

BEFORE THE
MEDICAL BOARD OF CALIFORNIA
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

SEKILAR SABARATNAM, M.D.,

Physician's and Surgeon's
Certificate Number A 29353

Respondent.

Case No. 17-2008-190704

OAH No. 2011070447

PROPOSED DECISION

This matter came before Samuel D. Reyes, Administrative Law Judge, Office of Administrative Hearings, at Taft Correctional Institution, Taft, California, on December 21, 2011.

Edward Kim, Deputy Attorney General, represented complainant Linda K. Whitney, Executive Director of the Medical Board of California (Board).

Sekilar Sabaratnam, M.D. (Respondent), represented himself.

Complainant seeks to discipline Respondent's medical license on the basis of his criminal conviction and the facts surrounding the conviction. Respondent did not contest most of the factual allegations, but argued that his actions were not related to the practice of medicine and presented facts in support of continued licensure.

Oral and documentary evidence was received at the hearing, and the matter was submitted for decision.

FACTUAL FINDINGS

1. Complainant filed the Accusation in her official capacity.
2. On July 11, 1975, the Board issued Physician's and Surgeon's Certificate Number A 29353 to Respondent. On February 8, 2011, the license was automatically suspended pursuant to Business and Professions Code¹ section 2236.1, following Respondent's incarceration. Respondent's license has no other prior discipline.

¹ All further statutory references are to the Business and Professions Code.

3. Respondent moved to California in 1974, and has been engaged in the private practice of medicine since then. Except for brief periods in which he taught medicine or provided primary care, he has worked as a psychiatrist. The period of time spent in the actual practice of medicine decreased as he worked in hospital management. Respondent obtained a Master's in Business Administration in 1990, and started working as a hospital administrator thereafter.

4. In 1994, Respondent became the chief executive officer at City of Angels Medical Center (City of Angels). The hospital is located in urban Los Angeles, California, and experienced financial difficulties in the early and mid-2000s. At some point before 2004, Respondent acquired a financial interest in City of Angels.

5. a. On December 12, 2008, in the United States District Court, Central District of California, in case number CR 08-904 GHK, Respondent was convicted, on his plea of guilty, of two counts violating Title 42, United States Code, section 1320a-7b, subdivision (b)(2)(A) (payment of kickbacks for patient referrals).

b. On August 30, 2010, the court sentenced Respondent to serve 24 months in federal prison, and ordered him to pay a \$200 special assessment and \$4,108,779 in restitution. Upon his release from prison, Respondent is to be placed on supervised release for three years.

6. The circumstances surrounding the conviction are as follows. During the period of August 20, 2004 through June 14, 2007, Respondent engaged in a scheme to increase inpatient admissions to City of Angels by paying patient recruiters Estill Mitts (Mitts) and Richard Massey (Massey) to refer Medicare and Medi-Cal beneficiaries whom they recruited, primarily from the area in downtown Los Angeles known as Skid Row. With Respondent's knowledge, Mitts operated an "Assessment Center" to recruit homeless patients for hospital admissions, whether or not such admissions were necessary. Transportation of homeless individuals eligible for Medicare or Medi-Cal was arranged from the Assessment Center to and from City of Angels. Respondent paid the recruiters approximately \$500 for each Medicare patient admitted to City of Angels and approximately \$300 for each Medi-Cal patient admitted to the hospital. In order to hide the kickbacks, Respondent executed a "Consulting Services Contract" between City of Angels and a company owned and controlled by Mitts, and sham invoices were paid for work allegedly performed under the contract. In October 2006, Respondent entered into a similar but separate kickback arrangement with Massey. The total amount of illegal remunerations paid by or at the direction of Respondent for patient referrals was approximately \$493,382. Medicare paid City of Angels approximately \$2,772,403 for patients referred by Mitts and Massey during the course of the scheme, and Medi-Cal paid approximately \$1,336,376, for a total of \$4,108,779.

7. a. The conviction involved acts of dishonesty, and is, therefore, substantially related to the qualifications, functions, and duties of a physician.

b. In addition, Respondent's actions, as set forth in factual finding number 6, constitute dishonesty and poor judgment that, to a substantial degree, evidence present and potential unfitness to practice medicine consistent with the public health, safety or welfare, within the meaning of California Code of Regulations, title 16, section 1360.

8. Respondent has been serving his prison sentence since January 13, 2011, and is complying with the terms and conditions of his sentence.

9. Respondent has no other criminal history. He accepts responsibility for his actions. He cooperated with City of Los Angeles prosecutors who are pursuing Respondent and others for violation of State law in connection with the activities that resulted in the federal prosecution. In a letter written in connection with Respondent's sentencing, City of Los Angeles Deputies City Attorney state that Respondent provided thoughtful, forthright and candid information in multiple hours of meetings and that the value of Respondent's cooperation has been substantial.

10. Respondent submitted 11 letters from family, friends, colleagues, and patients, which had been previously submitted to the federal court in connection with his sentencing. All the writers attest to Respondent's good character. Respondent was variously and repeatedly described as professional, ethical, knowledgeable, compassionate, and caring.

11. Respondent has volunteered his services for community and humanitarian causes, including providing help to those affected by the earthquake in Haiti. Over the years, Respondent has served as a commissioner and the medical director for the Los Angeles Marathon, positions that consumed significant time and effort.

LEGAL CONCLUSIONS

1. Complainant bears the burden of proving, by clear and convincing evidence to a reasonable certainty, that cause exists to discipline Respondent's physician's and surgeon's certificate. (*Ettinger v. Board of Medical Quality Assurance* (1985) 135 Cal.App.3d 853, 856; *James v. Board of Dental Examiners* (1985) 172 Cal.App.3d 1096, 1104.) This means that the burden rests on Complainant to establish the charging allegations by proof that is clear, explicit and unequivocal –so clear as to leave no substantial doubt, and sufficiently strong to command the unhesitating assent of every reasonable mind. (*In re Marriage of Weaver* (1990) 224 Cal.App.3d 478.)

2. Cause exists to discipline Respondent's certificate pursuant to section 2236, and California Code of Regulations, title 16, section 1360, in that he was convicted of a crime substantially related to the qualifications, functions, or duties of a physician, by reason of factual finding numbers 5, 6 and 7.

Respondent argues that his actions are not substantially related to the practice of medicine because they did not involve any patient care and no patient was harmed. Respondent takes too narrow a view. The Court in *Windham v. Board of Medical Quality Assurance* (1980)

104 Cal.App.3d 461, upheld the application of California Code of Regulations, title 16, section 1360, in finding conduct outside the actual practice of medicine to be substantially related to the practice of medicine. The conviction at issue in that case was income tax evasion. The Court stated: “[W]e find it difficult to compartmentalize dishonesty in such a way that a person who is willing to cheat his government of \$65,000 in taxes may yet be considered honest in his dealings with his patients.” Noting that the doctor-patient relationship is based on the utmost trust and confidence in the doctor’s honesty and integrity, the Court held that a conviction involving dishonesty evidenced a present or potential unfitness to practice medicine consistent with the public health, safety or welfare.

3. Cause exists to discipline Respondent’s certificate pursuant to section 2234, subdivision (e), in that he committed multiple acts of dishonesty, by reason of factual finding number 6.

4. Cause exists to discipline Respondent’s certificate pursuant to sections 650 and 2273 in that he employed individuals to procure patients and paid consideration for the referral of patients, by reason of factual finding number 6.

5. Cause exists to discipline Respondent’s certificate pursuant to section 2234 in that he engaged in unprofessional conduct, by reason of factual finding numbers 5, 6 and 7, and legal conclusion numbers 2, 3, and 4.

6. All evidence offered in mitigation and rehabilitation has been considered, but it is insufficient to support continued licensure. Respondent engaged in an elaborate scheme to defraud the federal government, and his multiple acts of dishonesty occurred over a significant period of time. His misconduct is very serious and the order that follows is necessary for the protection of the public.

ORDER

Physician’s and Surgeon’s Certificate number A 29353 issued to Sekilar Sabaratnam, M.D., is revoked.

DATED: 11/26/12



SAMUEL D. REYES
Administrative Law Judge
Office of Administrative Hearings

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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 **SEKILAR SABARATNAM, M.D.**
13 **17709 Chatsworth Street**
Granada Hills, CA 91344
14 **Physician's and Surgeon's Certificate**
15 **No. A 29353**
16 Respondent.

Case No. 17-2008-190704

A C C U S A T I O N

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 July 11, 1975, the Medical Board of California issued Physician's and
23 Surgeon's Certificate Number A 29353 to SEKILAR SABARATNAM, M.D. (Respondent). The
24 Physician's and Surgeon's Certificate expired on June 30, 2008, and has not been 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 (Code) unless otherwise indicated.

1 4. Section 2227 of the Code provides that a licensee who is found guilty under the
2 Medical Practice Act may have his or her license revoked, suspended for a period not to exceed
3 one year, placed on probation and required to pay the costs of probation monitoring, or such other
4 action taken in relation to discipline as the Division¹ deems proper.

5 5. Section 2234 of the Code states:

6 “The Division of Medical Quality shall take action against any licensee who is charged with
7 unprofessional conduct. In addition to other provisions of this article, unprofessional conduct
8 includes, but is not limited to, the following:

9 “(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the
10 violation of, or conspiring to violate any provision of this chapter [Chapter 5, the Medical
11 Practice Act].

12 “(b) Gross negligence.

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

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

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

23 “(d) Incompetence.

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

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

27 ¹ Pursuant to Business and Professions Code section 2002, “Division of Medical Quality”
28 or “Division” shall be deemed to refer to the Medical Board of California.

1 6. Section 2236 of the Code states:

2 “(a) The conviction of any offense substantially related to the qualifications, functions, or
3 duties of a physician and surgeon constitutes unprofessional conduct within the meaning of this
4 chapter [Chapter 5, the Medical Practice Act]. The record of conviction shall be conclusive
5 evidence only of the fact that the conviction occurred.

6 “(b) The district attorney, city attorney, or other prosecuting agency shall notify the
7 Division of Medical Quality of the pendency of an action against a licensee charging a felony or
8 misdemeanor immediately upon obtaining information that the defendant is a licensee. The
9 notice shall identify the licensee and describe the crimes charged and the facts alleged. The
10 prosecuting agency shall also notify the clerk of the court in which the action is pending that the
11 defendant is a licensee, and the clerk shall record prominently in the file that the defendant holds
12 a license as a physician and surgeon.

13 “(c) The clerk of the court in which a licensee is convicted of a crime shall, within 48 hours
14 after the conviction, transmit a certified copy of the record of conviction to the board. The
15 division may inquire into the circumstances surrounding the commission of a crime in order to fix
16 the degree of discipline or to determine if the conviction is of an offense substantially related to
17 the qualifications, functions, or duties of a physician and surgeon.

18 “(d) A plea or verdict of guilty or a conviction after a plea of nolo contendere is deemed to
19 be a conviction within the meaning of this section and Section 2236.1. The record of conviction
20 shall be conclusive evidence of the fact that the conviction occurred.”

21 7. Section 2236.1 of the Code states:

22 “(a) A physician and surgeon’s certificate shall be suspended automatically during any time
23 that the holder of the certificate is incarcerated after conviction of a felony, regardless of whether
24 the conviction has been appealed. The Division of Medical Quality shall, immediately upon
25 receipt of the certified copy of the record of conviction, determine whether the certificate of the
26 physician and surgeon has been automatically suspended by virtue of his or her incarceration, and
27 if so, the duration of that suspension. The division shall notify the physician and surgeon of the
28 license suspension and of his or her right to elect to have the issue of penalty heard as provided in

1 this section.

2 “(b) Upon receipt of the certified copy of the record of conviction, if after a hearing it is
3 determined therefrom that the felony of which the licensee was convicted was substantially
4 related to the qualifications, functions, or duties of a physician and surgeon, the Division of
5 Medical Quality shall suspend the license until the time for appeal has elapsed, if no appeal has
6 been taken, or until the judgment of conviction has been affirmed on appeal or has otherwise
7 become final, and until further order of the division. The issue of substantial relationship shall be
8 heard by and administrative law judge from the Medical Quality Panel sitting alone or with a
9 panel of the division, in the discretion of the division.

10 “(c) Notwithstanding subdivision (b), a conviction of any crime referred to in Section 2237,
11 or a conviction of Section 187, 261, 262 or 288 of the Penal Code, shall be conclusively
12 presumed to be substantially related to the qualifications, functions, or duties of a physician and
13 surgeon and no hearing shall be held on this issue. Upon its own motion or for good cause
14 shown, the division may decline to impose or may set aside the suspension when it appears to be
15 in the interest of justice to do so, with due regard to maintaining the integrity of and confidence in
16 the medical profession.

17 “(d) (1) Discipline may be ordered in accordance with Section 2227, or the Division of
18 Licensing may order the denial of the license when the time for appeal has elapsed, the judgment
19 of conviction has been affirmed on appeal, or an order granting probation is made suspending the
20 imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code
21 allowing the person to withdraw his or her plea of guilty and to enter a plea of not guilty, setting
22 aside the verdict of guilty, or dismissing the accusation, complaint, information, or indictment.

23 “(2) The issue of penalty shall be heard by an administrative law judge from the Medical
24 Quality Panel sitting alone or with a panel of the division, in the discretion of the division. The
25 hearing shall not be had until the judgment of conviction has become final or, irrespective of a
26 subsequent order under Section 1203.4 of the Penal Code, an order granting probation has been
27 made suspending the imposition of sentence; except that a licensee may, at his or her option, elect
28 to have the issue of penalty decided before those time periods have elapsed. Where the licensee

1 so elects, the issue of penalty shall be heard in the manner described in this section at the hearing
2 to determine whether the conviction was substantially related to the qualifications, functions, or
3 duties of a physician and surgeon. If the conviction of a licensee who has made this election is
4 overturned on appeal, any discipline ordered pursuant to this section shall automatically cease.
5 Nothing in this subdivision shall prohibit the division from pursuing disciplinary action based on
6 any cause other than the overturned conviction.

7 “(e) The record of the proceedings resulting in the conviction, including a transcript of the
8 testimony therein, may be received in evidence.

9 “(f) The other provisions of this article setting forth a procedure for the suspension or
10 revocation of a physician and surgeon’s certificate shall not apply to proceedings conducted
11 pursuant to this section.”

12 8. Section 2273 of the Code states:

13 “(a) Except as otherwise allowed by law, the employment of runners, cappers, steerers, or
14 other persons to procure patients constitutes unprofessional conduct.

15 “(b) A licensee shall have his or her license revoked for a period of 10 years upon a second
16 conviction for violating any of the following provisions or upon being convicted of more than one
17 count of violating any of the following provisions in a single case: Section 650 of this code,
18 Section 750 or 1871.4 of the Insurance Code, or Section 549 or 550 of the Penal Code. After the
19 expiration of this 10-year period, an application for license reinstatement may be made pursuant
20 to Section 2307.”

21 9. California Code of Regulations, title 16, section 1360, states:

22 “For the purposes of denial, suspension or revocation of a license, certificate or permit
23 pursuant to Division 1.5 (commencing with Section 475) of the code, a crime or act shall be
24 considered to be substantially related to the qualifications, functions or duties of a person holding
25 a license, certificate or permit under the Medical Practice Act if to a substantial degree it
26 evidences present or potential unfitness of a person holding a license, certificate or permit to
27 perform the functions authorized by the license, certificate or permit in a manner consistent with
28 the public health, safety or welfare. Such crimes or acts shall include but not be limited to the

1 following: Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
2 violation of, or conspiring to violate any provision of the Medical Practice Act.”

3 10. Section 650 of the Code states:

4 “(a) Except as provided in Chapter 2.3 (commencing with Section 1400) of Division 2 of
5 the Health and Safety Code, the offer, delivery, receipt, or acceptance by any person licensed
6 under this division or the Chiropractic Initiative Act of any rebate, refund, commission,
7 preference, patronage dividend, discount, or other consideration, whether in the form of money or
8 otherwise, as compensation or inducement for referring patients, clients, or customers to any
9 person, irrespective of any membership, proprietary interest, or coownership in or with any
10 person to whom these patients, clients, or customers are referred is unlawful.

11 “(b) The payment or receipt of consideration for services other than the referral of patients
12 which is based on a percentage of gross revenue or similar type of contractual arrangement shall
13 not be unlawful if the consideration is commensurate with the value of the services furnished or
14 with the fair rental value of any premises or equipment leased or provided by the recipient to the
15 payer.

16 “(c) The offer, delivery, receipt, or acceptance of any consideration between a federally
17 qualified health center, as defined in Section 1396d(1)(2)(B) of Title 42 of the United States Code,
18 and any individual or entity providing goods, items, services, donations, loans, or a combination
19 thereof to the health center entity pursuant to a contract, lease, grant, loan, or other agreement, if
20 that agreement contributes to the ability of the health center entity to maintain or increase the
21 availability, or enhance the quality, of services provided to a medically underserved population
22 served by the health center, shall be permitted only to the extent sanctioned or permitted by
23 federal law.

24 “(d) Except as provided in Chapter 2.3 (commencing with Section 1400) of Division 2 of
25 the Health and Safety Code and in Sections 654.1 and 654.2 of this code, it shall not be unlawful
26 for any person licensed under this division to refer a person to any laboratory, pharmacy, clinic
27 (including entities exempt from licensure pursuant to Section 1206 of the Health and Safety
28 Code), or health care facility solely because the licensee has a proprietary interest or coownership

1 in the laboratory, pharmacy, clinic, or health care facility, provided, however, that the licensee's
2 return on investment for that proprietary interest or coownership shall be based upon the amount
3 of the capital investment or proportional ownership of the licensee which ownership interest is
4 not based on the number or value of any patients referred. Any referral excepted under this
5 section shall be unlawful if the prosecutor proves that there was no valid medical need for the
6 referral.

7 “(e) Except as provided in Chapter 2.3 (commencing with Section 1400) of Division 2 of
8 the Health and Safety Code and in Sections 654.1 and 654.2 of this code, it shall not be unlawful
9 to provide nonmonetary remuneration, in the form of hardware, software, or information
10 technology and training services, as described in subsections (x) and (y) of Section 1001.952 of
11 Title 42 of the Code of Federal Regulations, as amended October 4, 2007, as published in the
12 Federal Register (72 Fed. Reg. 56632 and 56644), and subsequently amended versions.

13 “(f) ‘Health care facility’ means a general acute care hospital, acute psychiatric hospital,
14 skilled nursing facility, intermediate care facility, and any other health facility licensed by the
15 State Department of Public Health under Chapter 2 (commencing with Section 1250) of Division
16 2 of the Health and Safety Code.

17 “(g) A violation of this section is a public offense and is punishable upon a first conviction
18 by imprisonment in a county jail for not more than one year, or by imprisonment in the state
19 prison, or by a fine not exceeding fifty thousand dollars (\$50,000), or by both that imprisonment
20 and fine. A second or subsequent conviction is punishable by imprisonment in the state prison or
21 by imprisonment in the state prison and a fine of fifty thousand dollars (\$50,000).”

22 FIRST CAUSE FOR DISCIPLINE

23 (Conviction of a Crime)

24 11. Respondent is subject to disciplinary action under sections 2234, subdivision (e) and
25 2236 of the Code in that Respondent was convicted of crimes substantially related to the
26 qualifications, functions and/or duties of a physician, namely, offering and paying remuneration
27 for patient referrals. The circumstances are as follows:

28 ///

1 A. On or about July 31, 2008, an Indictment was filed in the United States District Court
2 for the Central District of California, in the matter of *United States of America v. Rudra*
3 *Sabaratnam and Estill Mitts*, case no. 08-00904, alleging among other things, that:

4 (i) On or about April 29, 2005, in Los Angeles County, within the Central District
5 of California, and elsewhere, Respondent, aided and abetted by others known and
6 unknown to the Grand Jury, knowingly, willfully, and with knowledge that it was
7 unlawful to do so, offered and paid remuneration, that is, check #7072, drawn on Hospital
8 #1's bank account, signed by Respondent in the approximate amount of \$4,900, and
9 payable to Estill Mitts' company, Metropolitan Healthcare LLC ("Metropolitan"), to
10 induce Estill Mitts ("Mitts") to refer individuals to Hospital #1 for medical services for
11 which payment could be made in whole and in part under a Federal health care program,
12 namely, Medicare and Medi-Cal, in violation of 42 U.S.C. § 1320a-7b(b)(2)(A) (Count 3);
13 and

14 (ii) In or about October 2006, Respondent agreed to pay a Co-Conspirator
15 Cooperating Witness ("CW") for the referral of patients to Hospital #1. In or about November
16 2006, at the direction of Respondent, CW formed a company called Rolls-Cartier, LLC, and
17 established a business bank account in the name of Rolls-Cartier, LLC, for the purpose of
18 receiving illegal kickback payments for homeless patients recruited by CW. On or about
19 November 2, 2006, in Los Angeles County, within the Central District of California, and
20 elsewhere, Respondent, aided and abetted by others known and unknown to the Grand Jury,
21 knowingly, willfully, and with knowledge that it was unlawful to do so, offered and paid
22 remuneration, that is, check #3102 of 1711 Temple LLC, signed by Respondent in the
23 approximate of amount of \$5,500 payable to Rolls-Cartier, LLC, to induce CW to refer
24 individuals to Hospital #1 for medical services for which payment could be made in whole
25 and in part under a Federal health care program, namely, Medicare and Medi-Cal, in violation
26 of 42 U.S.C. § 1320a-7b(b)(2)(A) (Count 6).

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28

1 B. On or about December 5, 2008, Respondent entered into a plea agreement (“Plea
2 Agreement”) with the United States Attorney’s Office for the Central District of California. The
3 Plea Agreement included a statement of facts which provided as follows:

4 Background

5 Respondent is a licensed physician, and a resident of Los Angeles County, California.
6 From prior to 2004 until November 18, 2008, Respondent was an owner, through Secured
7 Equity Investment Partners, L.P., of City of Angels Medical Center (“City of Angels” or
8 “the hospital”), a hospital with an acute care facility located in Los Angeles, California.
9 Respondent was also an owner, through Secured Equity Investment Partners, L.P., of 1711
10 Temple, LLC, and Hellman Hospital, LLC. From 2004 to on or about June 14, 2007,
11 Respondent was the Chief Executive Officer (“CEO”) of City of Angels. During this time,
12 Respondent knew that it was illegal to pay kickbacks for the referral of patients for health
13 services that may be paid for by Medicare or Medi-Cal, which are federal health care
14 programs for the elderly and indigent, respectively.

15 The Kickback Scheme

16 Beginning on or about August 20, 2004, and continuing to on or about June 14, 2007,
17 Respondent engaged in a scheme to increase in-patient admissions to City of Angels by
18 paying patient recruiters, Mitts and Richard Massey (“Massey”), to refer Medicare and
19 Medi-Cal beneficiaries whom they recruited, primarily from the Skid Row area of
20 downtown Los Angeles, to City of Angels for in-patient hospital stays. Respondent paid
21 the recruiters approximately \$500 for each Medicare-referred patient admitted to the
22 hospital and approximately \$300 for each Medi-Cal referred patient admitted to the
23 hospital.

24 Dealings with Mitts

25 As part of the scheme, on or about August 20, 2004, Respondent executed a
26 “Consulting Services Contract” between City of Angels and Metropolitan, a company
27 owned and controlled by Mitts. As Respondent knew and intended, this contract was a
28 sham intended to conceal the illegal kickback payments to Mitts for the referral of Medicare

1 and Medi-Cal patients.

2 At the time Respondent signed the sham contract and throughout the scheme, Mitts
3 operated a facility called the Assessment Center (“the Assessment Center”), also known as
4 7th Street Christian Day Center, located at 431 East Seventh Street, Los Angeles,
5 California, in the area commonly known as Skid Row. As Respondent knew, the
6 Assessment Center was not a medical clinic, but a site that Mitts used for the purpose of
7 recruiting homeless Medicare and Medi-Cal beneficiaries for referral to local hospitals,
8 including City of Angels. Mitts and others working for him, including Massey, would
9 recruit Medicare and Medi-Cal beneficiaries for in-patient hospital admissions whether or
10 not such hospitalizations were medically necessary. The recruited beneficiaries would be
11 taken to the Assessment Center where Assessment Center staff who were not medical
12 professionals would confirm their status as Medicare or Medi-Cal beneficiaries, provide
13 symptoms to justify hospitalization, and arrange for their transportation to City of Angels
14 where they would be admitted, in many cases without their having been examined or
15 assessed by a physician.

16 Pursuant to the sham contract, Mitts submitted monthly invoices to Respondent for
17 payment for the patients he referred. These invoices were accompanied by false monthly
18 “work reports” designed, as Respondent knew and intended, to conceal the fact that
19 payments being were made for patient referrals. Mitts also submitted to Respondent
20 monthly lists of the Medicare and Medi-Cal patients representing the actual basis for the
21 invoices.

22 City of Angels would confirm which of the patients listed by Mitts had been admitted
23 to the hospital and reimburse Mitts for those patients by issuing checks payable to
24 companies that Mitts owned and controlled, including Metropolitan and Wilshire
25 Healthcare Holdings LLC.

26 As Respondent knew and intended, City of Angels billed Medicare and Medi-Cal for
27 in-patient services to the recruited beneficiaries, including those for whom in-patient
28 hospitalization was not medically necessary.

1 On April 29, 2005, in furtherance of the scheme, Respondent, knowingly, willfully,
2 and with knowledge that it was unlawful to do so, paid Mitts remuneration for the referral
3 of Medicare and Medi-Cal patients to City of Angels by causing check #7072 drawn on
4 City of Angels' bank account in the amount of \$4,900 to be issued to Metropolitan.

5 Separate Dealings with Massey

6 In October 2006, Respondent entered into a separate kickback arrangement with
7 Massey, who had been working for Mitts. As part of this arrangement, Massey formed a
8 company called Rolls-Cartier LLC. Respondent paid Massey for the referral of Medicare
9 and Medi-Cal beneficiaries by having checks issued to Rolls-Cartier LLC. This separate
10 kickback arrangement with Massey continued until March 2007.

11 On or about November 2, 2006, in furtherance of the scheme, Respondent knowingly,
12 willfully, and with knowledge that it was unlawful to do so, paid Massey remuneration for
13 the referral of Medicare and Medi-Cal patients by causing check #3102 drawn on the bank
14 account of 1711 Temple LLC in the amount of \$5,500 to be issued to Rolls-Cartier LLC.

15 Total Kickback Payments and Impact on Medicare

16 The total amount of illegal remunerations for patient referrals that Respondent paid
17 and caused to be paid during the course of the scheme was approximately \$416,382 to Mitts
18 and \$77,000 to Massey, for a combined total of approximately \$493,382.

19 Medicare paid City of Angels approximately \$2,772,403 for patients referred by Mitts
20 and Massey during the course of the scheme, and Medi-Cal paid the hospital approximately
21 \$1,336,376. Thus, the total paid by the two programs together was \$4,108,779.

22 C. On or about December 12, 2008, Respondent changed his plea to guilty to Counts 3
23 and 6 of the Indictment as described in paragraph A above. On or about August 30, 2010, the
24 United States District Court for the Central District of California found Respondent found guilty
25 of Counts 3 and 6 of the Indictment, namely, paying of kickbacks for patient referrals, in violation
26 of 42 U.S.C. § 1320a-7b(b)(2)(A), and causing act to be done, in violation of 18 U.S.C. § 2(b).
27 Both of the charges are felonies.

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1 D. On August 30, 2010, Respondent received a sentence of twenty-four (24) months in
2 federal prison.

3 E. Respondent did not file a Notice of Appeal from this Conviction. He is currently
4 incarcerated at the Taft Correctional Institution in Taft, California.

5 F. Respondent's Physician's and Surgeon's Certificate Number A 29353 is currently
6 automatically suspended pursuant to section 2236.1, subdivision (a), of the Code.

7 SECOND CAUSE FOR DISCIPLINE

8 (Conviction of a Crime and Dishonesty or Corruption)

9 12. Respondent is subject to disciplinary action under sections 2234, subdivision (e), of
10 the Business and Professions Code in that Respondent has committed acts of dishonesty and/or
11 corruption, substantially related to the qualifications, functions, or duties of a physician and
12 surgeon. The circumstances are as follows:

13 13. Paragraph 11 is incorporated herein by reference as if fully set forth.

14 THIRD CAUSE FOR DISCIPLINE

15 (Consideration for Referral of Patients and Employment of Persons to Procure Patients)

16 14. Respondent is subject to disciplinary action under sections 650 and 2273, of the
17 Business and Professions Code in that Respondent unlawfully, paid consideration for referral of
18 patients, and employed persons to procure patients. The circumstances are as follows:

19 15. Paragraph 11 is incorporated herein by reference as if fully set forth.

20 FOURTH CAUSE FOR DISCIPLINE

21 (General Unprofessional Conduct)

22 16. Respondent is subject to disciplinary action under section 2234 of the Code, in that he
23 committed general unprofessional conduct. The circumstances are as follows:

24 17. Paragraph 11 is incorporated herein by reference as if fully set forth.

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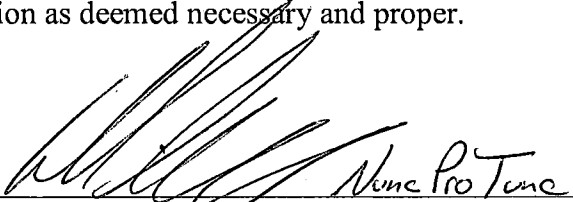
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PRAYER

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

- 1. Revoking or suspending Physician's and Surgeon's Certificate Number A 29353, issued to Sekilar Sabaratnam, M.D.;
- 2. Revoking, suspending or denying approval of Sekilar Sabaratnam, M.D.'s authority to supervise physician assistants, pursuant to section 3527 of the Code;
- 3. Ordering Sekilar Sabaratnam, M.D. to pay the Medical Board of California the reasonable costs of the investigation and enforcement of this case, and, if placed on probation, the costs of probation monitoring; and
- 4. Taking such other and further action as deemed necessary and proper.

DATED: April 21, 2011


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

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