

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

In the Matter of the Accusation)
Against:)
)
)
THOMAS JEROME LANCASTER, M.D.)
)
Physician's and Surgeon's)
Certificate No. G-70162)
)
Respondent)
_____)

File No. 02-2003-149423

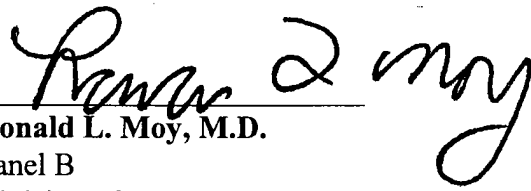
DECISION

The attached Stipulated Settlement and Disciplinary Order is hereby adopted as the Decision and Order of the Division of Medical Quality of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on January 26, 2007

IT IS SO ORDERED December 27, 2006.

MEDICAL BOARD OF CALIFORNIA

By: 
Ronald L. Moy, M.D.
Panel B
Division of Medical Quality

1 BILL LOCKYER, Attorney General
of the State of California
2 GAIL M. HEPPELL, Supervising
Deputy Attorney General
3 MARA FAUST, State Bar No. 111729
Deputy Attorney General
4 California Department of Justice
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 324-5358
Facsimile: (916) 327-2247
7
8 Attorneys for Complainant

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

14 In the Matter of the Accusation Against:
15 THOMAS JEROME LANCASTER, M.D.
1230 Pearsall Way
16 Yuba City, CA 95991
17 Physician and Surgeon's Certificate No. G70162
18 Respondent.

Case No. 02-2003-149423

OAH No. N2005080659

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

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. David T. Thornton (Complainant) is the Executive Director of the Medical
22 Board of California. He brought this action solely in his official capacity and is represented in this
23 matter by Bill Lockyer, Attorney General of the State of California, by Mara Faust, Deputy Attorney
24 General.

25 2. Respondent Thomas Lancaster M.D. (Respondent) is represented in this
26 proceeding by attorney Robert J. Sullivan, whose address is 915 L Street, Sacramento, CA
27 95814-0382.

28 3. On or about October 29, 1990, the Medical Board of California issued

1 Physician and Surgeon's Certificate No. G70162 to Thomas Lancaster M.D. (Respondent). The
2 Physician and Surgeon's Certificate was in full force and effect at all times relevant to the charges
3 brought herein and will expire on October 31, 2006, unless renewed.

4 JURISDICTION

5 4. Accusation No. 02-2003-149423 was filed before the Division of Medical
6 Quality (Division) for the Medical Board of California. Thereafter, the First Amended Accusation
7 No. 02-2003-149423 was filed before the Division of Medical Quality (Division) for the Medical
8 Board of California, Department of Consumer Affairs, and is currently pending against Respondent.
9 The First Amended Accusation and all other statutorily required documents were properly served
10 on Respondent on March 27, 2006. Respondent timely filed his Notice of Defense contesting the
11 First Amended Accusation. A copy of First Amended Accusation No. 02-2003-149423 is attached
12 as exhibit A and incorporated herein by reference.

13 ADVISEMENT AND WAIVERS

14 5. Respondent has carefully read, fully discussed with counsel, and understands
15 the charges and allegations in First Amended Accusation No. 02-2003-149423. Respondent has also
16 carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement
17 and Disciplinary Order.

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

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

27 CULPABILITY

28 8. Respondent admits the truth of the first, seventh, seventeenth and eighteenth

1 issued to Respondent Thomas Lancaster M.D. is revoked. However, the revocation is stayed and
2 Respondent is placed on probation for five (5) years on the following terms and conditions.

3 1. EDUCATION COURSE Within 60 calendar days of the effective date of this
4 Decision, and on an annual basis thereafter, respondent shall submit to the Division or its designee
5 for its prior approval educational program(s) or course(s) which shall not be less than 40 hours per
6 year, for the first two years of probation. The educational program(s) or course(s) shall be aimed at
7 correcting any areas of deficient practice or knowledge and shall be Category I certified, limited to
8 classroom, conference, or seminar settings. The educational program(s) or course(s) shall be at
9 respondent's expense and shall be in addition to the Continuing Medical Education (CME)
10 requirements for renewal of licensure. Following the completion of each course, the Division or its
11 designee may administer an examination to test respondent's knowledge of the course. Respondent
12 shall provide proof of attendance for 65 hours of continuing medical education of which 40 hours
13 were in satisfaction of this condition.

14 2. PRESCRIBING PRACTICES COURSE Within 60 calendar days of the
15 effective date of this Decision, respondent shall enroll in a course in prescribing practices, at
16 respondent's expense, approved in advance by the Division or its designee. Failure to successfully
17 complete the course during the first 6 months of probation is a violation of probation.

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

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

26 3. MEDICAL RECORD KEEPING COURSE Within 60 calendar days of the
27 effective date of this decision, respondent shall enroll in a course in medical record keeping, at
28 respondent's expense, approved in advance by the Division or its designee. Failure to successfully

1 complete the course during the first 6 months of probation is a violation of probation.

2 A medical record keeping course taken after the acts that gave rise to the charges in
3 the Accusation, but prior to the effective date of the Decision may, in the sole discretion of the
4 Division or its designee, be accepted towards the fulfillment of this condition if the course would
5 have been approved by the Division or its designee had the course been taken after the effective date
6 of this Decision.

7 Respondent shall submit a certification of successful completion to the Division or
8 its designee not later than 15 calendar days after successfully completing the course, or not later than
9 15 calendar days after the effective date of the Decision, whichever is later.

10 4. CLINICAL TRAINING PROGRAM Within 60 calendar days of the
11 effective date of this Decision, respondent shall enroll in a clinical training or educational program
12 equivalent to the Physician Assessment and Clinical Education Program (PACE) offered at the
13 University of California - San Diego School of Medicine ("Program").

14 The Program shall consist of a Comprehensive Assessment program comprised of
15 a two-day assessment of respondent's physical and mental health; basic clinical and communication
16 skills common to all clinicians; and medical knowledge, skill and judgment pertaining to
17 respondent's specialty or sub-specialty, and at minimum, a 40 hour program of clinical education
18 in the area of practice in which respondent was alleged to be deficient and which takes into account
19 data obtained from the assessment, Decision(s), Accusation(s), and any other information that the
20 Division or its designee deems relevant. Respondent shall pay all expenses associated with the
21 clinical training program.

22 Based on respondent's performance and test results in the assessment and clinical
23 education, the Program will advise the Division or its designee of its recommendation(s) for the
24 scope and length of any additional educational or clinical training, treatment for any medical
25 condition, treatment for any psychological condition, or anything else affecting respondent's practice
26 of medicine. Respondent shall comply with Program recommendations.

27 At the completion of any additional educational or clinical training, respondent shall
28 submit to and pass an examination. The Program's determination whether or not respondent passed

1 the examination or successfully completed the Program shall be binding.

2 Respondent shall complete the Program not later than six months after respondent's
3 initial enrollment unless the Division or its designee agrees in writing to a later time for completion.

4 Failure to participate in and complete successfully all phases of the clinical training
5 program outlined above is a violation of probation.

6 If respondent fails to complete the clinical training program within the designated
7 time period, respondent shall cease the practice of medicine within 72 hours after being notified by
8 the Division or its designee that respondent failed to complete the clinical training program.

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

18 The Division or its designee shall provide the approved monitor with copies of the
19 Decision(s) and Accusation(s), and a proposed monitoring plan. Within 15 calendar days of receipt
20 of the Decision(s), Accusation(s), and proposed monitoring plan, the monitor shall submit a signed
21 statement that the monitor has read the Decision(s) and Accusation(s), fully understands the role of
22 the monitor, and agrees or disagrees with the proposed monitoring plan. If the monitor disagrees
23 with the proposed monitoring plan, the monitor shall submit a revised monitoring plan with a signed
24 statement.

25 Within 60 calendar days of the effective date of this Decision, and continuing
26 throughout probation, respondent's billing shall be monitored by the approved monitor. Respondent
27 shall make all records available for immediate inspection and copying on the premises by the
28 monitor at all times during business hours, and shall retain the records for the entire term of

1 probation.

2 The monitor(s) shall submit a quarterly written report to the Division or its designee
3 which includes an evaluation of respondent's performance, indicating whether respondent's practices
4 are within the standards of practice of medicine or billing, or both, and whether respondent is
5 practicing medicine safely, billing appropriately or both.

6 It shall be the sole responsibility of respondent to ensure that the monitor submits the
7 quarterly written reports to the Division or its designee within 10 calendar days after the end of the
8 preceding quarter.

9 If the monitor resigns or is no longer available, respondent shall, within 5 calendar
10 days of such resignation or unavailability, submit to the Division or its designee, for prior approval,
11 the name and qualifications of a replacement monitor who will be assuming that responsibility
12 within 15 calendar days. If respondent fails to obtain approval of a replacement monitor within 60
13 days of the resignation or unavailability of the monitor, respondent shall be suspended from the
14 practice of medicine until a replacement monitor is approved and prepared to assume immediate
15 monitoring responsibility. Respondent shall cease the practice of medicine within 3 calendar days
16 after being so notified by the Division or designee.

17 In lieu of a monitor, respondent may participate in a professional enhancement
18 program equivalent to the one offered by the Physician Assessment and Clinical Education Program
19 at the University of California, San Diego School of Medicine, that includes, at minimum, quarterly
20 chart review, semi-annual practice assessment, and semi-annual review of professional growth and
21 education. Respondent shall participate in the professional enhancement program at respondent's
22 expense during the term of probation.

23 Failure to maintain all records, or to make all appropriate records available for
24 immediate inspection and copying on the premises, or to comply with this condition as outlined
25 above is a violation of probation.

26 6. SOLO PRACTICE Respondent is prohibited from engaging in the solo
27 practice of medicine.

28 In addition, during the term of probation, respondent can not change his place of

1 employment or his employer without approval of the Medical Board of California or their designee.

2 7. PROHIBITED PRACTICE Except as provided in paragraph 6 above, during
3 probation, respondent is prohibited from engaging in any clinical psychiatry performed outside his
4 current employment with Alta Regional, Sierra Vista, Butte County Mental Health and Enloe
5 Hospital. After the effective date of this Decision, the first time that a patient seeking the prohibited
6 services makes an appointment, respondent shall orally notify the patient that respondent does not
7 perform any clinical psychiatry outside his four places of employment. Respondent shall maintain
8 a log of all patients to whom the required oral notification was made. The log shall contain the: 1)
9 patient's name, address and phone number; 2) patient's medical record number, if available; 3) the
10 full name of the person making the notification; 4) the date the notification was made; and 5) a
11 description of the notification given. Respondent shall keep this log in a separate file or ledger, in
12 chronological order, shall make the log available for immediate inspection and copying on the
13 premises at all times during business hours by the Division or its designee, and shall retain the log
14 for the entire term of probation. Failure to maintain a log as defined in the section, or to make the
15 log available for immediate inspection and copying on the premises during business hours is a
16 violation of probation.

17 In addition to the required oral notification, after the effective date of this Decision,
18 the first time that a patient who seeks the prohibited services presents to respondent, respondent shall
19 provide a written notification to the patient stating that respondent does not perform any clinical
20 psychiatry outside his four places of employment. Respondent shall maintain a copy of the written
21 notification in the patient's file, shall make the notification available for immediate inspection and
22 copying on the premises at all times during business hours by the Division or its designee, and shall
23 retain the notification for the entire term of probation. Failure to maintain the written notification
24 as defined in the section, or to make the notification available for immediate inspection and copying
25 on the premises during business hours is a violation of probation.

26 8. NOTIFICATION Prior to engaging in the practice of medicine, the
27 respondent shall provide a true copy of the Decision(s) and Accusation(s) to the Chief of Staff or the
28 Chief Executive Officer at every hospital where privileges or membership are extended to

1 respondent, at any other facility where respondent engages in the practice of medicine, including all
2 physician and locum tenens registries or other similar agencies, and to the Chief Executive Officer
3 at every insurance carrier which extends malpractice insurance coverage to respondent. Respondent
4 shall submit proof of compliance to the Division or its designee within 15 calendar days.

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

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

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

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

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

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

24 Respondent shall immediately inform the Division, or its designee, in writing, of
25 travel to any areas outside the jurisdiction of California which lasts, or is contemplated to last, more
26 than 30 calendar days.

27 13. INTERVIEW WITH THE DIVISION, OR ITS DESIGNEE Respondent shall
28 be available in person for interviews either at respondent's place of business or at the probation unit

1 office, with the Division or its designee, upon request at various intervals, and either with or without
2 prior notice throughout the term of probation.

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

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

16 Respondent's license shall be automatically canceled 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 canceled as long as respondent is residing and practicing medicine
19 in another state of the United States and is on active probation with the medical licensing authority
20 of that state, in which case the two year period shall begin on the date probation is completed or
21 terminated in that state.

22 15. 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 Division or its
25 designee in writing within 30 calendar days prior to the dates of non-practice and return to practice.
26 Any period of non-practice within California, as defined in this condition, will not apply to the
27 reduction of the probationary term and does not relieve respondent of the responsibility to comply
28 with the terms and conditions of probation. Non-practice is defined as any period of time exceeding

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

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

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

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

14 17. 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 Division, after giving respondent notice and the opportunity to be heard, may revoke probation
17 and carry out the disciplinary order that was stayed. If an Accusation, Petition to Revoke Probation,
18 or an Interim Suspension Order is filed against respondent during probation, the Division shall have
19 continuing jurisdiction until the matter is final, and the period of probation shall be extended until
20 the matter is final.

21 18. 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 the
23 terms and conditions of probation, respondent may request the voluntary surrender of respondent's
24 license. The Division reserves the right to evaluate respondent's request and to exercise its discretion
25 whether or not to grant the request, or to take any other action deemed appropriate and reasonable
26 under the circumstances. Upon formal acceptance of the surrender, respondent shall within 15
27 calendar days deliver respondent's wallet and wall certificate to the Division or its designee and
28 respondent shall no longer practice medicine. Respondent will no longer be subject to the terms and


1 conditions of probation and the surrender of respondent's license shall be deemed disciplinary action.
2 If respondent re-applies for a medical license, the application shall be treated as a petition for
3 reinstatement of a revoked certificate.

4 19. PROBATION MONITORING COSTS Respondent shall pay the costs
5 associated with probation monitoring each and every year of probation, as designated by the
6 Division, which are currently set at \$3,173, but may be adjusted on an annual basis. Such costs shall
7 be payable to the Medical Board of California and delivered to the Division or its designee no later
8 than January 31 of each calendar year. Failure to pay costs within 30 calendar days of the due date
9 is a violation of probation.

10 ACCEPTANCE

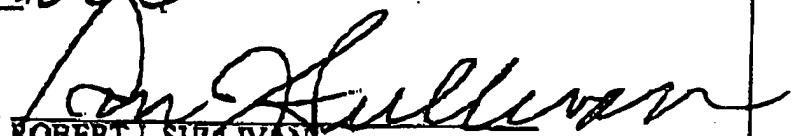
11 I have carefully read the above Stipulated Settlement and Disciplinary Order and have
12 fully discussed it with my attorney, Robert J. Sullivan. I understand the stipulation and the effect
13 it will have on my Physician and Surgeon's Certificate. I enter into this Stipulated Settlement and
14 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision
15 and Order of the Division of Medical Quality, Medical Board of California.

16 DATED: 11-21-06

17
18 
19 THOMAS LANCASTER M.D.
20 Respondent

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

24 DATED: Nov 15, 2006

25
26 
27 ROBERT J. SULLIVAN
28 Attorney for Respondent

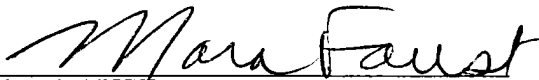
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ENDORSEMENT

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

DATED: Dec 4, 2006

BILL LOCKYER, Attorney General
of the State of California



MARA FAUST
Deputy Attorney General

Attorneys for Complainant

DOJ Docket/Matter ID Number: SA2004104026
Stipulation3.wpd.

Exhibit A

First Amended Accusation No. 02-2003-149423

1 BILL LOCKYER, Attorney General
of the State of California
2 GAIL M. HEPPELL, Supervising
Deputy Attorney General
3 MARA FAUST, State Bar No. 111729
Deputy Attorney General
4 California Department of Justice
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 324-5358
Facsimile: (916) 327-2247

7 Attorneys for Complainant
8

9
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 Amended Accusation
Against:

Case No. 02-2003-149423

14 THOMAS JEROME LANCASTER, M.D.
15 1230 Pearsall Way
Yuba City, CA 95991

**FIRST AMENDED
ACCUSATION**

16 Physician and Surgeon's Certificate No. G70162

17 Respondent.
18

19 Complainant alleges:

20 PARTIES

21 1. David T. Thornton (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 October 29, 1990, the Medical Board of California issued
25 Physician and Surgeon's Certificate Number G70162 to Thomas Lancaster (Respondent). The
26 Physician and Surgeon's Certificate was in full force and effect at all times relevant to the charges
27 brought herein and will expire on October 31, 2006, unless renewed.

28 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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 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.

5. Section 2238 of the Code states that 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.

6. Section 2242(a) of the Code states that prescribing, dispensing, or furnishing dangerous drugs as defined in Section 4022, without a good faith prior examination and medical indication thereof, constitutes unprofessional conduct.

7. Section 2266 of the Code states 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 4040 of the Code defines a prescription to include the date of issue.

9. Section 4081(a) of the Code states that all records of manufacture and of sale, acquisition, or disposition of dangerous drugs or dangerous devices shall be at all times during business hours open to inspection by authorized officers of the law, and shall be preserved for at least three years from the date of making. A current inventory shall be kept by every manufacturer, wholesaler, pharmacy, . . . physician, . . . clinic, hospital, institution, or establishment holding a

1 currently valid and unrevoked certificate, license, permit, registration, or exemption under Division
2 2 (commencing with section 1200) of the Health and Safety Code or under Part 4 (commencing with
3 section 16000) of Division 9 of the Welfare and Institutions Code who maintains a stock of
4 dangerous drugs or dangerous devices.

5 10. Section 4170 provides in relevant part that no prescriber shall dispense
6 drugs...to patients in his/her office or place of practice unless all of the following conditions are
7 met:...(6) The prescriber, prior to dispensing, offers to give a written prescription to the patient that
8 the patient may elect to have filled by the prescriber or by any pharmacy. (7) The prescriber provides
9 to the patient with written disclosure that the patient has a choice between obtaining the prescription
10 from the dispensing prescriber or obtaining the prescription at a pharmacy of the patient's choice.

11 11. Section 11157 of the Health and Safety Code states that no person shall issue
12 a prescription that is false or fictitious in any respect.

13 12. Section 11172 of the Health and Safety Code states that no person shall
14 antedate or postdate a prescription.

15 13. Section 11190 of the Health and Safety Code states:

16 Every practitioner, other than a pharmacist, who issues a prescription,
17 or dispenses or administers a controlled substance classified in
18 Schedule II shall make a record that, as to the transaction, shows all
of the following:

19 (a) The name and address of the patient.

20 (b) The date.

21 (c) The character, including the name and strength, and quantity
of controlled substances involved.

22 The prescriber's record shall show the pathology and purpose for
23 which the prescription is issued, or the controlled substance
administered, prescribed, or dispensed.

24 14. Section 11191 of the Health and Safety Code provides that the record shall
25 be preserved for three years. Every person who violates any provision of this section is guilty of a
26 misdemeanor.

27 15. Section 125.3 of the Code provides, in pertinent part, that the Division may
28 request the administrative law judge to direct a licentiate found to have committed a violation or

1 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
2 and enforcement of the case.

3 16. Section 14124.12 of the Welfare and Institutions Code states, in pertinent
4 part:

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

22 DRUGS

23 17. The following controlled substances and/or dangerous drugs are involved in
24 this proceeding:

25 A. Adderall, an amphetamine, is a Schedule II controlled substance within
26 the meaning of Health and Safety Code section 11055(d)(1) and a dangerous drug as defined in
27 section 4022 of the Code.

28 B. Ambien, a trade name for zolpidem tartrate, a non-benzodiazepine
hypnotic drug, is a Schedule IV controlled substance within the meaning of Health and Safety Code
section 11057(d)(32) and a dangerous drug as defined in section 4022 of the Code.

C. Depakote, a trade name for divalproex sodium, is a dangerous drug
as defined in section 4022 of the Code.

D. Effexor, a trade name for venlafaxine hydrochloride, an anti-
depressant drug, is a dangerous drug as defined in section 4022 of the Code.

E. Inderal, a trade name for propranolol hydrochloride, is a dangerous drug
as defined in section 4022 of the Code.

1 F. Klonopin, a trade name for clonazepam, a benzodiazepine, is a
2 Schedule IV controlled substance within the meaning of Health and Safety Code section 11057(d)(7)
3 and a dangerous drug as defined in section 4022 of the Code.

4 G. Prozac, a trade name for fluoxetine hydrochloride, an antidepressant
5 drug, is a dangerous drug as defined in section 4022 of the Code.

6 H. Provigil, a trade name for modafinil, is a Schedule IV controlled
7 substance within the meaning of Health and Safety Code section 11057(f)(3) and a dangerous drug
8 as defined in section 4022 of the Code.

9 I. Ritalin, a trade name for methylphenidate hydrochloride, a stimulant,
10 is a Schedule II controlled substance within the meaning of Health and Safety Code section
11 11056(d)(6) and a dangerous drug as defined in section 4022 of the Code.

12 J. Seroquel, a trade name for quetiapine fumarate, an antipsychotic drug,
13 is a dangerous drug as defined in section 4022 of the Code.

14 K. Somnote, a trade name for chloral hydrate, is a Schedule IV controlled
15 substance within the meaning of Health and Safety Code section 11057(d)(3) and a dangerous drug
16 as defined in section 4022 of the Code.

17 L. Sonata, a trade name for zaleplon, a non-benzodiazepine hypnotic
18 drug, is a Schedule IV controlled substance within the meaning of Health and Safety Code section
19 11057(d)(31) and a dangerous drug as defined in section 4022 of the Code.

20 M. Strattera is a dangerous drug as defined in section 4022 of the Code.

21 N. Trazodone Hcl is a dangerous drug as defined in section 4022 of the
22 Code.

23 O. Topamax, a trade name for topiramate, is an anti-epileptic drug, and
24 is a dangerous drug as defined in section 4022 of the Code.

25 P. Valium, a trade name for diazepam, a benzodiazepine, is a Schedule
26 IV controlled substance within the meaning of Health and Safety Code section 11057(d)(7) and a
27 dangerous drug as defined in section 4022 of the Code.

28 Q. Vicodin, a trade name for hydrocodone bitartrate and acetaminophen,

1 a narcotic drug, is a Schedule III controlled substance within the meaning of Health and Safety Code
2 section 11056 (e) and a dangerous drug as defined in section 4022 of the Code.

3 R. Wellbutrin, a trade name for bupropion hydrochloride, an anti-
4 depressant drug, is a dangerous drug as defined in section 4022 of the Code.

5 S. Zyprexa, a trade name for olanzapine, a psychotropic drug, is a
6 dangerous drug as defined in section 4022 of the Code.

7 **FIRST CAUSE FOR DISCIPLINE**

8 [Bus. & Prof. Code § 2234(b)]

9 (Gross Negligence)

10 18. Respondent is subject to disciplinary action under section 2234(b) of the
11 Code. The circumstances are as follows:

12 19. In or about the fall of 1998, respondent began to treat P.H.¹, a thirty-three year
13 old female for a diagnosis of bulimia, depression, mood swings, impulsivity, kleptomania and
14 borderline personality disorder. Patient P.H. also had a prior hospitalization for anorexia in 1996.
15 Respondent continued to treat this patient and prescribe numerous medications including
16 psychotropic medication to her from fall 1998 through June 19, 2003.

17 20. In July 2003, Superior Court Judge Timothy Evans awarded custody of the
18 four year old son of P.H. to her ex-husband, in part, because P.H. was addicted to prescription drugs
19 that respondent had prescribed. Patient P.H. stopped seeing respondent once the Judge ruled on the
20 custody matter. The Judge filed the complaint about respondent's treatment of P.H. with the Board.

21 21. Respondent admitted that he did not keep complete chart notes on his
22 treatment of P.H. and that he lost some of his chart notes as well.

23 22. Respondent's failure to obtain and document P.H.'s psychiatric, medical and
24 substance abuse history at both the initial intake and in the subsequent office visits constitutes
25 conduct that is in violation of section 2234(b) of the Code.

26 ///

27 _____
28 1. Complainant will disclose the full name of the victim, upon a timely request for
discovery.

1 **SECOND CAUSE FOR DISCIPLINE**

2 [Bus. & Prof. Code § 2234(b)]
3 (Gross Negligence)

4 23. Complainant re-alleges paragraphs 19 through 22 above and incorporates them
5 herein by reference as if fully set forth at this point. Respondent is subject to disciplinary action
6 under section 2234(b) of the Code. The circumstances are as follows:

7 24. Respondent failed to conduct or record a mental status examination of patient
8 P.H., he failed to consider a differential diagnosis of P.H.'s condition at both the initial presentation
9 and throughout her treatment, and he failed to make a treatment plan for patient P.H., all of which
10 constitutes conduct that is in violation of section 2234(b) of the Code.

11 **THIRD CAUSE FOR DISCIPLINE**

12 [Bus. & Prof. Code § 2234(b)]
13 (Gross Negligence)

14 25. Complainant re-alleges paragraphs 19 through 22 above and incorporates them
15 herein by reference as if fully set forth at this point. Respondent is subject to disciplinary action
16 under section 2234(b) of the Code. The circumstances are as follows:

17 26. Respondent failed to regularly list multiple medications in a standard fashion
18 in patient P.H.'s chart with the name of the various medications prescribed, the tablet strength and
19 directions for dosing. Furthermore, on several occasions, respondent did not even list medications
20 he prescribed to P.H. in her chart until after he discontinued prescribing the medication.

21 **FOURTH CAUSE FOR DISCIPLINE**

22 [Bus. & Prof. Code § 2234(b) and Health and Safety 11157 and 11172]
23 (Gross Negligence)

24 27. Complainant re-alleges paragraphs 19 through 22 above and incorporates them
25 herein by reference as if fully set forth at this point. Respondent is subject to disciplinary action
26 under section 2234(b) of the Code and 11157, and 11172 of the Health and Safety Code. The
27 circumstances are as follows:

28 28. Respondent admitted to giving P.H. post-dated triplicate prescriptions for
stimulants which is why the serial numbers are consecutive yet filled a month apart.

///

///

1 **FIFTH CAUSE FOR DISCIPLINE**

2 [Bus. & Prof. Code § 2234(b)]

3 (Gross Negligence)

4 29. Complainant re-alleges paragraphs 19 through 22 above and incorporates them
5 herein by reference as if fully set forth at this point. Respondent is subject to disciplinary action
6 under section 2234(b) of the Code. The circumstances are as follows:

7 30. Respondent wrote new prescriptions for lost prescriptions without having a
8 policy regarding lost prescriptions such as requiring a police report for "stolen" drugs.

9 **SIXTH CAUSE FOR DISCIPLINE**

10 [Bus. & Prof. Code § 2234(b)]

11 (Gross Negligence)

12 31. Complainant re-alleges paragraphs 19 through 22 above and incorporates it
13 herein by reference as if fully set forth at this point. Respondent is subject to disciplinary action
14 under section 2234(b) of the Code. The circumstances are as follows:

15 32. Respondent failed to evaluate P.H.'s serious psychiatric diagnoses including
16 anorexia, bulimia, depression, mood swings, cyclothymia, impulsivity, kleptomania and borderline
17 personality disorder. There was no basic data present such as the patient's weight, blood pressure
18 and pulse, despite her serious history of an eating disorder, no evaluation of the depression, nothing
19 in the record to corroborate the kleptomania diagnosis or the borderline personality disorder.

20 **SEVENTH CAUSE FOR DISCIPLINE**

21 [Bus. & Prof. Code § 2234(b)]

22 (Gross Negligence)

23 33. Complainant re-alleges paragraphs 19 through 22 above and incorporates them
24 herein by reference as if fully set forth at this point. Respondent is subject to disciplinary action
25 under section 2234(b) of the Code. The circumstances are as follows:

26 34. Respondent failed to assess the efficacy and side effects of Prozac. He failed
27 to assess the side-effects of Topamax. Respondent failed to assess side affects of insomnia and/or
28 mood swings of Ambien, and he failed to consider the sheer number of Ambien pills he prescribed
to P.H. without considering adjusting the amount of other medication. Each and every one of these
acts separately and in combination constitute violations of 2234(b) of the Code.

///

1 **EIGHTH CAUSE FOR DISCIPLINE**

2 [Bus. & Prof. Code § 2234(b)]
3 (Gross Negligence)

4 35. Complainant re-alleges paragraphs 19 through 22 above and incorporates it
5 herein by reference as if fully set forth at this point. Respondent is subject to disciplinary action
6 under section 2234(b) of the Code. The circumstances are as follows:

7 36. Respondent failed to do a careful diagnostic and risk/benefit analysis before
8 prescribing the amphetamine Adderall to counteract the patient's depression and daytime fatigue.
9 Respondent should have decreased or stopped prescribing sedating medication before prescribing
10 an amphetamine. Respondent failed to evaluate the patient P.H.'s mood swings and/or to consider
11 Adderall as a contributing factor. Respondent also failed to evaluate the side effect of "crawling
12 skin" based on the administration of either Adderall, Effexor or Zyprexa. In addition, respondent
13 never obtained the patient's informed consent for giving her Zyprexa and did not consider lowering
14 or discontinuing Adderall and/or Effexor rather than give Zyprexa. Respondent started P.H. on 20
15 mgs. of Ritalin, three times a day, on May 8, 2002, without justification, or progress notes or any
16 evaluation. Respondent failed to consider the likely side-effects of Ritalin, particularly when it is
17 combined with Adderall. In addition, respondent prescribed these two stimulants to patient P.H.
18 after hearing that the patient might be using "crank," yet he failed to obtain a substance abuse history
19 and do a urine toxicology screen. Each and every one of these acts separately and in combination
20 constitute violations of 2234(b) of the Code.

21 **NINTH CAUSE FOR DISCIPLINE**

22 [Bus. & Prof. Code § 2234(c)]
23 (Repeated Negligence Acts)

24 37. Complainant re-alleges paragraphs 19 through 22 above and incorporates
25 them herein by reference as if fully set forth at this point. Respondent is subject to disciplinary
26 action under section 2234(c) of the Code. The circumstances are as follows:

27 38. Respondent's failure to list the prescription drug samples he gave to patient
28 P.H., his failure to label each group of samples, and his practice of leaving dangerous drugs on the
counter or in the mailbox as that would compromise patient confidentiality each constitute a
departure which together is a violation of section 2234 (c) of the Code.

1 **TENTH CAUSE FOR DISCIPLINE**

2 [Bus. & Prof. Code § 2234(c)]
3 (Repeated Negligent Acts)

4 39. Complainant re-alleges paragraphs 19 through 22 above and incorporates them
5 herein by reference as if fully set forth at this point. Respondent is subject to disciplinary action
6 under section 2234(c) of the Code. The circumstances are as follows

7 40. Respondent failed to note either that he prescribed Sonata, nor noted when
8 he discontinued prescribing this drug why he had prescribed it to begin with, what was the dose,
9 quantity and number of refills. Respondent failed to document the indication for Trazodone, or the
10 patient's medical condition. Respondent failed to record why he prescribed Somnote, when this drug
11 was started or what evaluation of the patient was done. Respondent failed to discuss with P.H. that
12 weight gain could be a side effect of Depakote. Each of these acts constitutes a departure from the
13 standard of care and taken together they comprise repeated negligent acts.

14 **ELEVENTH CAUSE FOR DISCIPLINE**

15 [Bus. & Prof. Code § 2234(b)]
16 (Gross Negligence)

17 41. Complainant re-alleges paragraphs 19 through 22 above and incorporates them
18 herein by reference as if fully set forth at this point. Respondent is subject to disciplinary action
19 under section 2234(b) of the Code. The circumstances are as follows:

20 42. Respondent prescribed too high a dose of Klonopin (1mg) on the same visit
21 he changed the dosage of P.H.'s Adderall prescription. Respondent added a prescription of Valium
22 on March 15, 2002, without explanation, when patient P.H. was already taking another
23 benzodiazepine, and such a combination is not within the standard of care without a documented
24 acceptable justification. Respondent failed to get patient P.H.'s informed consent to prescribe the
25 anti-psychotic drug Seroquel, which can cause serious permanent side effects, and the patient was
26 already on another anti-psychotic drug, Zyprexa, which puts the patient at greater risk for side-
27 effects. Respondent failed to adjust any medications when the patient complained about daytime
28 sedation and instead prescribed Provigil. Respondent failed to consider the side-effects of Strattera
when he prescribed this drug to P.H. on April 28, 2002. Respondent failed to evaluate P.H.'s
condition before prescribing Vicodin ES. Respondent should not have continued to prescribe four

1 stimulants, Ritalin, Adderall, Strattera, and Provigil, after the last patient visit of April 28, 2002.
2 Each and every one of these acts separately and in combination constitutes violations of 2234(b) of
3 the Code.

4 **TWELFTH CAUSE FOR DISCIPLINE**

[Bus. & Prof. Code § 2234(d)]

(Incompetence)

6 43. Complainant re-alleges paragraphs 19 through 42 above and incorporates them
7 herein by reference as if fully set forth at this point. Respondent is subject to disciplinary action
8 under section 2234(d) of the Code. The circumstances are as follows:

9 44. Respondent demonstrated a lack of knowledge, training, skill, and
10 experience in violation of section 2234(d) of the Code when he treated patient P. H. with almost a
11 complete absence of adherence to basic principles of psychiatric diagnosis and care that rendered
12 drug treatment unsafe and virtually guaranteed side-effects, toxicity and possible addiction.

13 **THIRTEENTH CAUSE FOR DISCIPLINE**

[Bus. & Prof. Code § 2234(b)]

(Gross Negligence, Prescribing Controlled Substances and
15 Dangerous Drugs to Patient Without Medical Records)

16 45. Complainant re-alleges paragraphs 19 through 42 above and incorporates them
17 herein by reference as if fully set forth at this point. Respondent is subject to disciplinary action
18 under section 2234(b) of the Code. The circumstances are as follows:

19 46. The failure by respondent to maintain records for prescribing controlled
20 substances, including the carbon copies of the triplicate prescriptions, as well as a lack of medical
21 records to support the prescribing of dangerous drugs, constitutes a violation of 2234(b) of the Code.

22 **FOURTEENTH CAUSE FOR DISCIPLINE**

[Bus. & Prof. Code §§ 2238, 2266, 4081

23 and H&S Code §§ 11164, 11190, 11191]

(Failure to Maintain Adequate Medical Records)

24
25 47. Complainant re-alleges paragraphs 19-22, 36 and 46 above and incorporates
26 them herein by reference as if fully set forth at this point. Respondent is subject to disciplinary
27 action under sections 2238, 2266, and 4081 of the Code as well as under Health and Safety Code
28 section 11190 in that respondent failed to maintain adequate and accurate medical records for three

1 years and failed to keep copies of any Schedule II prescriptions, and that such failures constitute
2 unprofessional conduct.

3 **FIFTEENTH CAUSE FOR DISCIPLINE**

4 [Bus. & Prof. Code §2242(a)]

(Prescribing Without A Good Faith Examination)

5 48. Complainant re-alleges paragraphs 19 through 22 above and incorporates them
6 herein by reference as if fully set forth at this point. Respondent is subject to disciplinary action
7 under section 2242(a) of the Code. The circumstances are as follows:

8 49. Respondent prescribed Wellbutrin to patient P.H. but told P.H. to give the
9 medication to her depressed sixteen year old daughter, T.H., and respondent did this without seeing
10 or evaluating the daughter.

11 **SIXTEENTH CAUSE FOR DISCIPLINE**

12 [Bus. & Prof. Code § 2234(b)]

(Gross Negligence)

13 50. Respondent is subject to disciplinary action under section 2234(b) of the
14 Code. The circumstances are as follows:

15 51. On or about September 17, 2001, respondent evaluated patient R. P.², a thirty-
16 seven year old female, for a prior diagnosis of depression and fatigue. Respondent continued to treat
17 this patient and prescribe numerous medications including psychotropic medication to her from
18 September 2001 through July 2003.

19 52. Respondent failed in his initial evaluation and then treatment of this patient
20 to investigate whether medical problems could be causing or contributing to the patient's ongoing
21 depressive and fatigue symptoms that did not remit with multiple psychotropic medications and
22 escalating dosages. Respondent also failed to consider in both his initial evaluation and subsequent
23 treatment if the medications R.P. was initially taking (Wellbutin, Remeron, Ambien and Xanax),
24 might be causing or contributing to the patient's ongoing depression and fatigue symptoms.
25 Respondent repeatedly failed to consider drug abuse in his differential diagnosis of patient R.P.

26
27
28 2. Complainant will disclose the full name of the victim, upon a timely request for
discovery.

1 Respondent prescribed Seroquel to R.P. without obtaining informed consent regarding the possible
2 neurological side-effects of using an anti-psychotic medication for her insomnia. On the same day
3 respondent prescribed Seroquel to R.P., he also prescribed Chloral Hydrate for her insomnia which
4 was improper. Respondent prescribed Effexor without documenting the following: when he started
5 the patient on this medication, the rationale for prescribing it, whether there was informed consent,
6 the dosage, and the number of pills prescribed. Respondent inappropriately wrote ADD on top of the
7 prescriptions for Adderall. Respondent failed to address with the patient warnings as to taking
8 certain medications should she become pregnant, and he failed to assess whether this patient would
9 likely become pregnant again. All of the above failures collectively and/or in combination constitute
10 an extreme departure from the standard of care.

11 **SEVENTEENTH CAUSE FOR DISCIPLINE**

12 [Bus. & Prof. Code § 2234(b)]
13 (Gross Negligence)

14 53. Complainant re-alleges paragraph 51 above and incorporates it herein by
15 reference as if fully set forth at this point. Respondent is subject to disciplinary action under section
16 2234(b) of the Code. The circumstances are as follows:

17 54. Respondent prescribed excessive quantities of Ambien to patient R.P.
18 Additionally, when respondent was notified by a pharmacist about this patient getting Ambien from
19 two different physicians (Dr. Miller and respondent), respondent did not attempt to contact the other
20 physician about the problem, nor did he discuss with the patient the risks of taking more Ambien
21 than he had prescribed to her. Respondent stopped prescribing Ambien to R.P. on 4/17/02, but failed
22 to order a substance abuse evaluation, and he restarted the patient on Ambien on 2/16/03.

23 **EIGHTEENTH CAUSE FOR DISCIPLINE**

24 [Bus. & Prof. Code § 2234(c)]
25 (Repeated Negligent Acts)

26 55. Complainant re-alleges paragraphs 51 through 52 above and incorporates them
27 herein by reference as if fully set forth at this point. Respondent is subject to disciplinary action
28 under section 2234(c) of the Code. The circumstances are as follows:

Each and every one of the eight failures by respondent described in paragraph
47, separately and in combination, constitutes a violations of 2234(c) of the Code.

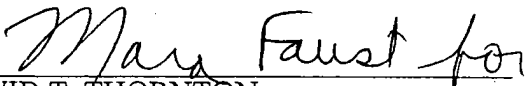
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

PRAYER

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

1. Revoking or suspending Physician and Surgeon's Certificate Number G70162, issued to Thomas Lancaster;
2. Revoking, suspending or denying approval of Thomas Lancaster's authority to supervise physician's assistants, pursuant to section 3527 of the Code;
3. Ordering Thomas Lancaster to pay the Division of Medical Quality the reasonable costs of the investigation and enforcement of this case, and, if placed on probation, the costs of probation monitoring;
4. Taking such other and further action as deemed necessary and proper.

DATED: 3/27/06



DAVID T. THORNTON
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant