

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

In the Matter of the Accusation Against:)	
)	
)	
)	
ANANTH SHANMUGAM, M.D.)	MBC File # 02-2010-207174
)	
)	
Physician's & Surgeon's)	
Certificate No. A 90579)	
)	
_____ Respondent.)	

**ORDER CORRECTING NUNC PRO TUNC
CLERICAL ERROR IN "EFFECTIVE DECISION DATE" PORTION OF DECISION**

On its own motion, the Medical Board of California (hereafter "board") finds that there is a clerical error in the "Effective Decision Date" portion of the Decision in the above-entitled matter and that such clerical error should be corrected.

IT IS HEREBY ORDERED that the "Effective Decision Date" on the Decision Order Page in the above-entitled matter be and hereby is amended and corrected nunc pro tunc as of the date of entry of the decision to read as "This Decision shall become effective at 5:00 p.m. on July 31, 2013."

June 10, 2013



Kimberly Kirchmeyer
Interim Executive Director

1 KAMALA D. HARRIS
Attorney General of California
2 GAIL M. HEPPELL
Supervising Deputy Attorney General
3 ROBERT C. MILLER
Deputy Attorney General
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7 *Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:
12 **ANANTH SHANMUGAM, M.D.**
5225 Calvine Road, #C165
13 Sacramento, CA 95828
14 Physician's and Surgeon's Cert. No. A 90579
15 Respondent.

Case No. 02-2010-207174

OAH No. 2012051212

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

17 In the interest of a prompt and speedy resolution of this matter, consistent with the public
18 interest and the responsibility of the Medical Board of California of the Department of Consumer
19 Affairs, the parties hereby agree to the following Stipulated Surrender of License and Order
20 which will be submitted to the Board for approval and adoption as the final disposition of the
21 Accusation.

22 **PARTIES**

23 1. Linda K. Whitney (Complainant) is the Executive Director of the Medical Board of
24 California. She brought this action solely in her official capacity and is represented in this matter
25 by Kamala D. Harris, Attorney General of the State of California, by Robert C. Miller, Deputy
26 Attorney General.

27 2. Ananth Shanmugam, M.D. (Respondent) is represented in this proceeding by attorney
28 Robert F. Hahn, Esq., whose address is 2550 Ninth Street, Suite 101

1 Berkeley, CA 94710-2551.2. On or about March 23, 2005, the Medical Board of California
2 issued Physician's and Surgeon's Certificate No. A 90579 to Ananth Shanmugam, M.D.
3 (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times
4 relevant to the charges brought in Accusation No. 02-2010-207174.

5 **JURISDICTION**

6 3. Accusation No. 02-2010-207174 was filed before the Medical Board of California
7 (Board), Department of Consumer Affairs, and is currently pending against Respondent. The
8 Accusation and all other statutorily required documents were properly served on Respondent on
9 October 3, 2011. Respondent timely filed his Notice of Defense contesting the Accusation. A
10 copy of Accusation No. 02-2010-207174 is attached as Exhibit A and incorporated by reference.

11 **ADVISEMENT AND WAIVERS**

12 4. Respondent has carefully read, fully discussed with counsel, and understands the
13 charges and allegations in Accusation No. 02-2010-207174. Respondent also has carefully read,
14 fully discussed with counsel, and understands the effects of this Stipulated Surrender of License
15 and Order.

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

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


25 **CULPABILITY**

26 7. Respondent understands that the charges and allegations in Accusation No. 02-2010-
27 207174, if proven at a hearing, constitute cause for imposing discipline upon his Physician's and
28 Surgeon's Certificate.


1 Respondent shall not be deemed to have admitted that he attempted to establish a romantic
2 relationship with the patient.

3 ACCEPTANCE

4 I have carefully read the above Stipulated Surrender of License and Order and have fully
5 discussed it with my attorney, Robert F. Hahn, Esq. I understand the stipulation and the effect it
6 will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Surrender of
7 License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the
8 Decision and Order of the Medical Board of California.

9
10 DATED: 4/25/2013 
11 ANANTH SHANMUGAM, M.D.
12 Respondent

13 I have read and fully discussed with Respondent Ananth Shanmugam, M.D. the terms and
14 conditions and other matters contained in this Stipulated Surrender of License and Order. I
15 approve its form and content.

16 DATED: 4/25/2013 
17 ROBERT F. HAHN, ESQ.
18 Attorney for Respondent

19 ENDORSEMENT

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

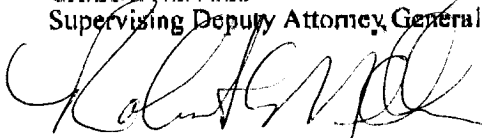
22 Dated: 4/29/2013 Respectfully submitted,
23 KAMALA D. HARRIS
24 Attorney General of California
25 GAIL M. HEPPELL
26 Supervising Deputy Attorney General
27 
28 ROBERT C. MILLER
Deputy Attorney General
Attorneys for Complainant

Exhibit A

Accusation No. 02-2010-207174

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2 GAIL M. HEPPELL
Supervising Deputy Attorney General
3 ROBERT C. MILLER
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7 *Attorneys for Complainant*

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

11
12 In the Matter of the Accusation Against:

Case No. 02-2010-207174

13 **ANANTH SHANMUGAM, M.D.**
8250 Calvine Road, #C-165
14 Sacramento, CA 95828

A C C U S A T I O N

15 **Physician's and Surgeon's Certificate No. A90579**

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

- 20 1. Linda K. Whitney (Complainant) brings this Accusation solely in her official capacity
21 as the Executive Director of the Medical Board of California, Department of Consumer Affairs.
- 22 2. On or about March 23, 2005, the Medical Board of California issued Physician's and
23 Surgeon's Certificate Number A90579 to Ananth Shanmugam, M.D. (Respondent). Said license
24 will expire on June 30, 2012, unless renewed.

25 **JURISDICTION**

- 26 3. This Accusation is brought before the Medical Board of California (Board),
27 Department of Consumer Affairs, under the authority of the following laws. All section
28 references are to the Business and Professions Code unless otherwise indicated.

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4. 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 division¹, may, in accordance with the provisions of this chapter:

- (1) Have his or her license revoked upon order of the division.
- (2) Have his or her right to practice suspended for a period not to exceed one year upon order of the division.
- (3) Be placed on probation and be required to pay the costs of probation monitoring upon order of the division.
- (4) Be publicly reprimanded by the division.
- (5) Have any other action taken in relation to discipline as part of an order of probation, as the division or an administrative law judge may deem proper.

(b) Any matter heard pursuant to subdivision (a), except for warning letters, medical review or advisory conferences, professional competency examinations, continuing education activities, and cost reimbursement associated therewith that are agreed to with the division and successfully completed by the licensee, or other matters made confidential or privileged by existing law, is deemed public, and shall be made available to the public by the board pursuant to Section 803.1."

5. Section 2234 of the Code states in pertinent part:

"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:

¹ California Business and Professions Code section 2002, as amended and effective January 1, 2008, provides that, unless otherwise expressly provided, the term "board" as used in the State Medical Practice Act (Cal. Bus. & Prof. Code, §§ 2000, et seq.) means the "Medical Board of California," and references to the "Division of Medical Quality" and "Division of Licensing" in the Act or any other provision of law shall be deemed to refer to the Board.

1 "(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting
2 the violation of, or conspiring to violate any provision of this chapter [Chapter 5, the
3 Medical Practice Act].

4 "(b) Gross negligence.

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

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

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

16 6. Section 2004 of the Code states in pertinent part:

17 "The board shall have the responsibility for the following:

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

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

21 "(c) Carrying out disciplinary actions appropriate to findings made by a panel or an
22 administrative law judge.

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

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

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1 **FIRST CAUSE FOR DISCIPLINE**
2 **[Business and Professions Code § 2234(b)]**
3 **(Gross Negligence)**

4 7. Respondent is subject to disciplinary action under section 2234(b) of the Code in that
5 he committed acts of gross negligence and unprofessional conduct by trying to establish a
6 romantic relationship with a patient he was caring for in his capacity as a psychiatrist. The
7 circumstances are as follows:

8 8. On or about May 25, 2010, the Board received a complaint from patient J.V. alleging
9 sexual misconduct and abuse of power of authority by Respondent.

10 9. J.V. was Respondent's patient March to May 2010. J.V. had suffered a panic attack
11 at her work, Chateau Rivers Edge, an elderly care facility where she worked as a caregiver.
12 During the attack, she fainted and was taken by ambulance to the hospital.

13 10. J.V. was then referred to the Wellness Recovery Center (WRC) in Sacramento for
14 further treatment. While seen initially by a different physician on her first visit on March 10,
15 2010, Respondent became her physician on her second visit until her last on May 14, 2010. He
16 would schedule her appointments for every two weeks. She said sessions were an hour to an hour
17 and a half.

18 11. Respondent was on a contract with WRC. He was an independent contractor to
19 provide outpatient medication support services. He was a psychiatrist there to assess, diagnose,
20 treat and prescribe medications for patients. Respondent worked there from February 24, 2010 to
21 May 22, 2010.

22 12. During the time she was being treated by Respondent, J.V. was also receiving therapy
23 from another therapist at WRC. J.V. was diagnosed at WRC with borderline personality disorder
24 and depression. She had a history of childhood sexual abuse.

25 13. In addition to the medications Respondent prescribed to J.V., he also provided
26 therapy which J.V. described as "just talking." These talks would include how she was doing and
27 feeling; how her medications were affecting her; her sex life and what she could do to make sex
28 better; and about her relationship with her husband. She said they mostly talked about her

1 relationship with her husband. They also talked about her past abuse history. J.V. said it was like
2 double therapy because she also discussed these things with her other therapist at WRC.

3 14. J.V. exchanged cell phone numbers with Respondent. Right after she left the session
4 where they exchanged numbers, she received a text message from him. J.V. reported that it was
5 an encouraging message from Respondent saying that she was going to get through this. She
6 confirmed that this initial text message was not inappropriate. He sent her text messages to check
7 up on her. Respondent continued to text J.V. on numerous occasions through April and May,
8 2010. He sent her text messages at night and in the morning, some at midnight or 1:00 in the
9 morning.

10 15. Respondent's text messages turned increasingly personal and inappropriate. J.V.
11 showed her friends a series of these text messages which they then video recorded onto another
12 friend's phone. These recordings were preserved and later transcribed. Copies of Respondent's
13 cell phone records were obtained showing over 273 text messages were exchanged between
14 Respondent and J.V. from April 30 to May 21, 2010.

15 16. Respondent asked J.V. out to dinner and expressed his attraction to her in several
16 instances. Some of his texts to her included the following: "I really dig u"; "Relax honey, I think I
17 have fallen in love with u"; "my love is unconditional"; and, "I am 47 and have not felt this way about
18 a woman for 11 years."

19 17. On May 22, 2010, J.V. was upset over the text messages from Respondent and called
20 her other therapist at WRC to make arrangements to see her. The next morning J.V. met with her
21 therapist who reported that J.V. was so upset she was crying and even became physically ill. J.V.
22 expressed to her therapist hurt, betrayal and anger towards Respondent, saying that "he is just like
23 every other man." J.V. showed her therapist the text messages from Respondent that were still on
24 her phone.

25 18. Respondent's conduct as described above constitutes gross negligence in the practice
26 of medicine and is unprofessional conduct in violation of section 2234(b) of the Code, and
27 thereby provides cause for discipline to Respondent's license.

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SECOND CAUSE FOR DISCIPLINE
[Business and Professions Code § 2234(c)]
(Repeated Negligent Acts)

9. Respondent is subject to disciplinary action under section 2234(c) of the Code in that committed acts of repeated negligence. The circumstances are as follows:

10. Paragraphs 7 through 17 above are repeated here as if fully set forth.

11. Respondent's conduct as described above constitutes repeated negligent acts in the practice of medicine and is unprofessional conduct in violation of section 2234(c) of the Code, and thereby provides cause for discipline to Respondent's license.

PRAYER

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

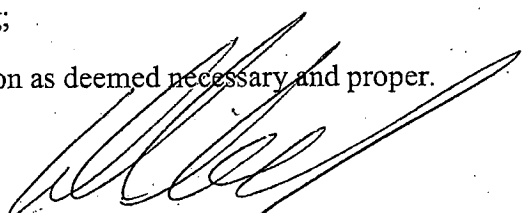
1. Revoking or suspending physician's and surgeon's certificate Number A90579, issued to Ananth Shanmugam, M.D.

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

3. If placed on probation, ordering Ananth Shanmugam, M.D. to pay the Medical Board of California the costs of probation monitoring;

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

DATED: October 3, 2011


LINDA K. WHITNEY
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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