matter ID: SD2007802217
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Exhibit A

Accusation No. 04-2006-172445

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 THOMAS S. LAZAR
Supervising Deputy Attorney General
3 ALEXANDRA M. ALVAREZ, State Bar No. 187442
Deputy Attorney General
4 California Department of Justice
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5 San Diego, CA 92101

6 P.O. Box 85266
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7 Telephone: (619) 645-3141
Facsimile: (619) 645-2061
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9 Attorneys for Complainant

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

13 In the Matter of the Accusation Against:

14 SANJAY GIANCHANDANI, M.D.
1111 South Arroyo Parkway, Suite 20
15 Pasadena, CA 91105

16 Physician's and Surgeon's Certificate No.
G 74989
17

Respondent.
18

Case No. 04-2006-172445

OAH No.

A C C U S A T I O N

19 Complainant alleges:

20 **PARTIES**

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

24 2. On or about August 25, 1992, the Medical Board of California issued
25 Physician's and Surgeon's Certificate No. G 74989 to SANJAY GIANCHANDANI, M.D.
26 (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times
27 relevant to the charges brought herein and will expire on April 30, 2008, unless renewed.

28 ///

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO October 10, 20 07
BY Valerie M. Mc ANALYST

JURISDICTION

3. This Accusation is brought before the Division of Medical Quality (Division) for the Medical Board of California, Department of Consumer Affairs, 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 Division deems proper.

5. Section 2234 of the Code states:

"The Division of Medical Quality shall take action against any licensee who is charged with unprofessional conduct.¹ 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 [Chapter 5, the Medical Practice Act].

"..."

6. Section 2238 of the Code states:

"A violation of any federal statute or federal regulation or any of the statutes or regulations of this state regulating dangerous drugs or controlled substances constitutes unprofessional conduct."

7. Section 2239 of the Code states:

"(a) The use or prescribing for or administering to himself or herself, of any controlled substance; or the use of any of the dangerous drugs specified in Section 4022,

1. Unprofessional conduct under California Business and Professions Code section 2234 is conduct which breaches the rules of 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. (*Shea v. Board of Medical Quality Examiners* (1978) 81 Cal.App.3d 564, 575.)

1 or of alcoholic beverages, to the extent, or in such a manner as to be dangerous or
2 injurious to the licensee, or to any other person or to the public, or to the extent that such
3 use impairs the ability of the licensee to practice medicine safely or more than one
4 misdemeanor or any felony involving the use, consumption, or self-administration of any
5 of the substances referred to in this section, or any combination thereof, constitutes
6 unprofessional conduct. The record of the conviction is conclusive evidence of such
7 unprofessional conduct.

8 "..."

9 **FIRST CAUSE FOR DISCIPLINE**

10 (Violation of Drug Laws)

11 8. Respondent has subjected his Physician's and Surgeon's Certificate No.
12 G 74989 to disciplinary action under sections 2227 and 2234, as defined by section 2238 of the
13 Code, in that he violated statutes and regulations regulating dangerous drugs and controlled
14 substances, as more particularly alleged hereinafter:

15 (a) On January 10, 2006, the Medical Board of California received a report
16 pursuant to section 805 of the Code indicating that respondent had been terminated from his
17 employment on January 3, 2006. This was precipitated by respondent's employer receiving an
18 anonymous email alleging that respondent used cocaine, ecstasy and marijuana for recreational
19 use on a continuous basis.

20 (b) During the course of the Board's investigation of the report from
21 respondent's former employer, respondent submitted to an interview with a Medical Board
22 investigator on or about October 24, 2006. During the interview, respondent admitted that he
23 had used his deceased wife's medication, Marinol,² to help him sleep. Respondent stated that he
24 had last used Marinol in approximately October 2005. The Medical Board investigator requested
25

26 2. "Marinol" is a Schedule I controlled substance pursuant to Health and Safety Code
27 section 11054(d)(20) and is a dangerous drug with in the meaning of Code section 4022.
28 Dronabinol, the active ingredient in Marinol, is synthetic tetrahydrocannabinol, which is also a
naturally occurring component of marijuana.

1 that respondent submit a urine sample, which respondent provided on October 24, 2006.
2 Respondent's urine tested positive for THC (tetrahydrocannabinol).³

3 **SECOND CAUSE FOR DISCIPLINE**

4 (Self Administering of Controlled Substance)

5 9. Respondent has further subjected his Physician's and Surgeon's Certificate
6 No. G 74989 to disciplinary action under sections 2227 and 2234, as defined by section 2239,
7 subdivision (a), of the Code, in that he self-administered controlled substances, as more
8 particularly alleged in paragraph 8, above, which is hereby incorporated by reference and
9 realleged as if fully set forth herein.

10 **THIRD CAUSE FOR DISCIPLINE**

11 (General Unprofessional Conduct)

12 10. Respondent has further subjected his Physician's and Surgeon's Certificate
13 No. G 74989 to disciplinary action under sections 2227 and 2234 of the Code in that he has
14 engaged in conduct which breaches the rules or ethical code of the medical profession, or
15 conduct which is unbecoming to a member in good standing of the medical profession, and
16 which demonstrates an unfitness to practice medicine, as more particularly alleged in paragraph
17 8, above, which is hereby incorporated by reference and realleged as if fully set forth herein.

18 **PRAYER**

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

21 1. Revoking or suspending Physician's and Surgeon's Certificate No.
22 G 74989, issued to SANJAY GIANCHANDANI, M.D.

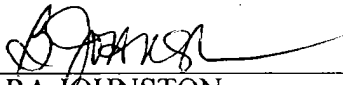
23 2. Revoking, suspending or denying approval of Sanjay Gianchandani,
24 M.D.'s authority to supervise physician's assistants, pursuant to section 3527 of the Code;

25 _____
26 3. "Tetrahydrocannabinol" is the main active chemical found in marijuana and in Marinol.
27 "Marijuana" is a Schedule I controlled substance pursuant to Health and Safety Code section
28 11054(d)(13) and is a dangerous drug with in the meaning of Code section 4022.

1 3. Ordering Sanjay Gianchandani, M.D. to pay, if placed on probation, the
2 costs of probation monitoring; and

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

5 DATED: October 10, 2007
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7
8 
9 BARBARA JOHNSTON
10 Executive Director
11 Medical Board of California
12 Department of Consumer Affairs
13 State of California
14 Complainant
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