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

12  
13 In the Matter of the Petition to Revoke  
Probation Against:  
14 STEWART W. LOVELACE, M.D.  
1112 Ocean Drive  
15 Manhattan Beach, California 90266  
16 Physician's and Surgeon's Certificate No.  
17 C 30263

Case No. 8002013001003

DEFAULT DECISION  
AND ORDER

[Gov. Code, §11520]

18  
19 FINDINGS OF FACT

20 1. On or about March 19, 2014, Complainant Kimberly Kirchmeyer, in her  
21 official capacity as the Executive Director of the Medical Board of California (Board), filed  
22 Petition to Revoke Probation No. 8002013001003 against Stewart W. Lovelace, M.D.  
23 (Respondent) before the Board.

24 2. On or about July 19, 1968, the Board issued Physician's and Surgeon's  
25 Certificate No. C 30263 to Respondent. The Physician's and Surgeon's Certificate was in full  
26 force and effect at all times relevant to the charges brought herein and expired on December 31,  
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1 2014. A copy of the certificate of licensure is attached as Attachment A, and is incorporated  
2 herein by reference.

3           3.       On or about March 19, 2014, Richard Acosta, an employee of the  
4 Complainant Agency, served by Certified Mail a copy of the Petition to Revoke Probation No.  
5 8002013001003, Statement to Respondent, Notice of Defense, Request for Discovery, and  
6 Government Code sections 11507.5, 11507.6, and 11507.7 to Respondent's address of record  
7 with the Board, which was and is: 1112 Ocean Drive, Manhattan Beach, California 90266. A  
8 copy of the Petition to Revoke Probation, the related documents, and Declaration of Service are  
9 attached as Attachment B, and are incorporated herein by reference.  
10

11           4.       Service of the Petition to Revoke Probation was effective as a matter of law  
12 under the provisions of Government Code section 11505, subdivision (c).  
13

14           5.       On or about April 11, 2014, the signed green certified mail receipt tag was  
15 delivered by the U.S. Postal Service. A copy of the document delivered by the post office is  
16 attached as Attachment C, and is incorporated herein by reference.

17           6.       On or about April 18, 2014, a letter regarding Final Notice and the  
18 aforementioned Petition to Revoke Probation documents were again served on Respondent. The  
19 letter advised Respondent that a Default would be filed unless he filed a Notice of Defense. A  
20 copy of the letter is attached as Attachment D, and is incorporated herein by reference.  
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22           7.       On or about May 13, 2014, William Arthur Norcross made a declaration  
23 regarding Respondents performance in Physician Assessment and clinical Education program  
24 (PACE) offered at the University of California – San Diego School of medicine ("Program"). A  
25 copy of the declaration is attached as Attachment E, and is incorporated herein by reference.  
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27           8.       Government Code section 11506 states, in pertinent part:  
28 "(c) The respondent shall be entitled to a hearing on the merits if the respondent files a notice of

1 defense, and the notice shall be deemed a specific denial of all parts of the accusation not  
 2 expressly admitted. Failure to file a notice of defense shall constitute a waiver of respondent’s  
 3 right to a hearing, but the agency in its discretion may nevertheless grant a hearing.”

4 9. Respondent failed to file a Notice of Defense within 15 days after service  
 5 upon him of the Petition to Revoke Probation, and therefore waived his right to a hearing on the  
 6 merits of Petition to Revoke Probation No. 8002013001003.

8 10. California Government Code section 11520 states, in pertinent part:  
 9 “(a) If the respondent either fails to file a notice of defense or to appear at the hearing, the agency  
 10 may take action based upon the respondent’s express admissions or upon other evidence and  
 11 affidavits may be used as evidence without any notice to respondent.”

12 11. Pursuant to its authority under Government Code section 11520, the Board  
 13 finds Respondent is in default. The Board will take action without further hearing and, based on  
 14 Respondent’s express admissions by way of default and the evidence before it, contained in  
 15 Attachments A, B, C, D, and E, finds that the allegations in Accusation No. 8002013001003 are  
 16 true.  
 17

18 DETERMINATION OF ISSUES

19 1. Based on the foregoing findings of fact, Respondent Stewart W. Lovelace,  
 20 M.D. has subjected his Physician’s and Surgeon’s Certificate No. C 30263 to discipline.

21 22 2. A copy of the Petition to Revoke Probation and the related documents and  
 23 Declaration of Service are attached.

24 3. The agency has jurisdiction to adjudicate this case by default.

25 4. The Medical Board of California is authorized to revoke Respondent’s  
 26 Physician’s and Surgeon’s Certificate based upon the following violations alleged in the Petition  
 27 to Revoke Probation:  
 28

1                   A.     In a disciplinary action entitled "In the Matter of Accusation &  
2 Notification of Violation and Imposition of Civil Penalty Against Stewart W. Lovelace, M.D.,"  
3 Case No. 20-2006-172480, the Medical Board of California issued a Decision After  
4 Reconsideration, effective September 28, 2007, in which Respondent's Physician's and Surgeon's  
5 Certificate was revoked. However, the revocation was stayed and Respondent's Physician's and  
6 Surgeon's Certificate was placed on probation for a period of three (3) years with certain terms  
7 and conditions. A copy of that decision is attached as Exhibit A of the Petition to Revoke  
8 Probation and is incorporated by reference. This case was later resolved by a Decision After  
9 Remand From Superior Court, effective February 25, 2009. A copy of that decision is attached  
10 as Exhibit B of the Petition to Revoke Probation and is incorporated by reference. An Order  
11 Correcting a Clerical Error in the Order Portion of the Decision After Remand From Superior  
12 Court was filed, effective February 25, 2009. A copy of that Order is attached as Exhibit C of  
13 the Petition to Revoke Probation and is incorporated by reference.  
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16                   B.     In a disciplinary action entitled "In the Matter of Accusation  
17 Against Stewart W. Lovelace, M.D.," Case No. 06-2005-169412, the Medical Board of California  
18 issued a decision, effective October 26, 2009, in which Respondent's Physician's and Surgeon's  
19 Certificate was revoked. However, the revocation was stayed and Respondent's Physician's and  
20 Surgeon's Certificate was placed on probation for an additional period of three (3) years with  
21 certain terms and conditions. A copy of that decision is attached as Exhibit D of the Petition to  
22 Revoke Probation and is incorporated by reference.  
23

24                   C.     In a disciplinary action entitled "In the Matter of the Petition to  
25 Revoke Probation Against Stewart W. Lovelace, M.D.," Case No. D1-2005-169412, the Medical  
26 Board of California issued a decision, effective August 17, 2012, in which Respondent's  
27 Physician's and Surgeon's Certificate was revoked. However, the revocation was stayed and  
28 Respondent's Physician's and Surgeon's Certificate was placed on probation for an additional

1 period of two (2) years with certain terms and conditions. A copy of that decision is attached as  
2 Exhibit E of the Petition to Revoke Probation and is incorporated by reference. The scheduled  
3 completion date of his probation is currently set for September 28, 2015. On November 19, 2013,  
4 a Cease Practice Order in this case was issued. A copy of that Order is attached as Exhibit F of  
5 the Petition to Revoke Probation and is incorporated by reference.

6 D. Probation Condition 3 of the Board's Decision and Order "In the  
7 Matter of Accusation Against Stewart W. Lovelace, M.D.," Case No. 06-2005-169412, effective  
8 October 26, 2009, regarding Clinical Training Program, which states in part as follows:

9 "Respondent shall enroll in a clinical training or education program equivalent to the  
10 Program. Respondent shall successfully complete the Program not later than six (6)  
11 months after Respondent's initial enrollment..."

12 "If Respondent failed to enroll, participate in, or successfully complete the clinical  
13 training program within the designated time period, respondent shall receive a notification  
14 from the Board or its designee to cease the practice of medicine within three (3) calendar  
15 days after being so notified..."

16 E. Probation Condition 14 of the Board's Decision and Order "In the  
17 Matter of Accusation Against Stewart W. Lovelace, M.D.," Case No. 06-2005-169412, effective  
18 October 26, 2009, states as follows:

19 "Failure to comply with any term or condition of probation is a violation of probation.  
20 If respondent violates probation in any respect, the [Board], after giving respondent notice  
21 and opportunity to be heard, may revoke probation and carry out the disciplinary order that  
22 was stayed. If an Accusation or Petition to Revoke Probation, or an Interim Suspension  
23 Order is filed against the Respondent during probation, the [Board] shall have continuing  
24 jurisdiction until the matter is final, and the period of probation shall be extended until the  
25 matter is final."

26 F. At all times after the effective date of Respondent's probation,  
27 Condition 3 of the Board's Decision and Order "In the Matter of Accusation Against Stewart W.  
28 Lovelace, M.D.," Case No. 06-2005-169412, effective October 26, 2009, stated that Respondent

1 must enroll in and complete within six months of the effective date of the probation order a  
2 clinical training or educational program equivalent to the Physician Assessment and Clinical  
3 Education Program (PACE) offered at the University of California - San Diego School of  
4 Medicine.

5 G. Respondent's probation is subject to revocation because he failed to  
6 comply with Probation Condition 3, referenced above. The facts and circumstances regarding  
7 this violation are as follows:

8 On or about April 1-2, 2013, Respondent participated in Phase I of  
9 the PACE Program. On or about September 9-13, 2013, Respondent participated in Phase  
10 II of the PACE Program. On November 7, 2013, The UCSD PACE Program issued a letter  
11 containing the results of Respondent's participation, finding that his overall performance  
12 was poor and not compatible with overall physician competency and safe practice,  
13 representing a danger to the public. The results of his seven-day, Phase I and Phase II  
14 comprehensive physician assessment are summarized as follows:

15 **“Summary and Recommendations**

16 “PACE's evaluation and training extended only to professional and clinical knowledge and  
17 behavior. All of PACE's findings and recommendations are based on information available  
18 to us at the time.

19  
20 “Overall, [Respondent's] performance on Phase I, two-day, assessment was predominantly  
21 unsatisfactory. Although he performed satisfactorily during the oral clinical examination  
22 with Dr. Rao, his chart notes (5) did not meet the standard of care. He performed  
23 unsatisfactorily during the direct observation psychiatric history and mental status  
24 examination with a live patient model. [Respondent] performed in the lowest or 1<sup>st</sup> quintile  
25 on all eight cases on the PRIMUM computer simulation program, and performed poorly  
26 during the interview with Dr. Schulman. He scored in the 1<sup>st</sup> percentile on the Ethics and  
27 Communications examination. He scored in the 3<sup>rd</sup> percentile on the Pharmacotherapeutics  
28 examination and he scored in the 9<sup>th</sup> percentile on the Psychiatry examination.”

1 “Overall, [Respondent’s] performance during Phase II was unsatisfactory. During his time  
2 with our psychiatry faculty, it was noted that he established a good rapport with the  
3 patients; however, his medical history taking skills and psychiatric evaluations were poor.  
4 Additionally, his treatment plans and recommendations, as well as his psychopharmacology  
5 knowledge were inadequate. He also performed marginally during the Standardized Patient  
6 Examination (SPE) and there were some concern about his history taking skills as well as  
7 his medical management. Of particular concern, [Respondent] was unable to satisfactorily  
8 perform an adequate psychiatric history and mental status examination (MSE) during Phase  
9 I and Phase II of the PACE evaluation. The psychiatric history and MSE is one of the most  
10 important tools a psychiatrist has to obtain information to attain an accurate diagnosis.  
11 Given his inability to perform this fundamental task, coupled with the deficits in knowledge  
12 identified above, we have grave concerns about [Respondent’s] ability to provide safe  
13 psychiatric care to his patients. [Respondent’s] overall performance on our comprehensive,  
14 seven day physician assessment is consistent with Category 4.

15 **“The PACE Program has defined four possible outcomes of the physician assessment:**

16 ...

17 **“FAIL**

18 **“Category 4:** Signifies a poor performance that is not compatible with overall physician  
19 competency and safe practice. Physicians in this category performed poorly on all (or  
20 nearly all) aspects of this assessment. Alternatively, the physician could have a physical or  
21 mental health problem that prevents him/her from practicing safely. These physicians are  
22 unsafe and, based on the observed performance in the PACE assessment, represent a  
23 potential danger to their patients. Some physicians in this category may be capable of  
24 remediating their clinical competency to a safe level and some may not. We will provide  
25 our recommendations regarding remedial education activities. The faculty and staff of the  
26 UCSD PACE Program do not give an outcome of “Fail” lightly or casually. This  
27 assignation reflects major, significant deficiencies in clinical competence, and physicians  
28 who receive this outcome, if they are deemed to be candidates for remedial education,

1 should think in terms of engaging in a minimum of one full year of dedicated study and  
2 other learning activities requiring on average 30 to 40 hours per week. Under no  
3 circumstances will the UCSD PACE Program allow a physician to participate in a re-  
4 assessment less than six months from the time of completion of the initial assessment.”


5  
6 ORDER

7 IT IS SO ORDERED that Physician's and Surgeon's Certificate No. C 30263,  
8 heretofore issued to Respondent Stewart W. Lovelace, M.D., is revoked.

9 Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written  
10 motion requesting that the Decision be vacated and stating the grounds relied on within seven (7)  
11 days after service of the Decision on Respondent. The agency in its discretion may vacate the  
12 Decision and grant a hearing on a showing of good cause, as defined in the statute.

13 This Decision shall become effective on June 27, 2014, at 5 p.m..

14 IT IS SO ORDERED May 29, 2014

15  
16   
17 FOR THE MEDICAL BOARD OF CALIFORNIA  
18 DEPARTMENT OF CONSUMER AFFAIRS  
19 Kimberly Kirchmeyer  
20 Executive Director

21 Attachments:

- 22 A: License certification  
23 B: Petition to Revoke Probation No. 8002013001003, Related Documents, and  
24 Declaration of Service  
25 C: Copy of signed Green certified mail tag delivered by Post Office  
26 D: Final Notice, dated April 18, 2014 and attached Petition to Revoke Probation No.  
27 8002013001003, Related Documents, and Declaration of Service  
28 E: Declaration of William Arthur Norcross, M.D.

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**Attachment B**

Petition to Revoke Probation No. 8002013001003  
Related Documents and Declaration of Service

FILED  
STATE OF CALIFORNIA  
MEDICAL BOARD OF CALIFORNIA  
SACRAMENTO MARCH 19, 2014  
BY [Signature] ANALYST

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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 Petition to Revoke  
Probation Against:  
12 **STEWART W. LOVELACE, M.D.**  
13 **1112 Ocean Drive**  
**Manhattan Beach, California 90266**  
14 **Physician's and Surgeon's Certificate**  
15 **No. C 30263**  
16 Respondent.

Case No. 8002013001003

PETITION TO REVOKE PROBATION

17 Complainant alleges:

18 PARTIES

19 1. Kimberly Kirchmeyer (Complainant) brings this Petition to Revoke Probation solely  
20 in her official capacity as the Executive Director of the Medical Board of California, Department  
21 of Consumer Affairs.

22 2. On or about July 19, 1968, the Medical Board of California issued Physician's and  
23 Surgeon's Certificate Number C 30263 to Stewart W. Lovelace, M.D. (Respondent). The  
24 Physician's and Surgeon's Certificate was in effect at all times relevant to the charges brought  
25 herein and will expire on December 31, 2014, unless renewed.

26 3. In a disciplinary action entitled "In the Matter of Accusation & Notification of  
27 Violation and Imposition of Civil Penalty Against Stewart W. Lovelace, M.D.," Case  
28 No. 20-2006-172480, the Medical Board of California issued a Decision After Reconsideration,

1 effective September 28, 2007, in which Respondent's Physician's and Surgeon's Certificate was  
2 revoked. However, the revocation was stayed and Respondent's Physician's and Surgeon's  
3 Certificate was placed on probation for a period of three (3) years with certain terms and  
4 conditions. A copy of that decision is attached as Exhibit A and is incorporated by reference.  
5 This case was later resolved by a Decision After Remand From Superior Court, effective  
6 February 25, 2009. A copy of that decision is attached as Exhibit B and is incorporated by  
7 reference. An Order Correcting a Clerical Error in the Order Portion of the Decision After  
8 Remand From Superior Court was filed, effective February 25, 2009. A copy of that Order is  
9 attached as Exhibit C and is incorporated by reference.

10 4. In a disciplinary action entitled "In the Matter of Accusation Against Stewart W.  
11 Lovelace, M.D.," Case No. 06-2005-169412, the Medical Board of California issued a decision,  
12 effective October 26, 2009, in which Respondent's Physician's and Surgeon's Certificate was  
13 revoked. However, the revocation was stayed and Respondent's Physician's and Surgeon's  
14 Certificate was placed on probation for an additional period of three (3) years with certain terms  
15 and conditions. A copy of that decision is attached as Exhibit D and is incorporated by reference.

16 5. In a disciplinary action entitled "In the Matter of the Petition to Revoke Probation  
17 Against Stewart W. Lovelace, M.D.," Case No. D1-2005-169412, the Medical Board of  
18 California issued a decision, effective August 17, 2012, in which Respondent's Physician's and  
19 Surgeon's Certificate was revoked. However, the revocation was stayed and Respondent's  
20 Physician's and Surgeon's Certificate was placed on probation for an additional period of two (2)  
21 years with certain terms and conditions. A copy of that decision is attached as Exhibit E and is  
22 incorporated by reference. The scheduled completion date of his probation is currently set for  
23 September 28, 2015. On November 19, 2013, a Cease Practice Order in this case was issued. A  
24 copy of that Order is attached as Exhibit F and is incorporated by reference.

#### 25 JURISDICTION

26 6. This Petition to Revoke Probation is brought before the Medical Board of California  
27 (Board), 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.

1           7.     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 Board deems proper.

5           8.     Probation Condition 3 of the Board's Decision and Order "In the Matter of  
6 Accusation Against Stewart W. Lovelace, M.D.," Case No. 06-2005-169412, effective  
7 October 26, 2009, regarding Clinical Training Program, which states in part as follows:

8                     "Respondent shall enroll in a clinical training or education program equivalent to the  
9 Physician Assessment and clinical Education program (PACE) offered at the University of  
10 California – San Diego School of medicine ("Program"). Respondent shall successfully  
11 complete the Program not later than six (6) months after Respondent's initial  
12 enrollment..."

13                     "If Respondent failed to enroll, participate in, or successfully complete the clinical  
14 training program within the designated time period, respondent shall receive a notification  
15 from the Board or its designee to cease the practice of medicine within three (3) calendar  
16 days after being so notified..."

17           9.     Probation Condition 14 of the Board's Decision and Order "In the Matter of  
18 Accusation Against Stewart W. Lovelace, M.D.," Case No. 06-2005-169412, effective  
19 October 26, 2009, states as follows:

20                     "Failure to comply with any term or condition of probation is a violation of probation.  
21 If respondent violates probation in any respect, the [Board], after giving respondent notice  
22 and opportunity to be heard, may revoke probation and carry out the disciplinary order that  
23 was stayed. If an Accusation or Petition to Revoke Probation, or an Interim Suspension  
24 Order is filed against the Respondent during probation, the [Board] shall have continuing  
25 jurisdiction until the matter is final, and the period of probation shall be extended until the  
26 matter is final."

27     ///  
28     ///



1 Respondent indicated that he was having financial difficulties. Respondent was advised  
2 that it was imperative that he enroll in the PACE Program.

3 C. On May 20, 2011, a second quarter interview was conducted by a Medical  
4 Board Probation Inspector with Respondent. Respondent indicated that he planned to  
5 enroll in the PACE Program. Respondent was advised that until he officially enrolled in the  
6 PACE Program he was in violation of his probation order.

7 D. On or about August 12, 2011, an interview was conducted by Medical Board  
8 Probation Inspectors with Respondent. Respondent indicated that he had not yet enrolled in  
9 the PACE Program but would obtain funds and enroll. Respondent was advised that he  
10 would have until August 26, 2011, to enroll in the PACE Program.

11 E. On or about April 1-2, 2013, Respondent participated in Phase I of the PACE  
12 Program. On or about September 9-13, 2013, Respondent participated in Phase II of the  
13 PACE Program. On November 7, 2013, The UCSD PACE Program issued a letter  
14 containing the results. The results of his seven-day, Phase I and Phase II comprehensive  
15 physician assessment are summarized as follows:

16 **“Summary and Recommendations**

17 “PACE’s evaluation and training extended only to professional and clinical knowledge and  
18 behavior. All of PACE’s findings and recommendations are based on information available  
19 to us at the time.

20  
21 “Overall, [Respondent’s] performance on Phase I, two-day, assessment was predominantly  
22 unsatisfactory. Although he performed satisfactorily during the oral clinical examination  
23 with Dr. Rao, his chart notes (5) did not meet the standard of care. He performed  
24 unsatisfactorily during the direct observation psychiatric history and mental status  
25 examination with a live patient model. [Respondent] performed in the lowest or 1<sup>st</sup> quintile  
26 on all eight cases on the PRIMUM computer simulation program, and performed poorly  
27 during the interview with Dr. Schulman. He scored in the 1<sup>st</sup> percentile on the Ethics and  
28 Communications examination. He scored in the 3<sup>rd</sup> percentile on the Pharmacotherapeutics

1 examination and he scored in the 9<sup>th</sup> percentile on the Psychiatry examination.”

2 “Overall, [Respondent’s] performance during Phase II was unsatisfactory. During his time  
3 with our psychiatry faculty, it was noted that the established a good rapport with the  
4 patients; however, his medical history taking skills and psychiatric evaluations were poor.  
5 Additionally, his treatment plans and recommendations, as well as his psychopharmacology  
6 knowledge were inadequate. He also performed marginally during the Standardized Patient  
7 Examination (SPE) and there were some concern about his history taking skills as well as  
8 his medical management. Of particular concern, Dr. Lovelace was unable to satisfactorily  
9 perform an adequate psychiatric history and mental status examination (MSE) during Phase  
10 I and Phase II of the PACE evaluation. The psychiatric history and MSE is one of the most  
11 important tools a psychiatrist has to obtain information to attain an accurate diagnosis.  
12 Given his inability to perform this fundamental task, coupled with the deficits in knowledge  
13 identified above, we have grave concerns about [Respondent’s] ability to provide safe  
14 psychiatric care to his patients. [Respondent’s] overall performance on our comprehensive,  
15 seven day physician assessment is consistent with Category 4.

16 **“The PACE Program has defined four possible outcomes of the physician assessment:**

17 ...  
18 **“FAIL**

19 **“Category 4:** Signifies a poor performance that is not compatible with overall physician  
20 competency and safe practice. Physicians in this category performed poorly on all (or  
21 nearly all) aspects of this assessment. Alternatively, the physician could have a physical or  
22 mental health problem that prevents him/her from practicing safely. These physicians are  
23 unsafe and, based on the observed performance in the PACE assessment, represent a  
24 potential danger to their patients. Some physicians in this category may be capable of  
25 remediating their clinical competency to a safe level and some may not. We will provide  
26 our recommendations regarding remedial education activities. The faculty and staff of the  
27 UCSD PACE Program do not give an outcome of “Fail” lightly or casually. This  
28 assignment reflects major, significant deficiencies in clinical competence, and physicians

1 who receive this outcome, if they are deemed to be candidates for remedial education,  
2 should think in terms of engaging in a minimum of one full year of dedicated study and  
3 other learning activities requiring on average 30 to 40 hours per week. Under no  
4 circumstances will the UCSD PACE Program allow a physician to participate in a re-  
5 assessment less than six months from the time of completion of the initial assessment.”

6 DISCIPLINE CONSIDERATIONS

7 12. To determine the degree of discipline, if any, to be imposed on Respondent,  
8 Complainant alleges that on or about February 25, 2009, in a prior disciplinary action entitled “In  
9 the Matter of the Accusation Against Stewart W. Lovelace, M.D. before the Medical Board of  
10 California,” in Case No. 20-2006-172480, Respondent’s license was revoked, the revocation was  
11 stayed and Respondent was placed on three years probation and issued a civil penalty for failing to  
12 timely provide medical records during the course of a Medical Board investigation. That decision  
13 is now final and is incorporated by reference as if fully set forth. Also on March 3, 2006, the  
14 Board issued a Citation Order against Respondent in case No. 20-2006-172480. A copy of that  
15 Order is attached as Exhibit G and is incorporated by reference.

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1 PRAYER

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

4 1. Revoking the probation that was granted by the Medical Board of California in Case  
5 No. 06-2005-169412 and imposing the disciplinary order that was stayed thereby revoking  
6 Physician's and Surgeon's Certificate No. C 30263 issued to Stewart W. Lovelace, M.D.;

7 2. Revoking or suspending Physician's and Surgeon's Certificate No. C 30263, issued to  
8 Stewart W. Lovelace, M.D.;

9 3. Revoking, suspending or denying approval of Stewart W. Lovelace, M.D.'s authority  
10 to supervise physician assistants, pursuant to section 3527 of the Code;

11 4. Ordering Stewart W. Lovelace, M.D., if placed on probation, to pay the Medical  
12 Board of California the costs of probation monitoring; and

13 5. Taking such other and further action as deemed necessary and proper.

14  
15 DATED: March 19, 2014

  
16 KIMBERLY KIRCHMEYER  
17 Executive Director  
18 Medical Board of California  
19 Department of Consumer Affairs  
20 State of California  
21 Complainant

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**EXHIBIT A**

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

In the Matter of the Accusation and Notification of  
Violation and Imposition of Civil Penalty Against:

STEWART W. LOVELACE, M.D.

Physician's and Surgeon's Certificate No. C 30263

Respondent.

Case No. 20-2006-172480

OAH No. L2006110092

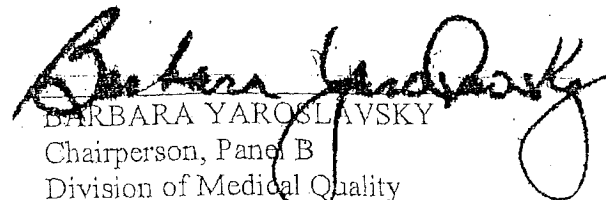
DECISION AFTER RECONSIDERATION

The proposed decision of the administrative law judge was submitted to the Division of Medical Quality, Medical Board of California (hereafter "division") on February 13, 2007. After due consideration thereof, the division declined to adopt the proposed decision and thereafter on May 2, 2007 issued an Order of Remand and subsequently issued an order vacating the remand order, and granting complainant's petition for reconsideration. On July 24, 2007, the division issued a Notice of Hearing for Oral Argument. Oral argument was heard on August 20, 2007. Present were members Wender, Salomonson, Yaroslavsky, and Zerunyan. The time for filing written argument in this matter having expired, written argument having been filed by both parties and such written argument, together with the entire record, including the transcript of said hearing, having been read and considered, pursuant to Government Code Section 11517, the division hereby makes the following decision and order:

The attached Proposed Decision of the Administrative Law Judge is hereby adopted by the division as its decision in this matter.

This decision shall become effective on September 28, 2007

IT IS SO ORDERED this 29th day of August 2007.

  
BARBARA YAROSLAVSKY  
Chairperson, Panel B  
Division of Medical Quality  
Medical Board of California

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

In the Matter of the Accusation and  
Notification of Violation and Imposition of  
Civil Penalty Against:

STEWART W. LOVELACE, M.D.  
1112 Ocean Drive  
Manhattan Beach, California 90266

Physician's and Surgeon's Certificate  
Number C 30263

Respondent.

Case No. 20-2006-172480

OAH No. L2006110092

PROPOSED DECISION

This matter came on regularly for hearing on January 30, 2007, in Los Angeles, California, before H. Stuart Waxman, Administrative Law Judge, Office of Administrative Hearings, State of California.

David T. Thornton (Complainant) was represented by Chris Leong, Deputy Attorney General.

Stewart W. Lovelace, M.D. (Respondent) was present and was represented by Steven D. Hunt, Attorney at Law.

Oral and documentary evidence was received. The record was closed and the matter was submitted for decision.

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## FACTUAL FINDINGS

The Administrative Law Judge makes the following Factual Findings:

1. In this case, Complainant seeks to discipline Respondent's physician's and surgeon's certificate on grounds of unprofessional conduct, pursuant to Business and Professions Code<sup>1</sup> section 2234, subdivision (a) for his failure to comply with a medical records request and his failure to comply with a citation order.

2. David T. Thornton made the Accusation and Notification of Violation and Imposition of Civil Penalty in his official capacity as Executive Director of the Medical Board of California (Board).

3. On July 19, 1968, the Board issued Physician and Surgeon Certificate No. C 30263 to Respondent. The certificate was in full force and effect at all relevant times and was scheduled to expire on December 31, 2006. The evidence failed to disclose whether Respondent's certificate is presently expired. However, if it has expired, the Board maintains jurisdiction over this matter pursuant to Code section 118, subdivision (b).

4. On or about July 22, 2005, and August 11, 2005, Patient S.S.<sup>2</sup> presented to Respondent for treatment. She quickly became dissatisfied with Respondent and filed a complaint against him with the Board. At the time she filed her complaint, Respondent's medical records for S.S. consisted of two pages of handwritten notes.

5. On November 2, 2005, a Consumer Services Analyst for the Board wrote to Respondent advising him of S.S.'s complaint and requesting a certified copy of S.S.'s medical records. The patient's authorization for release of her medical records accompanied the letter. Pursuant to Code section 2225.5, Respondent was required to produce the records within 15 days of his receipt of the request. Respondent failed to timely respond to that request.

6. On December 7, 2005, the same Consumer Services Analyst again wrote to Respondent. In that letter, she advised Respondent that the certified copies of S.S.'s records had not yet been received and that, if they were not received by January 3, 2006, the Board would "be pursuing the civil penalties set forth in Section 2225.5 for each day the documents have not been produced." Respondent lost track of the due date and did not respond to that letter by the January 3, 2006 deadline.

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<sup>1</sup> All statutory references are to the Business and Professions Code unless otherwise specified.

<sup>2</sup> The patient's initials are used in lieu of her name in order to protect her privacy.

7. On January 9, 2006, a Board representative attempted to reach Respondent at two different telephone numbers. No answer, either by an individual or by voicemail, was made at the first number. For reasons not disclosed by the evidence, the caller was unable to leave a voicemail message at the second number<sup>3</sup>.

8. On March 3, 2006, the Board issued Citation No. 20-2006-172480 to Respondent. According to the Citation Order, Respondent "failed to provide the Board with certified copies of a patient's medical records within 15 days of receiving a written request." He was therefore required "to provide the Board with certified copies of the patient's medical records" within 15 days from the date he received the Citation Order. He was also ordered to pay a fine of \$2,500 within 30 days from the date he received the Citation Order. S.S.'s name did not appear on the Citation Order.

9. Sometime in March 2006, Respondent received another letter from the Board. The letter did not reference a requirement that Respondent produce medical records, but did remind him to pay the \$2,500 fine. Respondent interpreted the letter to mean that the medical record production was no longer necessary.

10. On April 6, 2006, a Board representative wrote to Respondent advising him that, among other things, his license had been placed on hold and could not be renewed unless the Board received payment of the \$2,500 fine, and that the Board would pursue disciplinary action against Respondent unless it received the payment on or before April 20, 2006. Although the patient records were mentioned in the April 6, 2006 letter, no demand for their production was made.

11. On April 27, 2006, a Board representative sent another letter to Respondent. The letter was similar in form and content to that sent on April 6, 2006. According to that letter, the Board intended to pursue disciplinary action against Respondent unless he paid the fine on or before May 12, 2006. Although the letter referenced an Order of Abatement in connection with the citation, no mention was made of a present requirement to produce patient records.

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<sup>3</sup> At the hearing, Respondent claimed he had full voicemail capabilities in place on January 9, 2006. He therefore disputed the testimony regarding the Board representative's purported inability to leave a telephonic message. The statements of the Board representative and Respondent are not necessarily inconsistent. The calls may have been made at a time when, for unknown reasons, Respondent's voicemail system was temporarily inoperative. No reason exists to question the credibility of either the Board representative or Respondent on that issue.

12. On May 16, 2006, a Board representative sent a "Final Notice" to Respondent. According to that letter, the Board had submitted Respondent's name to the California Franchise Tax Board in an attempt to obtain payment of the administrative fine, in addition to having placed his license on hold pending that payment. The letter also contained the following language:

Please be advised, pursuant to Business and Professions Code section 125.9(b)(5), if the Medical Board has not received payment of the administrative fine by May 30, 2006, *and proof of your compliance with the Order of Abatement*, the Medical Board will refer this matter to the Office of the Attorney General for the filing of an Accusation alleging unprofessional conduct.

(Emphasis added.)

13. Despite the language in the Board's May 16, 2006 letter, Respondent still believed he was required to pay the fine but was not required to produce any patient records.

14. During the time the Board was attempting to obtain S.S.'s records and the administrative fine from Respondent, Respondent was embroiled in a civil lawsuit involving another patient, and he was going through a Chapter 13 personal bankruptcy requiring a restructuring and continued payment of his debts. He was extremely distracted by those two legal matters, and he misunderstood the Board to be seeking the medical records of the patient involved in the lawsuit rather than those of S.S. On October 14, 2006, Respondent mistakenly submitted the medical records of the patient involved in the lawsuit to the Board.

15. In approximately November of 2006, Respondent paid the \$2,500 administrative fine to the Board pursuant to the Citation Order. Because the instant Accusation was already pending, the check was forwarded to Complainant's counsel. Respondent had not paid the fine earlier because his financial condition precluded him from doing so.

16. On a date not disclosed by the evidence, Respondent was notified of his error regarding the identity of the patient whose records the Board was attempting to obtain. On December 22, 2006, Respondent's attorney forwarded the two pages of S.S.'s medical records to Complainant's counsel.

17. Respondent's bankruptcy was recently dismissed, but he is still "feeling the effects" of it financially. In addition, he was required to pay a large sum of money in connection with the civil lawsuit referenced above. He therefore claims he is unable to pay the over \$300,000 the Board is seeking as a civil penalty pursuant to Code section 2225.5.

18. Respondent recognizes, acknowledges and accepts responsibility for the errors he made in connection with his failure to timely produce S.S.'s records and his failure to pay the administrative fine required by the Citation Order. He is remorseful for those errors.

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## LEGAL CONCLUSIONS

Pursuant to the foregoing factual findings, the Administrative Law Judge makes the following legal conclusions:

1. Cause exists to discipline Respondent's physician's and surgeon's certificate, pursuant to Business and Professions Code section 2234, subdivision (a), for unprofessional conduct, as set forth in Findings 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15 and 16.

2. The issue of whether to affirm Citation No.20-2006-172480 is moot, Respondent has complied with the Citation Order, albeit not in a timely manner.

3. Respondent engaged in unprofessional conduct by failing to timely comply with the Board's request for S.S.'s medical records and by failing to either comply with the Citation Order or timely appeal the citation. Those failures have subjected his physician's and surgeon's certificate to discipline. His failure to produce the records when required has subjected him to the civil penalty referenced in Code section 2225.5.

4. Code section 2225.5, subdivision (a) states:

(1) A licensee who fails or refuses to comply with a request for the medical records of a patient, that is accompanied by that patient's written authorization for release of records to the board, within 15 days of receiving the request and authorization, shall pay to the board a civil penalty of one thousand dollars (\$1,000) per day for each day that the documents have not been produced after the 15th day, unless the licensee is unable to provide the documents within this time period for good cause.

(2) A health care facility shall comply with a request for the medical records of a patient that is accompanied by that patient's written authorization for release of records to the board together with a notice citing this section and describing the penalties for failure to comply with this section. Failure to provide the authorizing patient's medical records to the board within 30 days of receiving the request, authorization, and notice shall subject the health care facility to a civil penalty, payable to the board, of up to one thousand dollars (\$1,000) per day for each day that the documents have not been produced after the 30th day, up to ten thousand dollars (\$10,000), unless the health care facility is unable to provide the documents within this time period for good cause. This paragraph shall not require health care facilities to assist the board in obtaining the patient's authorization. The board shall pay the reasonable costs of copying the medical records.

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5. Respondent argued that he is financially unable to pay a \$1,000 per day civil penalty and that, pursuant to *Zuckerman v. v. State Board of Chiropractic Examiners* (2002) 29 Cal.4th 32 [124 Cal.Rptr.2d 701], the Board should excuse, or at least decrease, the amount of the penalty based on his inability to pay.

6. Respondent's reliance of *Zuckerman* is misplaced. In that case, the Court found that the possibility of having to pay a substantial sum for the licensing agency's costs of investigation and prosecution could impose such a burden on a respondent facing a disciplinary matter, that he/she could feel forced to settle the case to avoid that possibility, even if he/she believed the case was defensible. Thus, the potential exposure to substantial costs could have a chilling effect on a licensee's exercise of his/her right to a hearing on the merits. The court stated:

The Board must exercise its discretion to reduce or eliminate cost awards in a manner that will ensure that regulation 317.5 does not deter chiropractors with potentially meritorious claims or defenses from exercising their right to a hearing. Thus, the Board must not assess the full costs of investigation and prosecution when to do so will unfairly penalize a chiropractor who has committed some misconduct, but who has used the hearing process to obtain dismissal of other charges or a reduction in the severity of the discipline imposed. The Board must consider the chiropractor's "subjective good faith belief in the merits of his or her position" [citation] and whether the chiropractor has raised a "colorable challenge" to the proposed discipline [citation]. Furthermore, as in cost recoupment schemes in which the government seeks to recover from criminal defendants the cost of their state-provided legal representation [citation], the Board must determine that the chiropractor will be financially able to make later payments. Finally, the Board may not assess the full costs of investigation and prosecution when it has conducted a disproportionately large investigation to prove that a chiropractor engaged in relatively innocuous misconduct. [footnote omitted.] (*Id.* at 45.)

7. In the instant matter, Respondent did not forgo his right to a hearing on the merits of a potentially meritorious case in order to avoid having to pay costs of investigation and prosecution. In fact, by statute, the Board no longer seeks those costs in its disciplinary actions. (Bus. & Prof. Code § 125.3, subd. (k).) Rather, Respondent failed to comply with the Board's request to produce a patient's records in response to that patient's complaint against him. The potential for incurring a large financial obligation has the opposite effect under Code section 2225.5 than it does under Code section 125.3 (for agencies other than the Medical Board that are under the umbrella of the Department of Consumer Affairs). Under Code section 2225.5, the risk of a large civil penalty serves as a motivation to produce the requested medical records in a timely manner, and thus lacks the "chilling effect" extant in connection with Code section 125.3, unless the physician has strong reason to believe the records should not be produced. That was not the case here.

8. Respondent also argued that the civil penalty imposed under Code section 2225.5 should be limited to \$5,000 pursuant to Code section 125.9. That statute states:

(a) Except with respect to persons regulated under Chapter 11 (commencing with Section 7500), and Chapter 11.6 (commencing with Section 7590) of Division 3, any board, bureau, or commission within the [D]epartment [of Consumer Affairs], the board created by the Chiropractic Initiative Act, and the Osteopathic Medical Board of California, may establish, by regulation, a system for the issuance to a licensee of a citation which may contain an order of abatement or an order to pay an administrative fine assessed by the board, bureau, or commission where the licensee is in violation of the applicable licensing act or any regulation adopted pursuant thereto.

(b) The system shall contain the following provisions:

(1) Citations shall be in writing and shall describe with particularity the nature of the violation, including specific reference to the provision of law determined to have been violated.

(2) Whenever appropriate, the citation shall contain an order of abatement fixing a reasonable time for abatement of the violation.

(3) In no event shall the administrative fine assessed by the board, bureau, or commission exceed five thousand dollars (\$5,000) for each inspection or each investigation made with respect to the violation, or five thousand dollars (\$5,000) for each violation or count if the violation involves fraudulent billing submitted to an insurance company, the Medi-Cal program, or Medicare. In assessing a fine, the board, bureau, or commission shall give due consideration to the appropriateness of the amount of the fine with respect to factors such as the gravity of the violation, the good faith of the licensee, and the history of previous violations.

(4) A citation or fine assessment issued pursuant to a citation shall inform the licensee that if he or she desires a hearing to contest the finding of a violation, that hearing shall be requested by written notice to the board, bureau, or commission within 30 days of the date of issuance of the citation or assessment. If a hearing is not requested pursuant to this section, payment of any fine shall not constitute an admission of the violation charged. Hearings shall be held pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

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(5) Failure of a licensee to pay a fine within 30 days of the date of assessment, unless the citation is being appealed, may result in disciplinary action being taken by the board, bureau, or commission. Where a citation is not contested and a fine is not paid, the full amount of the assessed fine shall be added to the fee for renewal of the license. A license shall not be renewed without payment of the renewal fee and fine.

(c) The system may contain the following provisions:

(1) A citation may be issued without the assessment of an administrative fine.

(2) Assessment of administrative fines may be limited to only particular violations of the applicable licensing act.

(d) Notwithstanding any other provision of law, if a fine is paid to satisfy an assessment based on the finding of a violation, payment of the fine shall be represented as satisfactory resolution of the matter for purposes of public disclosure.

(e) Administrative fines collected pursuant to this section shall be deposited in the special fund of the particular board, bureau, or commission.

9. Respondent's argument is not well taken. In enacting Code section 125.9, the Legislature permitted certain licensing agencies to develop a citation system according to which they could, among other things, impose administrative fines. However, the Legislature limited the agencies to a maximum of \$5,000 for each inspection or violation. The Legislature, however, did not so limit itself. The \$1,000 per day fine imposed pursuant to Code section 2225.5 is imposed by the Legislature itself, not by a regulatory agency under the Legislature's authority. Thus, although the administrative fine imposed by the Board in its Citation Order could not, and did not, exceed the statutory limit imposed by Code section 125.9, the civil penalty imposed by the Legislature pursuant to Code section 2225.5 is not limited.

10. Finally, Respondent argued that, because Code section 2225.5, subdivision (b) places a \$10,000 limit for the civil penalty imposed against a health care facility, it is not equitable to impose an unlimited penalty against a physician for the same offense. Regardless of whether the argument is meritorious, the issue is moot in that the Administrative Law Judge is obligated to follow the statute and is without authority to craft a remedy for Respondent that would be inconsistent with the plain language of Code section 2225.5, subdivision (a).

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11. What can be addressed, however, is whether, based on good cause, Respondent was unable to produce S.S.'s records at any time between November 2, 2005 (the date of the Board's first notice) and December 22, 2006 (the date Respondent's counsel forwarded the two pages of records to Complainant's counsel). That question is answered in the affirmative.

12. The Board's initial notice was issued on November 2, 2005. Pursuant to Code section 2225.5, subdivision (a), it gave Respondent 15 days to submit S.S.'s medical records. The deadline for the record production was therefore November 17, 2005. Although Respondent failed to meet that deadline, the warning from the Board in its letter of December 7, 2005, indicated that civil penalties would be pursued if the records were not produced by January 3, 2006. Thus, the Board tacitly waived enforcement of the statute between November 17, 2005, and January 3, 2006, a total of 47 days.

13. The penalty period therefore started on January 3, 2006. The Board issued its citation on March 3, 2006, requiring production of the records and payment of the \$2,500 administrative fine. However, in its first warning letter, dated April 6, 2006, the Board required payment of the fine but did not mention a requirement that Respondent produce the medical records. Respondent was therefore justified in believing that the production was no longer necessary. Accordingly, Respondent's initial penalty period ran from January 3, 2006, to April 6, 2006, a total of 93 days.

14. The Board sent another follow-up letter on April 27, 2006, but again, no mention was made of the record production. However, in its Final Notice, dated May 16, 2006, the Board required payment of the administrative fine and proof of compliance with the Order of Abatement. Therefore, as of May 16, 2006, Respondent was back on notice that he was required to submit the two pages of S.S.'s medical records. Accordingly, good cause existed for non-production between April 6, 2006, and May 16, 2006, a total of 40 days. However, good cause did not exist for Respondent's failure to produce the records between May 16, 2006, and October 14, 2006, the date he erroneously produced the wrong patient's records, a total of 151 days. Respondent was not immediately notified of his error and, upon learning of it, he submitted S.S.'s medical records on December 22, 2006. Since he reasonably believed he had complied with the Board's request to produce medical records, he was not subject to the civil penalty between October 14, 2006, and December 22, 2006.

15. A total of 400 days lapsed between November 17, 2005, the first penalty day, and December 22, 2006, the day Respondent produced S.S.'s medical records. Of that time, Respondent was unable to produce the records for good cause on 156 days. Good cause for non-production did not exist for the remaining 244 days.

16. Although Respondent did not act maliciously or intend to prevent the Board from properly investigating S.S.'s complaint, his distractions because of his bankruptcy and civil lawsuit do not constitute good cause that prevented him from producing the two pages of S.S.'s medical records.

17. At the time he was required to submit S.S.'s medical records to the Board pursuant to Code section 2225.5, and to pay the \$2,500 administrative fine pursuant to the Citation Order, Respondent was overwhelmed with legal and financial problems. Although his conduct was unprofessional and therefore subject to discipline, it was not borne of ignoble motives. The purpose of a disciplinary proceeding such as the one *sub judice* is not to punish the licensee, but rather to protect the public. (*Camacho v. Youde* (1979) 95 Cal.App.3d 161; *Clerici v. Department of Motor Vehicles* (1990) 224 Cal.App.3d 1015; *Small v. Smith* (1971) 16 Cal.App.3d 450, 457.) Further, "[i]n exercising his or her disciplinary authority an administrative law judge of the Medical Quality Hearing Panel, the division, or the California Board of Podiatric Medicine, shall, wherever possible, take action that is calculated to aid in the rehabilitation of the licensee, or where, due to a lack of continuing education or other reasons, restriction on scope of practice is indicated, to order restrictions as are indicated by the evidence." (Code § 2229, subd. (b).) In this case, the public health, safety, welfare and interest should be best served by the imposition of a civil penalty covering the appropriate number of days, and by a properly conditioned probationary order.

#### ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

1. Respondent Stewart W. Lovelace shall pay to the Board, or its authorized designee, a civil penalty of \$244,000, according to a payment schedule to be determined by the Board or its authorized designee.

2. Physician's and Surgeon's Certificate No. C 30263, issued to Respondent Stewart W. Lovelace, is revoked. However, the revocation is stayed and Respondent is placed on probation for three years upon the following terms and conditions.

1. Obey All Laws

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

2. Quarterly Declarations

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

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3. Probation Unit Compliance

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

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

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

4. Interview with the Division or its Designee

Respondent shall be available in person for interviews either at Respondent's place of business or at the probation unit office, with the Division or its designee upon request at various intervals and either with or without prior notice throughout the term of probation.

5. Residing or Practicing Out-of-State

In the event Respondent should leave the State of California to reside or to practice, Respondent shall notify the Division or its designee in writing 30 calendar days prior to the dates of departure and return. Non-practice is defined as any period of time exceeding 30 calendar days in which Respondent is not engaging in any activities defined in sections 2051 and 2052 of the Business and Professions Code.

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

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

#### 6. Failure to Practice Medicine - California Resident

In the event Respondent resides in the State of California and for any reason Respondent stops practicing medicine in California, he shall notify the Division or its designee in writing within 30 calendar days prior to the dates of non-practice and return to practice. Any period of non-practice within California, as defined in this condition, will not apply to the reduction of the probationary term and does not relieve Respondent of the responsibility to comply with the terms and conditions of probation. Non-practice is defined as any period of time exceeding 30 calendar days in which Respondent is not engaging in any activities defined in sections 2051 and 2052 of the Business and Professions Code.

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

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

#### 7. License Surrender

Following the effective date of this Decision, if Respondent ceases practicing due to retirement, health reasons or is otherwise unable to satisfy the terms and conditions of probation, he may request the voluntary surrender of his license. The Division reserves the right to evaluate Respondent's request and to exercise its discretion whether or not to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent shall, within 15 calendar days, deliver his wallet and wall certificate to the Division or its designee and Respondent shall no longer practice medicine. Respondent will no longer be subject to the terms and conditions of probation and the surrender of Respondent's license shall be deemed disciplinary action. If Respondent re-applies for a medical license, the application shall be treated as a petition for reinstatement of a revoked certificate.

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8. Probation Monitoring Costs

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

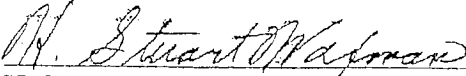
9. Violation of Probation

Failure to fully comply with any term or condition of probation is a violation of probation. If Respondent violates probation in any respect, the Division, after giving Respondent notice and the opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke Probation, or an Interim Suspension Order is filed against Respondent during probation, the Division shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

10. Completion of Probation

Respondent shall comply with all financial obligations (e.g., probation costs) not later than 120 calendar days prior to the completion of probation. Upon successful completion of probation, Respondent's certificate shall be fully restored.

DATED: February 13, 2007

  
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H. STUART WAXMAN  
Administrative Law Judge  
Office of Administrative Hearings



**EXHIBIT B**

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

In the Matter of the Accusation and  
Notification of Violation and Imposition of  
Civil Penalty Against:

**STEWART W. LOVELACE, M.D.**  
1112 Ocean Drive  
Manhattan Beach, California 90266

Physician's and Surgeon's Certificate  
Number C 30263,

Respondent.

Case No. 20-2006-172480

OAH No. L2006110092

DECISION AFTER REMAND FROM SUPERIOR COURT

This matter came on regularly for hearing on January 30, 2007, in Los Angeles, California, before H. Stuart Waxman, Administrative Law Judge, Office of Administrative Hearings, State of California.

David T. Thornton (Complainant) was represented by Chris Leong, Deputy Attorney General.

Stewart W. Lovelace, M.D. (Respondent) was present and was represented by Steven D. Hunt, Attorney at Law.

Oral and documentary evidence was received. The record was closed and the matter was submitted for decision.

The proposed decision of the administrative law judge was submitted to the Division of Medical Quality, Medical Board of California (hereafter "division"<sup>1</sup> or Board) on February 13, 2007. After due consideration thereof, the division declined to adopt the proposed decision and thereafter on May 2, 2007 issued an Order of Remand and subsequently issued an order vacating the remand order, and granting complainant's petition for reconsideration. On July 24, 2007, the division issued a Notice of Hearing for Oral Argument. Oral argument was heard on August 20, 2007. Present were members Wender, Salomonson, Yaroslavsky, and Zerunyan. On August 29, 2007, the division, having considered written argument submitted by both parties, issued its decision adopting the Administrative Law Judge's proposed decision, which became effective September 28, 2007.

Respondent then filed a Petition for Writ of Administrative Mandamus in Sacramento Superior Court. On October 8, 2008, a judgment granting a Writ of Administrative Mandamus in this matter was entered. With respect to the \$244,000 civil penalty imposed against the Respondent, the Court remanded the matter back to the Board to reconsider its action in light of the Court's Statement of Decision but otherwise upheld the decision. On December 8, 2008, the Board reconsidered its action in light of the Court's ruling, and hereby makes and enters the following as its decision in the above-referenced matter:

### FACTUAL FINDINGS

The Administrative Law Judge makes the following Factual Findings:

1. In this case, Complainant seeks to discipline Respondent's physician's and surgeon's certificate on grounds of unprofessional conduct, pursuant to Business and Professions Code<sup>2</sup> section 2234, subdivision (a) for his failure to comply with a medical records request and his failure to comply with a citation order.
2. David T. Thornton made the Accusation and Notification of Violation and Imposition of Civil Penalty in his official capacity as Executive Director of the Medical Board of California (Board).
3. On July 19, 1968, the Board issued Physician's and Surgeon's Certificate No. C 30263 to Respondent. The certificate was in full force and effect at all relevant times and was scheduled to expire on December 31, 2006. The evidence failed to disclose whether Respondent's certificate is presently expired. However, if it has expired, the Board maintains jurisdiction over this matter pursuant to Code section 118, subdivision (b).

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<sup>1</sup> There are no longer divisions within the Medical Board of California.

<sup>2</sup> All statutory references are to the Business and Professions Code unless otherwise specified.

4. On or about July 22, 2005, and August 11, 2005, Patient S.S.<sup>3</sup> presented to Respondent for treatment. She quickly became dissatisfied with Respondent and filed a complaint against him with the Board. At the time she filed her complaint, Respondent's medical records for S.S. consisted of two pages of handwritten notes.

5. On November 2, 2005, a Consumer Services Analyst for the Board wrote to Respondent advising him of S.S.'s complaint and requesting a certified copy of S.S.'s medical records. The patient's authorization for release of her medical records accompanied the letter. Pursuant to Code section 2225.5, Respondent was required to produce the records within 15 days of his receipt of the request. Respondent failed to timely respond to that request.

6. On December 7, 2005, the same Consumer Services Analyst again wrote to Respondent. In that letter, she advised Respondent that the certified copies of S.S.'s records had not yet been received and that, if they were not received by January 3, 2006, the Board would "be pursuing the civil penalties set forth in Section 2225.5 for each day the documents have not been produced." Respondent lost track of the due date and did not respond to that letter by the January 3, 2006 deadline.

7. On January 9, 2006, a Board representative attempted to reach Respondent at two different telephone numbers. No answer, either by an individual or by voicemail, was made at the first number. For reasons not disclosed by the evidence, the caller was unable to leave a voicemail message at the second number<sup>4</sup>.

8. On March 3, 2006, the Board issued Citation No. 20-2006-172480 to Respondent. According to the Citation Order, Respondent "failed to provide the Board with certified copies of a patient's medical records within 15 days of receiving a written request." He was therefore required "to provide the Board with certified copies of the patient's medical records" within 15 days from the date he received the Citation Order. He was also ordered to pay a fine of \$2,500 within 30 days from the date he received the Citation Order. S.S.'s name did not appear on the Citation Order.

9. Sometime in March 2006, Respondent received another letter from the Board. The letter did not reference a requirement that Respondent produce medical records, but did remind him to pay the \$2,500 fine. Respondent interpreted the letter to mean that the medical record production was no longer necessary.

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<sup>3</sup> The patient's initials are used in lieu of her name in order to protect her privacy.

<sup>4</sup> At the hearing, Respondent claimed he had full voicemail capabilities in place on January 9, 2006. He therefore disputed the testimony regarding the Board representative's purported inability to leave a telephonic message. The statements of the Board representative and Respondent are not necessarily inconsistent. The calls may have been made at a time when, for unknown reasons, Respondent's voicemail system was temporarily inoperative. No reason exists to question the credibility of either the Board representative or Respondent on that issue.

10. On April 6, 2006, a Board representative wrote to Respondent advising him that, among other things, his license had been placed on hold and could not be renewed unless the Board received payment of the \$2,500 fine, and that the Board would pursue disciplinary action against Respondent unless it received the payment on or before April 20, 2006. Although the patient records were mentioned in the April 6, 2006 letter, no demand for their production was made.

11. On April 27, 2006, a Board representative sent another letter to Respondent. The letter was similar in form and content to that sent on April 6, 2006. According to that letter, the Board intended to pursue disciplinary action against Respondent unless he paid the fine on or before May 12, 2006. Although the letter referenced an Order of Abatement in connection with the citation, no mention was made of a present requirement to produce patient records.

12. On May 16, 2006, a Board representative sent a "Final Notice" to Respondent. According to that letter, the Board had submitted Respondent's name to the California Franchise Tax Board in an attempt to obtain payment of the administrative fine, in addition to having placed his license on hold pending that payment. The letter also contained the following language:

Please be advised, pursuant to Business and Professions Code section 125.9(b)(5), if the Medical Board has not received payment of the administrative fine by May 30, 2006, **and proof of your compliance with the Order of Abatement**, the Medical Board will refer this matter to the Office of the Attorney General for the filing of an Accusation alleging unprofessional conduct.  
(Emphasis added.)

13. Despite the language in the Board's May 16, 2006 letter, Respondent still believed he was required to pay the fine but was not required to produce any patient records.

14. During the time the Board was attempting to obtain S.S.'s records and the administrative fine from Respondent, Respondent was embroiled in a civil lawsuit involving another patient, and he was going through a Chapter 13 personal bankruptcy requiring a restructuring and continued payment of his debts. He was extremely distracted by those two legal matters, and he misunderstood the Board to be seeking the medical records of the patient involved in the lawsuit rather than those of S.S. On October 14, 2006, Respondent mistakenly submitted the medical records of the patient involved in the lawsuit to the Board.

15. In approximately November of 2006, Respondent paid the \$2,500 administrative fine to the Board pursuant to the Citation Order. Because the instant Accusation was already pending, the check was forwarded to Complainant's counsel. Respondent had not paid the fine earlier because his financial condition precluded him from doing so.

16. On a date not disclosed by the evidence, Respondent was notified of his error regarding the identity of the patient whose records the Board was attempting to obtain. On December 22, 2006, Respondent's attorney forwarded the two pages of S.S.'s medical records to Complainant's counsel.

17. Respondent's bankruptcy was recently dismissed, but he is still "feeling the effects" of it financially. In addition, he was required to pay a large sum of money in connection with the civil lawsuit referenced above. He therefore claims he is unable to pay the over \$300,000 the Board is seeking as a civil penalty pursuant to Code section 2225.5.

18. Respondent recognizes, acknowledges and accepts responsibility for the errors he made in connection with his failure to timely produce S.S.'s records and his failure to pay the administrative fine required by the Citation Order. He is remorseful for those errors.

### LEGAL CONCLUSIONS

Pursuant to the foregoing factual findings, the Administrative Law Judge makes the following legal conclusions:

1. Cause exists to discipline Respondent's physician's and surgeon's certificate, pursuant to Business and Professions Code section 2234, subdivision (a), for unprofessional conduct, as set forth in Findings 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15 and 16.

2. The issue of whether to affirm Citation No. 20-2006-172480 is moot. Respondent has complied with the Citation Order, albeit not in a timely manner.

3. Respondent engaged in unprofessional conduct by failing to timely comply with the Board's request for S.S.'s medical records and by failing to either comply with the Citation Order or timely appeal the citation. Those failures have subjected his physician's and surgeon's certificate to discipline. His failure to produce the records when required has subjected him to the civil penalty referenced in Code section 2225.5.

4. Code section 2225.5, subdivision (a) states:

(1) A licensee who fails or refuses to comply with a request for the medical records of a patient, that is accompanied by that patient's written authorization for release of records to the board, within 15 days of receiving the request and authorization, shall pay to the board a civil penalty of one thousand dollars (\$1,000) per day for each day that the documents have not been produced after the 15th day, unless the licensee is unable to provide the documents within this time period for good cause.

(2) A health care facility shall comply with a request for the medical records of a patient that is accompanied by that patient's written authorization for release of records to the board together with a notice citing this section and describing the penalties for failure to comply with this section. Failure to provide the authorizing patient's medical records to the board within 30 days of receiving the request, authorization, and notice shall subject the health care facility to a civil penalty, payable to the board, of up to one thousand dollars (\$1,000) per day for each day that the documents have not been produced after the 30th day, up to ten thousand dollars (\$10,000), unless the health care facility is unable to provide the documents within this time period for good cause. This paragraph shall not require health care facilities to assist the board in obtaining the patient's authorization. The board shall pay the reasonable costs of copying the medical records.

5. Respondent argued that he is financially unable to pay a \$1,000 per day civil penalty and that, pursuant to *Zuckerman v. v. State Board of Chiropractic Examiners* (2002) 29 Cal.4th 32 [124 Cal.Rptr.2d 701], the Board should excuse, or at least decrease, the amount of the penalty based on his inability to pay.

6. Respondent's reliance of *Zuckerman* is misplaced. In that case, the Court found that the possibility of having to pay a substantial sum for the licensing agency's costs of investigation and prosecution could impose such a burden on a respondent facing a disciplinary matter, that he/she could feel forced to settle the case to avoid that possibility, even if he/she believed the case was defensible. Thus, the potential exposure to substantial costs could have a chilling effect on a licensee's exercise of his/her right to a hearing on the merits. The court stated:

The Board must exercise its discretion to reduce or eliminate cost awards in a manner that will ensure that regulation 317.5 does not deter chiropractors with potentially meritorious claims or defenses from exercising their right to a hearing. Thus, the Board must not assess the full costs of investigation and prosecution when to do so will unfairly penalize a chiropractor who has committed some misconduct, but who has used the hearing process to obtain dismissal of other charges or a reduction in the severity of the discipline imposed. The Board must consider the chiropractor's "subjective good faith belief in the merits of his or her position" [citation] and whether the chiropractor has raised a "colorable challenge" to the proposed discipline [citation]. Furthermore, as in cost recoupment schemes in which the government seeks to recover from criminal defendants the cost of their state-provided legal representation [citation], the Board must determine that the chiropractor will be financially able to make later payments. Finally, the Board may not assess the full costs of investigation and prosecution when it has conducted a disproportionately large investigation to prove that a chiropractor engaged in relatively innocuous misconduct. [footnote omitted.] (*Id.* at 45.)

7. In the instant matter, Respondent did not forgo his right to a hearing on the merits of a potentially meritorious case in order to avoid having to pay costs of investigation and prosecution. In fact, by statute, the Board no longer seeks those costs in its disciplinary actions. (Bus. & Prof. Code § 125.3, subd. (k).) Rather, Respondent failed to comply with the Board's request to produce a patient's records in response to that patient's complaint against him. The potential for incurring a large financial obligation has the opposite effect under Code section 2225.5 than it does under Code section 125.3 (for agencies other than the Medical Board that are under the umbrella of the Department of Consumer Affairs). Under Code section 2225.5, the risk of a large civil penalty serves as a motivation to produce the requested medical records in a timely manner, and thus lacks the "chilling effect" extant in connection with Code section 125.3, unless the physician has strong reason to believe the records should not be produced. That was not the case here.

8. Respondent also argued that the civil penalty imposed under Code section 2225.5 should be limited to \$5,000 pursuant to Code section 125.9. That statute states:

(a) Except with respect to persons regulated under Chapter 11 (commencing with Section 7500), and Chapter 11.6 (commencing with Section 7590) of Division 3, any board, bureau, or commission within the [D]epartment [of Consumer Affairs], the board created by the Chiropractic Initiative Act, and the Osteopathic Medical Board of California, may establish, by regulation, a system for the issuance to a licensee of a citation which may contain an order of abatement or an order to pay an administrative fine assessed by the board, bureau, or commission where the licensee is in violation of the applicable licensing act or any regulation adopted pursuant thereto.

(b) The system shall contain the following provisions:

(1) Citations shall be in writing and shall describe with particularity the nature of the violation, including specific reference to the provision of law determined to have been violated.

(2) Whenever appropriate, the citation shall contain an order of abatement fixing a reasonable time for abatement of the violation.

(3) In no event shall the administrative fine assessed by the board, bureau, or commission exceed five thousand dollars (\$5,000) for each inspection or each investigation made with respect to the violation, or five thousand dollars (\$5,000) for each violation or count if the violation involves fraudulent billing submitted to an insurance company, the Medi-Cal program, or Medicare. In assessing a fine, the board, bureau, or commission shall give due consideration to the appropriateness of the amount of the fine with respect to factors such as the gravity of the violation, the good faith of the licensee, and the history of previous violations.



(4) A citation or fine assessment issued pursuant to a citation shall inform the licensee that if he or she desires a hearing to contest the finding of a violation, that hearing shall be requested by written notice to the board, bureau, or commission within 30 days of the date of issuance of the citation or assessment. If a hearing is not requested pursuant to this section, payment of any fine shall not constitute an admission of the violation charged. Hearings shall be held pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(5) Failure of a licensee to pay a fine within 30 days of the date of assessment, unless the citation is being appealed, may result in disciplinary action being taken by the board, bureau, or commission. Where a citation is not contested and a fine is not paid, the full amount of the assessed fine shall be added to the fee for renewal of the license. A license shall not be renewed without payment of the renewal fee and fine.

(c) The system may contain the following provisions:

(1) A citation may be issued without the assessment of an administrative fine.

(2) Assessment of administrative fines may be limited to only particular violations of the applicable licensing act.

(d) Notwithstanding any other provision of law, if a fine is paid to satisfy an assessment based on the finding of a violation, payment of the fine shall be represented as satisfactory resolution of the matter for purposes of public disclosure.

(e) Administrative fines collected pursuant to this section shall be deposited in the special fund of the particular board, bureau, or commission.

9. Respondent's argument is not well taken. In enacting Code section 125.9, the Legislature permitted certain licensing agencies to develop a citation system according to which they could, among other things, impose administrative fines. However, the Legislature limited the agencies to a maximum of \$5,000 for each inspection or violation. The Legislature, however, did not so limit itself. The \$1,000 per day fine imposed pursuant to Code section 2225.5 is imposed by the Legislature itself, not by a regulatory agency under the Legislature's authority. Thus, although the administrative fine imposed by the Board in its Citation Order could not, and did not, exceed the statutory limit imposed by Code section 125.9, the civil penalty imposed by the Legislature pursuant to Code section 2225.5 is not limited.

10. Finally, Respondent argued that, because Code section 2225.5, subdivision (b) places a \$10,000 limit for the civil penalty imposed against a health care facility, it is not equitable to impose an unlimited penalty against a physician for the same offense. Regardless of whether the argument is meritorious, the issue is moot in that the Administrative Law Judge is obligated to follow the statute and is without authority to craft a remedy for Respondent that would be inconsistent with the plain language of Code section 2225.5, subdivision (a).

11. What can be addressed, however, is whether, based on good cause, Respondent was unable to produce S.S.'s records at any time between November 2, 2005 (the date of the Board's first notice) and December 22, 2006 (the date Respondent's counsel forwarded the two pages of records to Complainant's counsel). That question is answered in the affirmative.

12. The Board's initial notice was issued on November 2, 2005. Pursuant to Code section 2225.5, subdivision (a), it gave Respondent 15 days to submit S.S.'s medical records. The deadline for the record production was therefore November 17, 2005. Although Respondent failed to meet that deadline, the warning from the Board in its letter of December 7, 2005, indicated that civil penalties would be pursued if the records were not produced by January 3, 2006. Thus, the Board tacitly waived enforcement of the statute between November 17, 2005, and January 3, 2006, a total of 47 days.

13. The penalty period therefore started on January 3, 2006. The Board issued its citation on March 3, 2006, requiring production of the records and payment of the \$2,500 administrative fine. However, in its first warning letter, dated April 6, 2006, the Board required payment of the fine but did not mention a requirement that Respondent produce the medical records. Respondent was therefore justified in believing that the production was no longer necessary. Accordingly, Respondent's initial penalty period ran from January 3, 2006, to April 6, 2006, a total of 93 days.

14. The Board sent another follow-up letter on April 27, 2006, but again, no mention was made of the record production. However, in its Final Notice, dated May 16, 2006, the Board required payment of the administrative fine and proof of compliance with the Order of Abatement. Therefore, as of May 16, 2006, Respondent was back on notice that he was required to submit the two pages of S.S.'s medical records. Accordingly, good cause existed for non-production between April 6, 2006, and May 16, 2006, a total of 40 days. However, good cause did not exist for Respondent's failure to produce the records between May 16, 2006, and October 14, 2006, the date he erroneously produced the wrong patient's records, a total of 151 days. Respondent was not immediately notified of his error and, upon learning of it, he submitted S.S.'s medical records on December 22, 2006. Since he reasonably believed he had complied with the Board's request to produce medical records; he was not subject to the civil penalty between October 14, 2006, and December 22, 2006.

15. A total of 400 days lapsed between November 17, 2005, the first penalty day, and December 22, 2006, the day Respondent produced S.S.'s medical records. Of that time, Respondent was unable to produce the records for good cause on 156 days. Good cause for non-production did not exist for the remaining 244 days.

16. Although Respondent did not act maliciously or intend to prevent the Board from properly investigating S.S.'s complaint, his distractions because of his bankruptcy and civil lawsuit do not constitute good cause that prevented him from producing the two pages of S.S.'s medical records.

17. At the time he was required to submit S.S.'s medical records to the Board pursuant to Code section 2225.5, and to pay the \$2,500 administrative fine pursuant to the Citation Order, Respondent was overwhelmed with legal and financial problems. Although his conduct was unprofessional and therefore subject to discipline, it was not borne of ignoble motives. The purpose of a disciplinary proceeding such as the one *sub judice* is not to punish the licensee, but rather to protect the public. (*Camacho v. Youde* (1979) 95 Cal.App.3d 161; *Clerici v. Department of Motor Vehicles* (1990) 224 Cal.App.3d 1015; *Small v. Smith* (1971) 16 Cal.App.3d 450, 457.) Further, "[i]n exercising his or her disciplinary authority an administrative law judge of the Medical Quality Hearing Panel, the division, or the California Board of Podiatric Medicine, shall, wherever possible, take action that is calculated to aid in the rehabilitation of the licensee, or where, due to a lack of continuing education or other reasons, restriction on scope of practice is indicated, to order restrictions as are indicated by the evidence." (Code § 2229, subd. (b).) In this case, the public health, safety, welfare and interest should be best served by the imposition of a civil penalty covering the appropriate number of days, and by a properly conditioned probationary order.

#### Discussion of Superior Court's Statement of Decision

18. In its Statement of Decision, the Sacramento Superior Court opined that the \$244,000 civil penalty assessed against Respondent was invalid as it was an excessive fine and therefore violated constitutional standards. The Court noted in its statement that the exercise of reasoned discretion by the Board had been replaced with the adding machine and that the statute which authorized the Board to assess such a civil penalty, section 2225.5 of the Business and Professions Code, while not facially unconstitutional, was unconstitutional as applied to Respondent in the instant matter. The Court found that the Board did not consider Respondent's ability to pay or the nature of his conduct in determining the amount of the civil penalty. Finally, the Court noted that a health care facility that did not produce requested medical records would be subjected to a maximum penalty of \$10,000. (See § 2225.5 (a)(2).) No such maximum exists for physicians, such as Respondent.

A. The Board, after consideration and thorough review of the Court's ruling, reduces the civil penalty assessed against Respondent in this matter to \$10,000. The Board is not persuaded that it must consider the negligence or malicious intent of a licensee when assessing this type of penalty, as section 2225.5 is silent on that account. It has chosen to set the civil penalty amount in this particular case at an amount equal to that maximum penalty that may be assessed by the Board against a health care facility.

### ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

A. Respondent Stewart W. Lovelace shall pay to the Board, or its authorized designee, a civil penalty of \$10,000, according to a payment schedule to be determined by the Board or its authorized designee.

B. Physician's and Surgeon's Certificate No. C 30263, issued to Respondent Stewart W. Lovelace, is revoked. However, the revocation is stayed and Respondent is placed on probation for three years upon the following terms and conditions.

1. Obey All Laws

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

2. Quarterly Declarations

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

3. Probation Unit Compliance

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

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

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

4. Interview with the Division or its Designee

Respondent shall be available in person for interviews either at Respondent's place of business or at the probation unit office, with the Division or its designee upon request at various intervals and either with or without prior notice throughout the term of probation.

5. Residing or Practicing Out-of-State

In the event Respondent should leave the State of California to reside or to practice, Respondent shall notify the Division or its designee in writing 30 calendar days prior to the dates of departure and return. Non-practice is defined as any period of time exceeding 30 calendar days in which Respondent is not engaging in any activities defined in sections 2051 and 2052 of the Business and Professions Code.

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

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

6. Failure to Practice Medicine - California Resident

In the event Respondent resides in the State of California and for any reason Respondent stops practicing medicine in California, he shall notify the Division or its designee in writing within 30 calendar days prior to the dates of non-practice and return to practice. Any period of non-practice within California, as defined in this condition, will not apply to the reduction of the probationary term and does not relieve Respondent of the responsibility to comply with the terms and conditions of probation. Non-practice is defined as any period of time exceeding 30 calendar days in which Respondent is not engaging in any activities defined in sections 2051 and 2052 of the Business and Professions Code.

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

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

7. License Surrender

Following the effective date of this Decision, if Respondent ceases practicing due to retirement, health reasons or is otherwise unable to satisfy the terms and conditions of probation, he may request the voluntary surrender of his license. The Division reserves the right to evaluate Respondent's request and to exercise its discretion whether or not to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent shall, within 15 calendar days, deliver his wallet and wall certificate to the Division or its designee and Respondent shall no longer practice medicine. Respondent will no longer be subject to the terms and conditions of probation and the surrender of Respondent's license shall be deemed disciplinary action. If Respondent re-applies for a medical license, the application shall be treated as a petition for reinstatement of a revoked certificate.

8. Probation Monitoring Costs

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

9. Violation of Probation

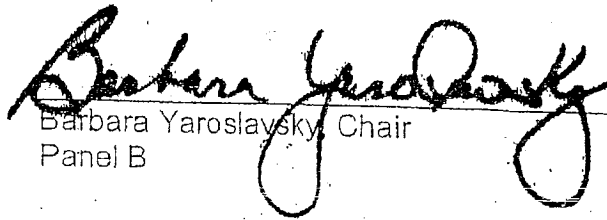
Failure to fully comply with any term or condition of probation is a violation of probation. If Respondent violates probation in any respect, the Division, after giving Respondent notice and the opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke Probation, or an Interim Suspension Order is filed against Respondent during probation, the Division shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

10. Completion of Probation

Respondent shall comply with all financial obligations (e.g., probation costs) not later than 120 calendar days prior to the completion of probation. Upon successful completion of probation, Respondent's certificate shall be fully restored.

This Decision shall become effective on February 25, 2009.

IT IS SO ORDERED THIS 26th day of January, 2009.

  
Barbara Yaroslavsky, Chair  
Panel B

**EXHIBIT C**



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

MEDICAL BOARD OF CALIFORNIA

I do hereby certify that this document is a true and correct copy of the original on file in this office.

Cliff Hamilton  
Signature  
For the Custodian of Records  
Title  
November 15, 2008  
Date

In the Matter of the Accusation and )  
Notification of Violation and Imposition of )  
Civil Penalty Against: )  
)  
)  
Stewart W. Lovelace, M.D. )  
)  
)  
Physician's & Surgeon's )  
Certificate No. C 30263 )  
)  
Respondent. )

MBC File # 20-2006-172480

ORDER CORRECTING A  
CLERICAL ERROR IN THE ORDER PORTION OF THE  
DECISION AFTER REMAND FROM SUPERIOR COURT

Pursuant to the provisions of Section 11518.5 of the Government Code and upon timely receipt of application for correction of a clerical error filed by Respondent, the Medical Board of California (hereafter "Board") finds that there is a clerical error in the Order portion of the Decision After Remand From Superior Court in the above-entitled matter and that such clerical error warrants correction so that the commencement of Respondent's probationary term comports with the Board's prior decision.

THEREFORE IT IS HEREBY ORDERED that the Order in the Decision After Remand From Superior Court is amended and corrected to read as follows:

**ORDER**

A. Respondent Stewart W. Lovelace shall pay to the Board, or its authorized designee, a civil penalty of \$10,000, according to a payment schedule to be determined by the Board or its authorized designee.

B. Physician's and Surgeon's Certificate No. C30263, issued to Respondent Stewart W. Lovelace, M.D., is revoked. However, the revocation is stayed and Respondent is placed on three years probation, effective September 28, 2007, upon the following terms and conditions.

1. Obey All Laws

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

2. Quarterly Declarations

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

3. Probation Unit Compliance

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

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

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

4. Interview with the Division or its Designee

Respondent shall be available in person for interviews either at Respondent's place of business or at the probation unit office, with the Division or its designee upon request at various intervals and either with or without prior notice throughout the term of probation.

5. Residing or Practicing Out-of-State

In the event Respondent should leave the State of California to reside or to practice, Respondent shall notify the Division or its designee in writing 30 calendar days prior to the dates of departure and return. Non-practice is defined as any period of time exceeding 30 calendar days in which Respondent is not engaging in any activities defined in sections 2051 and 2052 of the Business and Professions Code.

All time spent in an intensive training program outside the State of California which has been approved by the Division or its designee shall be considered as time spent in the practice of medicine within the State. A Board-ordered suspension of practice shall not be considered as a

period of non-practice. Periods of temporary or permanent residence or practice outside California will not apply to the reduction of the probationary term. Periods of temporary or permanent residence or practice outside California will relieve Respondent of the responsibility to comply with the probationary terms and conditions with the exception of this condition and the following terms and conditions of probation: Obey All Laws and Probation Unit Compliance.

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

#### 6. Failure to Practice Medicine - California Resident

In the event Respondent resides in the State of California and for any reason Respondent stops practicing medicine in California, he shall notify the Division or its designee in writing within 30 calendar days prior to the dates of non-practice and return to practice. Any period of non-practice within California, as defined in this condition, will not apply to the reduction of the probationary term and does not relieve Respondent of the responsibility to comply with the terms and conditions of probation. Non-practice is defined as any period of time exceeding 30 calendar days in which Respondent is not engaging in any activities defined in sections 2051 and 2052 of the Business and Professions Code.

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

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

#### 7. License Surrender

Following the effective date of this Decision, if Respondent ceases practicing due to retirement, health reasons or is otherwise unable to satisfy the terms and conditions of probation, he may request the voluntary surrender of his license. The Division reserves the right to evaluate Respondent's request and to exercise its discretion whether or not to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent shall, within 15 calendar days, deliver his wallet and wall certificate to the Division or its designee and Respondent shall no longer practice medicine. Respondent will no longer be subject to the terms and conditions of probation and the surrender of Respondent's license shall be deemed disciplinary action. If Respondent re-applies for a medical license, the application shall be treated as a petition for reinstatement of a revoked certificate.

8. Probation Monitoring Costs

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

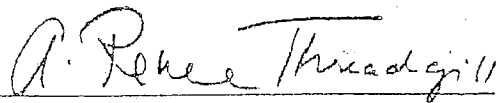
9. Violation of Probation

Failure to fully comply with any term or condition of probation is a violation of probation. If Respondent violates probation in any respect, the Division, after giving Respondent notice and the opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke Probation, or an Interim Suspension Order is filed against Respondent during probation, the Division shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

10. Completion of Probation

Respondent shall comply with all financial obligations (e.g., probation costs) not later than 120 calendar days prior to the completion of probation. Upon successful completion of probation, Respondent's certificate shall be fully restored.

Dated: February 10, 2009



A. Renee Threadgill, Chief of Enforcement  
Medical Board of California

**EXHIBIT D**

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

In the Matter of the Accusation Against: )  
)  
)  
STEWART W. LOVELACE, M.D. )  
)  
Physician's and Surgeon's )  
Certificate No. C-30263 )  
)  
Respondent. )  
\_\_\_\_\_ )

Case No. 06-2005-169412


DECISION

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

This Decision shall become effective at 5:00 p.m. on October 26, 2009.

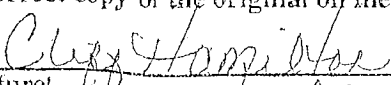
IT IS SO ORDERED September 25, 2009.

MEDICAL BOARD OF CALIFORNIA

By:   
Hedy Chang, Chair  
Panel B

MEDICAL BOARD OF CALIFORNIA

I do hereby certify that this document is a true and correct copy of the original on file in this office.

  
\_\_\_\_\_  
Signature  
For the Custodian of Records  
Title  
November 15 2013  
Date

1 EDMUND G. BROWN JR., Attorney General  
of the State of California  
2 PAUL C. AMENT  
Supervising Deputy Attorney General  
3 CHRIS LEONG, State Bar No. 141079  
Deputy Attorney General  
4 300 South Spring Street, Suite 1702  
Los Angeles, California 90013  
5 Telephone: (213) 897-2575  
Facsimile: (213) 897-9395  
6 Attorneys for Complainant  
7

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

11 In the Matter of the Accusation Against:  
12 STEWART W. LOVELACE, M.D.  
1112 Ocean Drive  
13 Manhattan Beach, California 90266  
14 Physician's and Surgeon's Certificate No.  
C30263,

Case No. 06-2005-169412

OAH No. L-2008090100

STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER

15 Respondent:  
16

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

19 PARTIES

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

24 2. Respondent Stewart W. Lovelace, M.D. (Respondent) is represented in  
25 this proceeding by attorney Robert S. McWhorter, whose address is Robert S. McWhorter  
26 Nossaman LLP, 915 L Street, Suite 1000, Sacramento, California 95814.

27 3. On or about July 19, 1968, the Board issued Physician's and Surgeon's  
28 certificate (certificate) No. C30263 to Respondent. The certificate was valid at all times relevant

1 to the charges brought in Accusation No. 06-2005-169412 and will expire on December 31,  
2 2008, unless renewed. The Accusation and all other statutorily required documents were  
3 properly served on Respondent on June 25, 2008. Respondent timely filed his Notice of Defense  
4 contesting the Accusation.

5 JURISDICTION

6 4. Accusation No. 06-2005-169412 was filed before the Board and is  
7 currently pending against Respondent. The Accusation and all other statutorily required  
8 documents were properly served on Respondent on June 25, 2008. Respondent timely filed his  
9 Notice of Defense contesting the Accusation. A copy of Accusation No. 06-2005-169412 is  
10 attached as Exhibit A and is incorporated herein by reference. Respondent filed a Motion to  
11 Dismiss the Accusation. That motion was heard before the Office of Administrative Hearings.  
12 The Proposed Decision was adopted, which granted in part and denied in part the motion. The  
13 Decision of the Board became effective on January 30, 2009.

14 5. A prior Accusation & Notification of Violation and Imposition of Civil  
15 Penalty No. 20-2006-172480 was filed before the Board. A Decision after Non Adoption was  
16 issued by the Board. That Decision after non adoption placed his license on probation until  
17 September 28, 2010 and imposed a civil penalty. Dr. Lovelace filed a Petition for Writ of  
18 Administrative Mandamus before the Superior Court of the State of California for the County of  
19 Sacramento, case number 07CS01434, regarding the issue of the civil penalty. The Superior  
20 Court remanded the matter back to the Board to reconsider its action in light of the Court's  
21 Statement of Decision but otherwise upheld the decision. On December 8, 2008, the Board  
22 reconsidered its action in light of the Court's ruling and rendered a Decision After Remand from  
23 Superior Court which became effective on February 25, 2009.

24 ADVISEMENT AND WAIVERS

25 6. Respondent has carefully read, fully discussed with counsel, and  
26 understands the charges and allegations in Accusation No. 06-2005-169412. Respondent has  
27 also carefully read, fully discussed with counsel, and understands the effects of this Stipulated  
28 Settlement and Disciplinary Order.



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

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

#### 10                                   CULPABILITY

11                   9.       Respondent understands and agrees that the charges and allegations in  
12 Accusation No. 06-2005-169412, if proven at a hearing; constitute cause for imposing discipline  
13 upon his certificate.

14                   10.       Respondent agrees that he failed to document telecommunications with  
15 patients, constituting a violation of Business and Professions Code (Code) section 2234,  
16 subdivision (c), and that he failed to maintain adequate and accurate medical records in violation  
17 of Code section 2266.

18                   11.       Respondent agrees that his Physician and Surgeon's certificate is subject  
19 to discipline and he agrees to be bound by the Board 's imposition of discipline as set forth in the  
20 Disciplinary Order below.

#### 21                                   CONTINGENCY

22                   12.       This stipulation shall be subject to approval by the Medical Board of  
23 California. Respondent understands and agrees that counsel for Complainant and the staff of the  
24 Medical Board of California may communicate directly with the Board regarding this stipulation  
25 and settlement, without notice to or participation by Respondent or his counsel. By signing the  
26 stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek  
27 to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails  
28 to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary

1 Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal  
2 action between the parties, and the Board shall not be disqualified from further action by having  
3 considered this matter.

4 13. The parties understand and agree that facsimile copies of this Stipulated  
5 Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same  
6 force and effect as the originals.

7 14. In consideration of the foregoing admissions and stipulations, the parties  
8 agree that the Board may, without further notice or formal proceeding, issue and enter the  
9 following Disciplinary Order:

10 DISCIPLINARY ORDER

11 IT IS HEREBY ORDERED that Physician and Surgeon's certificate No. C30263  
12 issued to Respondent Stewart W. Lovelace, M.D. is revoked. However, the revocation is stayed  
13 and Respondent is placed on an probation for three (3) years, in addition to the current probation  
14 which is scheduled to expire on September 28, 2010. Respondent is placed on probation until  
15 September 28, 2013, on the following terms and conditions.

16 1. EDUCATION COURSE Within 60 calendar days of the effective date of  
17 this Decision, and on an annual basis thereafter, Respondent shall submit to the Division or its  
18 designee for its prior approval educational program(s) or course(s) which shall not be less than  
19 40 hours per year, for each year of probation. The educational program(s) or course(s) shall be,  
20 aimed at correcting any areas of deficient practice or knowledge and shall be Category I certified,  
21 limited to classroom, conference, or seminar settings. The educational program(s) or course(s)  
22 shall be at Respondent's expense and shall be in addition to the Continuing Medical Education  
23 (CME) requirements for renewal of licensure. Following the completion of each course, the  
24 Division or its designee may administer an examination to test Respondent's knowledge of the  
25 course. Respondent shall provide proof of attendance for 65 hours of continuing medical  
26 education of which 40 hours were in satisfaction of this condition.

27 2. MEDICAL RECORD KEEPING COURSE Within 60 calendar days of  
28 the effective date of this decision, Respondent shall enroll in a course in medical record keeping,

1 at Respondent's expense, approved in advance by the Division or its designee. Failure to  
2 successfully complete the course during the first 6 months of probation is a violation of  
3 probation.

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

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

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

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

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

1                   At the completion of any additional educational or clinical training, Respondent  
2 shall submit to and pass an examination. The Program's determination whether or not  
3 Respondent passed the examination or successfully completed the Program shall be binding.

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

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

9                   If Respondent fails to complete the clinical training program within the designated  
10 time period, Respondent shall cease the practice of medicine within 72 hours after being notified  
11 by the Division or its designee that Respondent failed to complete the clinical training program.

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

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

1                   Within 60 calendar days of the effective date of this Decision, and continuing  
2 throughout probation, Respondent's practice shall be monitored by the approved monitor.  
3 Respondent shall make all records available for immediate inspection and copying on the  
4 premises by the monitor at all times during business hours, and shall retain the records for the  
5 entire term of probation.

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

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

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

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

27                   Failure to maintain all records, or to make all appropriate records available for  
28 immediate inspection and copying on the premises, or to comply with this condition as outlined

1 above is a violation of probation.

2           When at least three years has elapsed since the effective date of the Board's  
3 adopting this Stipulation, the practice monitor may notify the division that he /she believes no  
4 further monitoring is necessary. The Board then may, in its sole discretion, discontinue this term  
5 of probation.

6           5.     NOTIFICATION Prior to engaging in the practice of medicine, the  
7 Respondent shall provide a true copy of the Decision(s) and Accusation(s) to the Chief of Staff  
8 or the Chief Executive Officer at every hospital where privileges or membership are extended to  
9 Respondent, at any other facility where Respondent engages in the practice of medicine,  
10 including all physician and locum tenens registries or other similar agencies, and to the Chief  
11 Executive Officer at every insurance carrier which extends malpractice insurance coverage to  
12 Respondent. Respondent shall submit proof of compliance to the Division or its designee within  
13 15 calendar days.

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

16           6.     SUPERVISION OF PHYSICIAN ASSISTANTS During probation,  
17 Respondent is prohibited from supervising physician assistants.

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

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

25           9.     PROBATION UNIT COMPLIANCE Respondent shall comply with the  
26 Division's probation unit. Respondent shall, at all times, keep the Division informed of  
27 Respondent's business and residence addresses. Changes of such addresses shall be immediately  
28 communicated in writing to the Division or its designee. Under no circumstances shall a post

1 office box serve as an address of record, except as allowed by Business and Professions Code  
2 section 2021(b).

3 Respondent shall not engage in the practice of medicine in Respondent's place of  
4 residence. Respondent shall maintain a current and renewed California physician's and  
5 surgeon's license.

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

9 10. INTERVIEW WITH THE DIVISION, OR ITS DESIGNEE Respondent  
10 shall be available in person for interviews either at Respondent's place of business or at the  
11 probation unit office, with the Division or its designee, upon request at various intervals, and  
12 either with or without prior notice throughout the term of probation.

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

19 All time spent in an intensive training program outside the State of California  
20 which has been approved by the Division or its designee shall be considered as time spent in the  
21 practice of medicine within the State. A Board-ordered suspension of practice shall not be  
22 considered as a period of non-practice. Periods of temporary or permanent residence or practice  
23 outside California will not apply to the reduction of the probationary term. Periods of temporary  
24 or permanent residence or practice outside California will relieve Respondent of the  
25 responsibility to comply with the probationary terms and conditions with the exception of this  
26 condition and the following terms and conditions of probation: Obey All Laws; and Probation  
27 Unit Compliance.

28 Respondent's license shall be automatically canceled if Respondent's periods of

1 temporary or permanent residence or practice outside California total two years. However,  
2 Respondent's license shall not be canceled as long as Respondent is residing and practicing  
3 medicine in another state of the United States and is on active probation with the medical  
4 licensing authority of that state, in which case the two year period shall begin on the date  
5 probation is completed or terminated in that state.

6 12. FAILURE TO PRACTICE MEDICINE - CALIFORNIA RESIDENT

7 In the event Respondent resides in the State of California and for any reason  
8 Respondent stops practicing medicine in California, Respondent shall notify the Division or its  
9 designee in writing within 30 calendar days prior to the dates of non-practice and return to  
10 practice. Any period of non-practice within California, as defined in this condition, will not  
11 apply to the reduction of the probationary term and does not relieve Respondent of the  
12 responsibility to comply with the terms and conditions of probation. Non-practice is defined as  
13 any period of time exceeding 30 calendar days in which Respondent is not engaging in any  
14 activities defined in sections 2051 and 2052 of the Business and Professions Code.

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

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

22 13. COMPLETION OF PROBATION Respondent shall comply with all  
23 financial obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to  
24 the completion of probation. Upon successful completion of probation, Respondent's certificate  
25 shall be fully restored.

26 14. VIOLATION OF PROBATION Failure to fully comply with any term or  
27 condition of probation is a violation of probation. If Respondent violates probation in any  
28 respect, the Division, after giving Respondent notice and the opportunity to be heard, may revoke



1 probation and carry out the disciplinary order that was stayed. If an Accusation, Petition to  
2 Revoke Probation, or an Interim Suspension Order is filed against Respondent during probation,  
3 the Division shall have continuing jurisdiction until the matter is final, and the period of  
4 probation shall be extended until the matter is final.

5 15. LICENSE SURRENDER Following the effective date of this Decision, if  
6 Respondent ceases practicing due to retirement, health reasons or is otherwise unable to satisfy  
7 the terms and conditions of probation, Respondent may request the voluntary surrender of  
8 Respondent's license. The Division reserves the right to evaluate Respondent's request and to  
9 exercise its discretion whether or not to grant the request, or to take any other action deemed  
10 appropriate and reasonable under the circumstances. Upon formal acceptance of the surrender,  
11 Respondent shall within 15 calendar days deliver Respondent's wallet and wall certificate to the  
12 Division or its designee and Respondent shall no longer practice medicine. Respondent will no  
13 longer be subject to the terms and conditions of probation and the surrender of Respondent's  
14 license shall be deemed disciplinary action. If Respondent re-applies for a medical license, the  
15 application shall be treated as a petition for reinstatement of a revoked certificate.

16 16. PROBATION MONITORING COSTS Respondent shall pay the costs  
17 associated with probation monitoring each and every year of probation, as designated by the  
18 Division but may be adjusted on an annual basis. Such costs shall be payable to the Medical  
19 Board of California and delivered to the Division or its designee no later than January 31 of each  
20 calendar year. Failure to pay costs within 30 calendar days of the due date is a violation of  
21 probation.

22 ACCEPTANCE

23 I have carefully read the above Stipulated Settlement and Disciplinary Order and  
24 have fully discussed it with my attorney, Robert S. McWhorter. I understand the stipulation and  
25 the effect it will have on my certificate. I enter into this Stipulated Settlement and Disciplinary  
26 Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order  
27 of the Medical Board of California.  
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DATED: \_\_\_\_\_

\_\_\_\_\_  
STEWART W. LOVELACE, M.D.  
Respondent

I have read and fully discussed with Respondent Stewart W. Lovelace, M.D. the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: \_\_\_\_\_

\_\_\_\_\_  
ROBERT S. MCWHORTER  
Attorney for Respondent

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board.

DATED: \_\_\_\_\_

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

PAUL C. AMENT  
Supervising Deputy Attorney General

\_\_\_\_\_  
CHRIS LEONG  
Deputy Attorney General

Attorneys for Complainant

DOJ Matter ID: LA2008501454  
50413511.wpd

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DATED: 3.27.09

Stewart W. Lovelace M.D.  
STEWART W. LOVELACE, M.D.  
Respondent

I have read and fully discussed with Respondent Stewart W. Lovelace, M.D. the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 4-1-09

Robert S. McWhorter  
ROBERT S. MCWHORTER  
Attorney for Respondent

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board.

DATED: 4/6/09

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

PAUL C. AMENT  
Supervising Deputy Attorney General

Chris Leong  
CHRIS LEONG  
Deputy Attorney General  
Attorneys for Complainant

001 Miller 127 420000001074  
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Exhibit A

Accusation No. 06-2005-169412

1 EDMUND G. BROWN JR., Attorney General  
of the State of California  
2 CHRIS LEONG, State Bar No. 141079  
Deputy Attorney General  
3 California Department of Justice  
300 South Spring Street, Suite 1702  
4 Los Angeles, California 90013  
Telephone: (213) 897-2575  
5 Facsimile: (213) 897-9395  
6 Attorneys for Complainant

FILED  
STATE OF CALIFORNIA  
MEDICAL BOARD OF CALIFORNIA  
SACRAMENTO July 25, 2008  
BY [Signature]

7  
8 BEFORE THE  
MEDICAL BOARD OF CALIFORNIA  
9 DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA  
10

11 In the Matter of the Accusation Against:  
12 STEWART W. LOVELACE, M.D.  
1112 Ocean Drive  
13 Manhattan Beach, California 90266  
14 Physician and Surgeon's Certificate No. C30263,  
15 Respondent.

Case No. 06-2005-169412

ACCUSATION

16  
17 Complainant alleges:

18 PARTIES

- 19 1. Barbara Johnston (Complainant) brings this Accusation solely in her  
20 official capacity as the Executive Director of the Medical Board of California (Board).  
21 2. On or about July 19, 1968, the Board issued Physician and Surgeon's  
22 Certificate Number C30263 to Stewart W. Lovelace, M.D. (Respondent). This license has been  
23 in full force and effect at all times relevant to the charges brought herein and will expire on  
24 December 31, 2008, unless renewed.  
25 3. In a disciplinary action entitled "In the Matter of Accusation and  
26 Notification of Violation and Imposition of Civil Penalty Against Stewart W. Lovelace, M.D.,"  
27 Case No. 20-2006-172480, the Medical Board of California issued a decision effective  
28 September 28, 2007, in which Respondent's Physician and Surgeon's Certificate was revoked,

1 then stayed, then placed on probation for a period of three years and ordered, among other  
2 conditions, to pay a civil penalty in the amount of \$244,000. A copy of that decision is attached  
3 as Exhibit A and is incorporated by reference. On October 26, 2007, a Petition for Writ of  
4 Mandamus case No. 07CS01434 was filed in The Superior Court of the State of California for  
5 the County of Sacramento (Court). On May 9, 2008, the Court ordered the civil penalty in the  
6 amount of \$244,000 stayed pending the outcome of the case.

#### 7 JURISDICTION

8 4. This Accusation is brought before the Board under the authority of the  
9 following laws. All section references are to the Business and Professions Code (Code) unless  
10 otherwise indicated.

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

15 6. Section 2234 of the Code states:

16 "The Division of Medical Quality' shall take action against any licensee who is  
17 charged with unprofessional conduct. In addition to other provisions of this article,  
18 unprofessional conduct includes, but is not limited to, the following:

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

22 "(b) Gross negligence.

23 "(c) Repeated negligent acts. To be repeated, there must be two or more  
24

25 1. California Business and Professions Code section 2002, as amended and effective  
26 January 1, 2008, provides that, unless otherwise expressly provided, the term "board" as used in  
27 the State Medical Practice Act (Cal. Bus. & Prof. Code, §§ 2000, et seq.) means the "Medical  
28 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 negligent acts or omissions. An initial negligent act or omission followed by a separate  
2 and distinct departure from the applicable standard of care shall constitute repeated  
3 negligent acts.

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

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

12 "(d) Incompetence.

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

15 "(f) Any action or conduct which would have warranted the denial of a  
16 certificate."

17 7. Section 2265 of the Code states: "The failure of a physician and surgeon to  
18 maintain adequate and accurate records relating to the provision of services to their patients  
19 constitutes unprofessional conduct."

20 FIRST CAUSE FOR DISCIPLINE

21 (Gross Negligence - Patient S.S.)

22 8. Respondent is subject to disciplinary action under Code section 2234,  
23 subdivision (b), in that he engaged in unprofessional conduct/gross negligence in the care and  
24 treatment of patient "S.S." The circumstances are as follows:

25 A. On or about July 22, 2005, Patient S.S., a fifty-three-year-old female, was

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27  
28 2. The names of patients are kept confidential to protect their privacy rights and, though  
known to Respondent, will be revealed to him upon receipt of his written request for discovery.

1 seen initially with complaints of depression and anxiety. Patient S.S. told Respondent  
2 that another physician had prescribed the antidepressant Wellbutrin, which had worked  
3 relatively well for about three years. Respondent recommended that Patient S.S. take a  
4 new drug Strattera, while remaining on Wellbutrin. He advised her to initially take 10 mg  
5 per day, and then titrate up to the therapeutic dose of 40 mg twice a day. Respondent  
6 informed the patient that Strattera was approved for treatment of Adult Attention Deficit  
7 Disorder, but informal studies indicated that it also worked for treatment of depression.  
8 Respondent did not inform the patient that Strattera cost more than \$4.00 per pill and was  
9 generally not paid for by insurance companies, since it was not FDA approved for  
10 depression.

11 B. During this initial visit, Respondent did not document a complete history  
12 and mental status examination. He did not describe the problem as understood by the  
13 patient. There was no documentation of an objective assessment of the patient's current  
14 issues, and a bio psycho social formulation of her problems. There was no  
15 documentation of the patient's psychiatric diagnosis in a Diagnostic and Statistical  
16 Manual of Mental Disorders (DSM) format. There was no documentation of the risks  
17 and benefits of his proposed treatment plan, or any alternate treatments for the patient.

18 C. When Patient S.S. went to a Sav-On Pharmacy to get her prescription  
19 filled, she was informed that her HMO insurance company would not authorize payment  
20 of Strattera. Since the entire prescription of 240 pills would have cost the patient more  
21 than \$900, she partially filled her prescription (eight pills), and waited for Respondent to  
22 complete the appropriate forms to request preauthorization from her HMO insurance.

23 D. Over the next three weeks, Patient S.S. called Respondent multiple times,  
24 requesting that he call her insurance company, obtain forms, and complete the  
25 authorization process. The patient continued to obtain partial refills of Strattera which  
26 she paid for with the intention of being reimbursed when the drug was approved for  
27 payment by her insurance company. Respondent did not document any follow-up efforts  
28 to achieve medication authorization through the patient's HMO insurance or seek an



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alternate medication for the patient. There was no documentation that he responded to the patient's telephone calls.

E. On or about August 12, 2005, Patient S.S. had a second appointment with Respondent. He asked the patient the same questions that he had asked her on her first visit. Respondent told Patient S.S. that he would contact her insurance company and complete the paperwork so her HMO insurance would pay for the drug.

F. After her second visit, Patient S.S. attempted to follow-up repeatedly with Respondent to determine if he had completed the paperwork for her insurance. Respondent did not pursue or document any follow-up efforts to achieve medication authorization through the patient's insurance or seek an alternate medication. The patient had progressed to taking about 50 mg of Strattera per day. She called Respondent to tell him that the higher dose of Strattera made her agitated, and to ask his advice on whether to continue to increase the dosage, given its adverse effect. There was no documentation that he responded to the patient's telephone calls.

G. Respondent was grossly negligent in the care and treatment of Patient S.S. as follows: Respondent failed to document a complete history and mental status examination. He failed to describe the problem as understood by the patient. He failed to document an objective assessment of the patient's current issues, and a biopsychosocial formulation of her problems. He failed to document the patient's psychiatric diagnosis in a DSM format. He failed to document the risks and benefits of his proposed treatment plan, or consider any alternate treatments for the patient. Respondent failed to document any efforts to achieve authorization of the patient's medication through her HMO insurance or authorization of any alternate medication. He failed to document and respond to the patient's telephone calls.

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1 K.S. began to experience severe psychiatric symptoms. In March 2007, he was admitted  
2 to Redlands Community Hospital with severe chest pains. The patient and his wife left  
3 telephone messages for respondent which were not returned. When the patient no longer  
4 had any medication left, he attempted to contact respondent, who could not be reached.  
5 In June 2007, the patient sent a certified letter to respondent stating he was in desperate  
6 need of medication, treatment, and follow-up care. Respondent did not retrieve the  
7 certified mail letter.

8 E. Respondent was grossly negligent in the care and treatment of Patient  
9 K.S. as follows: Respondent failed to document a complete history and mental status  
10 examination. He failed to describe the problem as understood by the patient. He failed to  
11 document an objective assessment of the patient's current issues, and a bio-psycho-social  
12 formulation of his problems. He failed to document the patient's psychiatric diagnosis in  
13 a DSM format. He failed to document telephonic communications with the patient. He  
14 failed to treat a seriously ill patient with extreme symptoms in a multi-disciplinary  
15 setting.

### 16 THIRD CAUSE FOR DISCIPLINE

17 (Gross Negligence - Patient R.D.)

18 10. Respondent is subject to disciplinary action under Code section 2234,  
19 subdivision (b), in that he engaged in unprofessional conduct/gross negligence in the care and  
20 treatment of patient "R.D." The circumstances are as follows:

21 A. On or about April 19, 2000, Patient R.D., a thirty-two-year-old male, was  
22 seen initially with complaints of depression, post-traumatic stress disorder, and bipolar  
23 issues. Respondent did not document in the record a complete history, including the  
24 patient's family history of mood disorders, and a thorough mental status examination.  
25 There was no documentation of an objective assessment and consideration of bio-  
26 psycho-social factors. There is no documentation of a treatment plan. There was no  
27 documentation of the patient's psychiatric diagnosis in a DSM format. Respondent  
28 prescribed the antidepressant Zoloft for the patient.

1           B.     Over the following months, respondent continued to treat Patient R.D.  
2 with Zoloft. The patient experienced violent dreams, rapid thoughts, surges of energy,  
3 and aggressive behavior. Respondent adjusted the dosage of Zoloft several times, and  
4 also prescribed the anti-anxiety medication BuSpar.

5           C.     From about May 2002 through December 2002, the patient experienced  
6 erratic highs and lows, depression, numbness and constant buzzing in his head. His  
7 concentration and focus deteriorated, and his sensitivity to noise became more  
8 problematic. In May 2002, and for the next several months, Respondent prescribed the  
9 drug Sonata, which is used for the short-term treatment of insomnia.

10          D.     The patient's condition continued to deteriorate over the months, his  
11 symptoms became more severe, and in September 2003, he reached a crisis point. He  
12 experienced symptoms of despondency, followed by erratic thought processes and bursts  
13 of energy, and he would then collapse. The patient could not focus or concentrate, and he  
14 told Respondent that he was approaching the point of incapacitation. Respondent did not  
15 properly address the patient's symptoms. He did not recognize the patient was  
16 experiencing bipolar switching induced by Zoloft. Respondent continued to prescribe  
17 sleeping pills, alternate SSRIs (selective serotonin reuptake inhibitors) such as Zoloft and  
18 Lexapro, and benzodiazepines to the patient who was exhibiting manic symptoms.  
19 Respondent prescribed 10 mg of Lexapro for depression and anxiety, continued the 10 mg  
20 of Sonata, and added .5 mg of the anti-anxiety medication Clonazepam.

21          E.     The patient's family intervened and brought the patient to a medical  
22 center for treatment. His condition was diagnosed as Bipolar II brought on by  
23 mismanaged administration of Zoloft and Lexapro. The patient's medication was  
24 changed and his symptoms resolved.

25          F.     Respondent was grossly negligent in the care and treatment of Patient  
26 R.D. as follows: Respondent failed to document a complete history, including the  
27 patient's family history of mood disorders, and a complete mental status examination.  
28 There was no documentation of an objective assessment and consideration of bio-psycho-

1 social factors. There is no documentation of a treatment plan. There was no  
2 documentation of the patient's psychiatric diagnosis in a DSM format. Respondent failed  
3 to document telephone communications with the patient. He failed to recognize and  
4 properly treat the patient's developing manic symptoms, including bipolar switching,  
5 which resulted from his prescribing Zoloft. Respondent failed to properly diagnose the  
6 patient's psychiatric issues, and continued to prescribe sleeping pills, alternate SSRIs, and  
7 benzodiazepines to a patient who exhibited manic symptoms.

#### 8 FOURTH CAUSE FOR DISCIPLINE

9 (Repeated Negligent Acts - Patients S.S, K.S. and R.D.)

10 11. By reasons of the matters set forth in the First, Second and Third Causes  
11 for Discipline, Respondent is subject to disciplinary action under Code section 2234, subdivision  
12 (c), in that he committed repeated negligent acts in the discharge of his medical obligations.

#### 13 FIFTH CAUSE FOR DISCIPLINE

14 (Unprofessional Conduct/Incompetence)

15 12. By reasons of the matters set forth in the First, Second, Third, and Fourth  
16 Causes for Discipline, Respondent is subject to disciplinary action under Code section 2234,  
17 subdivision (d), in that he demonstrated incompetence in the discharge of his medical obligations  
18 to patients S.S., K.S., and R.D..

#### 19 SIXTH CAUSE FOR DISCIPLINE

20 (Failure to Maintain Adequate/Accurate Medical Records)

21 13. By reasons of the matters set forth in First, Second and Third Causes for  
22 Discipline, Respondent is subject to disciplinary action under Code section 2266 in that he failed  
23 to maintain adequate and accurate medical records for patients S.S., K.S., and R.D..

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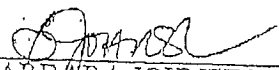
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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board issue a decision.

1. Revoking or suspending Physician and Surgeon's Certificate Number C30263 issued to Stewart W. Lovelace, M.D.;
2. Revoking, suspending or denying approval of his authority to supervise physicians' assistants, pursuant to section 3527 of the Code;
3. Ordering him to pay the Board the reasonable costs of probation monitoring, if he is placed on probation; and,
4. Taking such other and further action as deemed necessary and proper.

DATED: June 25, 2008

  
\_\_\_\_\_  
BARBARA JOHNSTON  
Executive Director  
Medical Board of California  
Department of Consumer Affairs  
State of California  
Complainant

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**EXHIBIT E**

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

In the Matter of the Petition to Revoke )  
Probation Against: )

STEWART W. LOVELACE, M.D. )

Case No. D1-2005-169412

Physician's and Surgeon's )  
Certificate No. C-30263 )

Respondent )  
\_\_\_\_\_ )

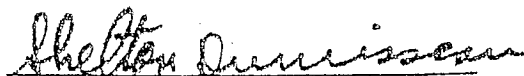
DECISION

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

This Decision shall become effective at 5:00 p.m. on August 17, 2012.

IT IS SO ORDERED: July 19, 2012.

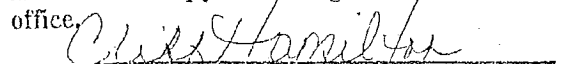
MEDICAL BOARD OF CALIFORNIA



Shelton Duruisseau, Ph.D., Chair  
Panel A

MEDICAL BOARD OF CALIFORNIA

I do hereby certify that this document is a true and correct copy of the original on file in this office.

  
Signature

FOR THE Custodian of Records  
Title

November 15, 2013  
Date



1 KAMALA D. HARRIS  
Attorney General of California  
2 E. A. JONES III  
Supervising Deputy Attorney General  
3 State Bar No. 71375  
California Department of Justice  
4 300 So. Spring Street, Suite 1702  
Los Angeles, CA 90013  
5 Telephone: (213) 897-2543  
Facsimile: (213) 897-9395  
6 *Attorneys for Complainant*

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

11 In the Matter of the Petition to Revoke  
12 Probation Against:  
**STEWART W. LOVELACE, M.D.**  
13 **1112 Ocean Drive**  
14 **Manhattan Beach, California 90266**  
15 **Physician's and Surgeon's Certificate No. C**  
16 **30263,**  
17 **Respondent.**

Case No. D1-2005-169412  
OAH No. 2011120632

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

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

20 PARTIES

21 1. Linda K. Whitney (Complainant) is the Executive Director of the Medical Board of  
22 California. She brought this action solely in her official capacity and is represented in this matter  
23 by Kamala D. Harris, Attorney General of the State of California, by E. A. Jones III, Supervising  
24 Deputy Attorney General.

25 2. Respondent Stewart W. Lovelace, M.D. (Respondent) is representing himself in this  
26 proceeding and has chosen not to exercise his right to be represented by counsel.

27 3. On or about July 19, 1968, the Medical Board of California issued Physician's and  
28 Surgeon's Certificate No. C 30263 to Stewart W. Lovelace, M.D. (Respondent). The Physician's  
and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought  
in Petition to Revoke Probation No. D1-2005-169412 and will expire on December 31, 2012,

1 unless renewed.

2 JURISDICTION

3 4. Petition to Revoke Probation No. D1-2005-169412 was filed before the Medical  
4 Board of California (Board), Department of Consumer Affairs, and is currently pending against  
5 Respondent. The Petition to Revoke Probation and all other statutorily required documents were  
6 properly served on Respondent on November 28, 2011. Respondent timely filed his Notice of  
7 Defense contesting the Petition to Revoke Probation.

8 5. A copy of Petition to Revoke Probation No. D1-2005-169412 is attached as exhibit A  
9 and incorporated herein by reference.

10 ADVISEMENT AND WAIVERS

11 6. Respondent has carefully read, and understands the charges and allegations in Petition  
12 to Revoke Probation No. D1-2005-169412. Respondent has also carefully read, and understands  
13 the effects of this Stipulated Settlement and Disciplinary Order.

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

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

23 CULPABILITY

24 9. Respondent admits the truth of each and every charge and allegation in Petition to  
25 Revoke Probation No. D1-2005-169412.

26 10. Respondent agrees that his Physician and Surgeon's Certificate is subject to discipline  
27 and he agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order  
28 below.



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

11           2.    MEDICAL RECORD KEEPING COURSE. Within 60 calendar days of the effective  
12 date of this Decision, Respondent shall enroll in a course in medical record keeping equivalent to  
13 the Medical Record Keeping Course offered by the Physician Assessment and Clinical Education  
14 Program, University of California, San Diego School of Medicine (Program), approved in  
15 advance by the Board or its designee. Respondent shall provide the program with any information  
16 and documents that the Program may deem pertinent. Respondent shall participate in and  
17 successfully complete the classroom component of the course not later than six (6) months after  
18 Respondent's initial enrollment. Respondent shall successfully complete any other component of  
19 the course within one (1) year of enrollment. The medical record keeping course shall be at  
20 Respondent's expense and shall be in addition to the Continuing Medical Education (CME)  
21 requirements for renewal of licensure.

22           A medical record keeping course taken after the acts that gave rise to the charges in the  
23 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board  
24 or its designee, be accepted towards the fulfillment of this condition if the course would have  
25 been approved by the Board or its designee had the course been taken after the effective date of  
26 this Decision.

27           Respondent shall submit a certification of successful completion to the Board or its  
28 designee not later than 15 calendar days after successfully completing the course, or not later than

1 15 calendar days after the effective date of the Decision, whichever is later.

2 3. CLINICAL TRAINING PROGRAM. Within 100 calendar days of the effective date  
3 of this Decision, Respondent shall enroll in a clinical training or educational program equivalent  
4 to the Physician Assessment and Clinical Education Program (PACE) offered at the University of  
5 California - San Diego School of Medicine ("Program"). Respondent shall successfully complete  
6 the Program not later than six (6) months after Respondent's initial enrollment unless the Board  
7 or its designee agrees in writing to an extension of that time.

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

16 Based on Respondent's performance and test results in the assessment and clinical  
17 education, the Program will advise the Board or its designee of its recommendation(s) for the  
18 scope and length of any additional educational or clinical training, treatment for any medical  
19 condition, treatment for any psychological condition, or anything else affecting Respondent's  
20 practice of medicine. Respondent shall comply with Program recommendations.

21 At the completion of any additional educational or clinical training, Respondent shall  
22 submit to and pass an examination. Determination as to whether Respondent successfully  
23 completed the examination or successfully completed the program is solely within the program's  
24 jurisdiction.

25 If Respondent fails to enroll, participate in, or successfully complete the clinical training  
26 program within the designated time period, Respondent shall receive a notification from the  
27 Board or its designee to cease the practice of medicine within three (3) calendar days after being  
28 so notified. The Respondent shall not resume the practice of medicine until enrollment or

1 participation in the outstanding portions of the clinical training program have been completed. If  
2 the Respondent did not successfully complete the clinical training program, the Respondent shall  
3 not resume the practice of medicine until a final decision has been rendered on the accusation  
4 and/or a petition to revoke probation. The cessation of practice shall not apply to the reduction of  
5 the probationary time period.

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

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

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

26 If Respondent fails to obtain approval of a monitor within 60 calendar days of the effective  
27 date of this Decision, Respondent shall receive a notification from the Board or its designee to  
28 cease the practice of medicine within three (3) calendar days after being so notified. Respondent

1 shall cease the practice of medicine until a monitor is approved to provide monitoring  
2 responsibility.

3 The monitor(s) shall submit a quarterly written report to the Board or its designee which  
4 includes an evaluation of Respondent's performance, indicating whether Respondent's practices  
5 are within the standards of practice of medicine, and whether Respondent is practicing medicine  
6 safely. It shall be the sole responsibility of Respondent to ensure that the monitor submits the  
7 quarterly written reports to the Board 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 days of  
10 such resignation or unavailability, submit to the Board or its designee, for prior approval, the  
11 name and qualifications of a replacement monitor who will be assuming that responsibility within  
12 15 calendar days. If Respondent fails to obtain approval of a replacement monitor within 60  
13 calendar days of the resignation or unavailability of the monitor, Respondent shall receive a  
14 notification from the Board or its designee to cease the practice of medicine within three (3)  
15 calendar days after being so notified Respondent shall cease the practice of medicine until a  
16 replacement monitor is approved and assumes monitoring responsibility.

17 In lieu of a monitor, Respondent may participate in a professional enhancement program  
18 equivalent to the one offered by the Physician Assessment and Clinical Education Program at the  
19 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  
21 and education. Respondent shall participate in the professional enhancement program at  
22 Respondent's expense during the term of probation.

23 5. NOTIFICATION. Within seven (7) days of the effective date of this Decision, the  
24 Respondent shall provide a true copy of this Decision and Accusation to the Chief of Staff or the  
25 Chief Executive Officer at every hospital where privileges or membership are extended to  
26 Respondent, at any other facility where Respondent engages in the practice of medicine,  
27 including all physician and locum tenens registries or other similar agencies, and to the Chief  
28 Executive Officer at every insurance carrier which extends malpractice insurance coverage to

1 Respondent. Respondent shall submit proof of compliance to the Board or its designee within 15  
2 calendar days.

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

4 6. SUPERVISION OF PHYSICIAN ASSISTANTS. During probation, Respondent is  
5 prohibited from supervising physician assistants.

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

9 8. QUARTERLY DECLARATIONS. Respondent shall submit quarterly declarations  
10 under penalty of perjury on forms provided by the Board, stating whether there has been  
11 compliance with all the conditions of probation.

12 Respondent shall submit quarterly declarations not later than 10 calendar days after the end  
13 of the preceding quarter.

14 9. GENERAL PROBATION REQUIREMENTS.

15 Compliance with Probation Unit

16 Respondent shall comply with the Board's probation unit and all terms and conditions of  
17 this Decision.

18 Address Changes

19 Respondent shall, at all times, keep the Board informed of Respondent's business and  
20 residence addresses, email address (if available), and telephone number. Changes of such  
21 addresses shall be immediately communicated in writing to the Board or its designee. Under no  
22 circumstances shall a post office box serve as an address of record, except as allowed by Business  
23 and Professions Code section 2021(b).

24 Place of Practice

25 Respondent shall not engage in the practice of medicine in Respondent's or patient's place  
26 of residence, unless the patient resides in a skilled nursing facility or other similar licensed  
27 facility.

28 ///



1           License Renewal

2           Respondent shall maintain a current and renewed California physician's and surgeon's  
3 license.

4           Travel or Residence Outside California

5           Respondent shall immediately inform the Board or its designee, in writing, of travel to any  
6 areas outside the jurisdiction of California which lasts, or is contemplated to last, more than thirty  
7 (30) calendar days.

8           In the event Respondent should leave the State of California to reside or to practice  
9 Respondent shall notify the Board or its designee in writing 30 calendar days prior to the dates of  
10 departure and return.

11           10. INTERVIEW WITH THE BOARD OR ITS DESIGNEE. Respondent shall be  
12 available in person upon request for interviews either at Respondent's place of business or at the  
13 probation unit office, with or without prior notice throughout the term of probation.

14           11. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or  
15 its designee in writing within 15 calendar days of any periods of non-practice lasting more than  
16 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is  
17 defined as any period of time Respondent is not practicing medicine in California as defined in  
18 Business and Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month  
19 in direct patient care, clinical activity or teaching, or other activity as approved by the Board. All  
20 time spent in an intensive training program which has been approved by the Board or its designee  
21 shall not be considered non-practice. Practicing medicine in another state of the United States or  
22 Federal jurisdiction while on probation with the medical licensing authority of that state or  
23 jurisdiction shall not be considered non-practice. A Board-ordered suspension of practice shall  
24 not be considered as a period of non-practice.

25           In the event Respondent's period of non-practice while on probation exceeds 18 calendar  
26 months, Respondent shall successfully complete a clinical training program that meets the criteria  
27 of Condition 18 of the current version of the Board's "Manual of Model Disciplinary Orders and  
28 Disciplinary Guidelines" prior to resuming the practice of medicine.

1 Respondent's period of non-practice while on probation shall not exceed two (2) years.

2 Periods of non-practice will not apply to the reduction of the probationary term.

3 Periods of non-practice will relieve Respondent of the responsibility to comply with the  
4 probationary terms and conditions with the exception of this condition and the following terms  
5 and conditions of probation: Obey All Laws; and General Probation Requirements.

6 12. COMPLETION OF PROBATION. Respondent shall comply with all financial  
7 obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the  
8 completion of probation. Upon successful completion of probation, Respondent's certificate shall  
9 be fully restored.

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

17 14. LICENSE SURRENDER. Following the effective date of this Decision, if  
18 Respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy  
19 the terms and conditions of probation, Respondent may request to surrender his or her license.  
20 The Board reserves the right to evaluate Respondent's request and to exercise its discretion in  
21 determining whether or not to grant the request, or to take any other action deemed appropriate  
22 and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent  
23 shall within 15 calendar days deliver Respondent's wallet and wall certificate to the Board or its  
24 designee and Respondent shall no longer practice medicine. Respondent will no longer be subject  
25 to the terms and conditions of probation. If Respondent re-applies for a medical license, the  
26 application shall be treated as a petition for reinstatement of a revoked certificate.

27 15. PROBATION MONITORING COSTS. Respondent shall pay the costs associated  
28 with probation monitoring each and every year of probation, as designated by the Board, which

1 may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of  
2 California and delivered to the Board or its designee no later than January 31 of each calendar  
3 year.

4  
5 ACCEPTANCE

6 I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the  
7 stipulation and the effect it will have on my Physician and Surgeon's Certificate. I enter into this  
8 Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree  
9 to be bound by the Decision and Order of the Medical Board of California.

10

11

DATED: 5-29-12

Stewart Lovelace M.D.

STEWART W. LOVELACE, M.D.  
Respondent

12

13

14

ENDORSEMENT

15

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17

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

18

19

Dated: 6/1/12

Respectfully submitted,

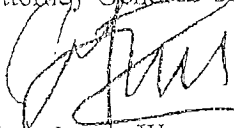
KAMALA D. HARRIS  
Attorney General of California

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E. A. JONES III  
Supervising Deputy Attorney General  
Attorneys for Complainant

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Exhibit A

Petition to Revoke Probation No. D1-2005-169412

1 KAMALA D. HARRIS  
Attorney General of California  
2 E. A. JONES III  
Supervising Deputy Attorney General  
3 State Bar No. 71375  
California Department of Justice  
4 300 So. Spring Street, Suite 1702  
Los Angeles, CA 90013  
5 Telephone: (213) 897-2543  
Facsimile: (213) 897-9395  
6 *Attorneys for Complainant*

FILED  
STATE OF CALIFORNIA  
MEDICAL BOARD OF CALIFORNIA  
SACRAMENTO November 28, 2011  
BY: [Signature] ANALYST

7 BEFORE THE  
8 MEDICAL BOARD OF CALIFORNIA  
9 DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

10 In the Matter of the Petition to Revoke  
Probation Against:  
11 STEWART W. LOVELACE, M.D.  
1112 Ocean Drive  
12 Manhattan Beach, California 90266  
13 Physician's and Surgeon's Certificate No. C  
30263  
14 Respondent.

Case No. D1-2005-169412

PETITION TO REVOKE PROBATION

16 Complainant alleges:

17 PARTIES

- 18 1. Linda K. Whitney (Complainant) brings this Petition to Revoke Probation solely in  
19 her official capacity as the Executive Director of the Medical Board of California, Department of  
20 Consumer Affairs.
- 21 2. On or about July 19, 1968, the Medical Board of California issued Physician and  
22 Surgeon's Certificate Number C 30263 to Stewart W. Lovelace, M.D. (Respondent). The  
23 Physician's and Surgeon's Certificate was in effect at all times relevant to the charges brought  
24 herein and will expire on December 31, 2012, unless renewed.
- 25 3. In a disciplinary action entitled "In the Matter of Accusation Against Stewart W.  
26 Lovelace, M.D.," Case No. 06-2005-169412, the Medical Board of California issued a decision,  
27 effective October 26, 2009, in which Respondent's Physician's and Surgeon's Certificate was  
28 revoked. However, the revocation was stayed and Respondent's Physician's and Surgeon's

1 Certificate was placed on probation for a period of three (3) years with certain terms and  
2 conditions. A copy of that decision is attached as Exhibit A and is incorporated by reference.

3 JURISDICTION

4 4. This Petition to Revoke Probation is brought before the Medical Board of California  
5 (Board<sup>1</sup>), Department of Consumer Affairs, under the authority of the following laws. All section  
6 references are to the Business and Professions Code unless otherwise indicated.

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

11 6. Probation Condition 14 of the Board's Decision and Order "In the Matter of  
12 Accusation Against Stewart W. Lovelace, M.D.," Case No. 06-2005-169412, effective October  
13 26, 2009, states as follows:

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

21 FIRST CAUSE TO REVOKE PROBATION

22 (Education Course)

23 7. At all times after the effective date of Respondent's probation, Probation Condition 1  
24 of the Board's Decision and Order "In the Matter of Accusation Against Stewart W. Lovelace,

25  
26 <sup>1</sup> Business and Professions Code section 2002, effective January 1, 2008, provides that,  
27 unless otherwise expressly provided, the term "board" as used in the State Medical Practice Act,  
28 Business and Professions Code, section 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 M.D.," Case No. 06-2005-169412, effective October 26, 2009, (Order) stated that Respondent  
2 must submit to the Board for approval and complete 40 hours of continuing medical education  
3 (CME) course work in addition to the 25 hours of CME required for license renewal.

4 8. Respondent's probation is subject to revocation because he failed to comply with  
5 Probation Condition 1, referenced above. The facts and circumstances regarding this violation  
6 are as follows:

7 A. On or about September 25, 2009, the Board issued its Order placing  
8 Respondent on probation for three years and requiring him to comply, inter alia, with  
9 Condition 1 which required Respondent to submit to the Board for approval and complete  
10 40 hours of continuing medical education (CME) course work in addition to the 25 hours of  
11 CME required for license renewal. The effective date of the Order was October 26, 2009,  
12 with the three years of probation to run from September 28, 2010, to September 28, 2013.  
13 On or about September 7, 2010, an intake interview was conducted by a Medical Board  
14 Probation Inspector with Respondent during which all of the terms and conditions of the  
15 probation order were discussed with Respondent. Respondent indicated that he understood  
16 all of the terms and conditions. Respondent signed an Acknowledgment of Decision form  
17 indicating that he had received a copy of the probation order, the terms and conditions had  
18 been explained to him and he understood all of the terms and conditions of probation.

19 B. On or about January 11, 2011, a first quarter interview was conducted by a  
20 Medical Board Probation Inspector with Respondent. Respondent indicated that he had  
21 completed 33.5 hours of CME. Respondent was reminded that the failure to provide proof  
22 of 65 hours of CME was a violation of probation.

23 C. On May 20, 2011, a second quarter interview was conducted by a Medical  
24 Board Probation Inspector with Respondent. Respondent indicated that he had completed  
25 47 hours of CME. Respondent was advised that the failure to provide proof of 65 hours of  
26 CME was a violation of probation.

27 D. On or about August 12, 2011, an interview was conducted by Medical Board  
28 Probation Inspectors with Respondent. When asked about his deficient CME, Respondent

1 indicated that he planned to take some courses in the fall.

2 E. For the probation year from September 28, 2010, through September 27, 2011,  
3 Respondent had proof of 41 hours of CME and was deficient 24 hours of CME, thereby  
4 violating Probation Condition 1.

5 SECOND CAUSE TO REVOKE PROBATION

6 (Clinical Training Program)

7 9. At all times after the effective date of Respondent's probation, Condition 3 of the  
8 Board's Decision and Order "In the Matter of Accusation Against Stewart W. Lovelace, M.D.,"  
9 Case No. 06-2005-169412, effective October 26, 2009, stated that Respondent must enroll in and  
10 complete within six months of the effective date of the probation order a clinical training or  
11 educational program equivalent to the Physician Assessment and Clinical Training Program  
12 (PACE) offered at the University of California - San Diego School of Medicine.

13 10. Respondent's probation is subject to revocation because he failed to comply with  
14 Probation Condition 3, referenced above. The facts and circumstances regarding this violation  
15 are as follows:

16 A. On or about September 25, 2009, the Board issued its Order placing  
17 Respondent on probation for three years and requiring him to comply, inter alia, with  
18 Probation Condition 3 which required Respondent, within 60 days of the effective date of  
19 the Order, to enroll in and complete within six months of the effective date of the probation  
20 Order a clinical training or educational program equivalent to the PACE Program at the  
21 University of California - San Diego Medical School. The effective date of the Order was  
22 October 26, 2009, with the three years of probation to run from September 28, 2010, to  
23 September 28, 2013. On or about September 7, 2010, an intake interview was conducted  
24 by a Medical Board Probation Inspector with Respondent during which all of the terms and  
25 conditions of the probation order were discussed with Respondent. Respondent indicated  
26 that he understood all of the terms and conditions. Respondent signed an Acknowledgment  
27 of Decision form indicating that he had received a copy of the probation order, the terms  
28 and conditions had been explained to him and he understood all of the terms and conditions



1 of probation.

2 B. On or about January 11, 2011, a first quarter interview was conducted by a  
3 Medical Board Probation Inspector with Respondent. Respondent was asked why he had  
4 not enrolled in the PACE Program within 60 days of the effective date of the order.  
5 Respondent indicated that he was having financial difficulties. Respondent was advised  
6 that it was imperative that he enroll in the PACE Program.

7 C. On May 20, 2011, a second quarter interview was conducted by a Medical  
8 Board Probation Inspector with Respondent. Respondent indicated that he planned to  
9 enroll in the PACE Program. Respondent was advised that until he officially enrolled in the  
10 PACE Program he was in violation of his probation order.

11 D. On or about August 12, 2011, an interview was conducted by Medical Board  
12 Probation Inspectors with Respondent. Respondent indicated that he had not yet enrolled in  
13 the PACE Program but would obtain funds and enroll. Respondent was advised that he  
14 would have until August 26, 2011, to enroll in the PACE Program.

15 E. As of September 15, 2011, Respondent had failed to enroll in and complete the  
16 PACE Program thereby violating Probation Condition 3.

17 DISCIPLINE CONSIDERATIONS

18 11. To determine the degree of discipline, if any, to be imposed on Respondent,  
19 Complainant alleges that on or about February 28, 2007, in a prior disciplinary action entitled "In  
20 the Matter of the Accusation Against Stewart W. Lovelace, M.D. before the Medical Board of  
21 California," in Case No. 20-2006-172480, Respondent's license was revoked, the revocation was  
22 stayed and Respondent was placed on three years probation issued a civil penalty for failing to  
23 timely provide medical records during the course of a Medical Board investigation. That decision  
24 is now final and is incorporated by reference as if fully set forth.

25 PRAYER

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

28 1. Revoking the probation that was granted by the Medical Board of California in Case

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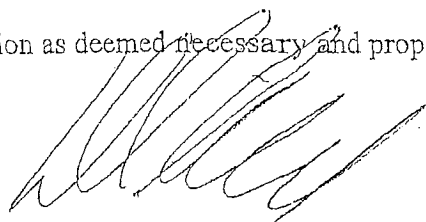
No. 06-2005-169412 and imposing the disciplinary order that was stayed thereby revoking Physician's and Surgeon's Certificate No. C 30263 issued to Stewart W. Lovelace, M.D.;

2. Revoking or suspending Physician's and Surgeon's Certificate No. C 30263, issued to Stewart W. Lovelace, M.D.;

3. Revoking, suspending or denying approval of Stewart W. Lovelace, M.D.'s authority to supervise physician assistants, pursuant to section 3527 of the Code;

4. Ordering Stewart W. Lovelace, M.D., if placed on probation, to pay the Medical Board of California the costs of probation monitoring; and

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



DATED: November 28, 2011

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

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**Exhibit A**

Decision and Order

Medical Board of California Case No. 06-2005-169412

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

In the Matter of the Accusation Against: )

STEWART W. LOVELACE, M.D. )

Case No. 06-2005-169412

Physician's and Surgeon's )  
Certificate No. C-30263 )

Respondent. )

DECISION

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

This Decision shall become effective at 5:00 p.m. on October 26, 2009.

IT IS SO ORDERED September 25, 2009.

MEDICAL BOARD OF CALIFORNIA

By: 

Hedy Chang, Chair

Panel B

1 EDMUND G. BROWN JR., Attorney General  
of the State of California  
2 PAUL C. AMENT  
Supervising Deputy Attorney General  
3 CHRIS LEONG, State Bar No. 141079  
Deputy Attorney General  
4 300 South Spring Street, Suite 1702  
Los Angeles, California 90013  
5 Telephone: (213) 897-2575  
Facsimile: (213) 897-9395  
6 Attorneys for Complainant

7  
8 BEFORE THE  
MEDICAL BOARD OF CALIFORNIA  
9 DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA  
10

11 In the Matter of the Accusation Against:

12 STEWART W. LOVELACE, M.D.  
1112 Ocean Drive  
13 Manhattan Beach, California 90266  
14 Physician's and Surgeon's Certificate No.  
C30263,  
15

Respondent:

Case No. 06-2005-169412

OAH No. L-2008090100

STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER

16  
17 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the  
18 above-entitled proceedings that the following matters are true:

19 PARTIES

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

24 2. Respondent Stewart W. Lovelace, M.D. (Respondent) is represented in  
25 this proceeding by attorney Robert S. McWhorter, whose address is Robert S. McWhorter  
26 Nossaman LLP, 915 L. Street, Suite 1000, Sacramento, California 95814.

27 3. On or about July 19, 1968, the Board issued Physician's and Surgeon's  
28 certificate (certificate) No. C30263 to Respondent. The certificate was valid at all times relevant

1 to the charges brought in Accusation No. 06-2005-169412 and will expire on December 31,  
2 2008, unless renewed. The Accusation and all other statutorily required documents were  
3 properly served on Respondent on June 25, 2008. Respondent timely filed his Notice of Defense  
4 contesting the Accusation.

#### 5 JURISDICTION

6 4. Accusation No. 06-2005-169412 was filed before the Board and is  
7 currently pending against Respondent. The Accusation and all other statutorily required  
8 documents were properly served on Respondent on June 25, 2008. Respondent timely filed his  
9 Notice of Defense contesting the Accusation. A copy of Accusation No. 06-2005-169412 is  
10 attached as Exhibit A and is incorporated herein by reference. Respondent filed a Motion to  
11 Dismiss the Accusation. That motion was heard before the Office of Administrative Hearings.  
12 The Proposed Decision was adopted, which granted in part and denied in part the motion. The  
13 Decision of the Board became effective on January 30, 2009.

14 5. A prior Accusation & Notification of Violation and Imposition of Civil  
15 Penalty No. 20-2006-172480 was filed before the Board. A Decision after Non Adoption was  
16 issued by the Board. That Decision after non adoption placed his license on probation until  
17 September 28, 2010 and imposed a civil penalty. Dr. Lovelace filed a Petition for Writ of  
18 Administrative Mandamus before the Superior Court of the State of California for the County of  
19 Sacramento, case number 07CS01434, regarding the issue of the civil penalty. The Superior  
20 Court remanded the matter back to the Board to reconsider its action in light of the Court's  
21 Statement of Decision but otherwise upheld the decision. On December 8, 2008, the Board  
22 reconsidered its action in light of the Court's ruling and rendered a Decision After Remand from  
23 Superior Court which became effective on February 25, 2009.

#### 24 ADVISEMENT AND WAIVERS

25 6. Respondent has carefully read, fully discussed with counsel, and  
26 understands the charges and allegations in Accusation No. 06-2005-169412. Respondent has  
27 also carefully read, fully discussed with counsel, and understands the effects of this Stipulated  
28 Settlement and Disciplinary Order.



1 Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal  
2 action between the parties, and the Board shall not be disqualified from further action by having  
3 considered this matter.

4 13. The parties understand and agree that facsimile copies of this Stipulated  
5 Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same  
6 force and effect as the originals.

7 14. In consideration of the foregoing admissions and stipulations, the parties  
8 agree that the Board may, without further notice or formal proceeding, issue and enter the  
9 following Disciplinary Order:

10 DISCIPLINARY ORDER

11 IT IS HEREBY ORDERED that Physician and Surgeon's certificate No. C30263  
12 issued to Respondent Stewart W. Lovelace, M.D. is revoked. However, the revocation is stayed  
13 and Respondent is placed on an probation for three (3) years, in addition to the current probation  
14 which is scheduled to expire on September 28, 2010. Respondent is placed on probation until  
15 September 28, 2013, on the following terms and conditions.

16 1. EDUCATION COURSE Within 60 calendar days of the effective date of  
17 this Decision, and on an annual basis thereafter, Respondent shall submit to the Division or its  
18 designee for its prior approval educational program(s) or course(s) which shall not be less than  
19 40 hours per year, for each year of probation. The educational program(s) or course(s) shall be  
20 aimed at correcting any areas of deficient practice or knowledge and shall be Category I certified,  
21 limited to classroom, conference, or seminar settings. The educational program(s) or course(s)  
22 shall be at Respondent's expense and shall be in addition to the Continuing Medical Education  
23 (CME) requirements for renewal of licensure. Following the completion of each course, the  
24 Division or its designee may administer an examination to test Respondent's knowledge of the  
25 course. Respondent shall provide proof of attendance for 65 hours of continuing medical  
26 education of which 40 hours were in satisfaction of this condition.

27 2. MEDICAL RECORD KEEPING COURSE Within 60 calendar days of  
28 the effective date of this decision, Respondent shall enroll in a course in medical record keeping,



1 at Respondent's expense, approved in advance by the Division or its designee. Failure to  
2 successfully complete the course during the first 6 months of probation is a violation of  
3 probation.

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

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

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

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

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

1 At the completion of any additional educational or clinical training, Respondent  
2 shall submit to and pass an examination. The Program's determination whether or not  
3 Respondent passed the examination or successfully completed the Program shall be binding.

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

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

9 If Respondent fails to complete the clinical training program within the designated  
10 time period, Respondent shall cease the practice of medicine within 72 hours after being notified  
11 by the Division or its designee that Respondent failed to complete the clinical training program.

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

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

1                   Within 60 calendar days of the effective date of this Decision, and continuing  
2 throughout probation, Respondent's practice shall be monitored by the approved monitor.  
3 Respondent shall make all records available for immediate inspection and copying on the  
4 premises by the monitor at all times during business hours, and shall retain the records for the  
5 entire term of probation.

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

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

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

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

27                   Failure to maintain all records, or to make all appropriate records available for  
28 immediate inspection and copying on the premises, or to comply with this condition as outlined

1 above is a violation of probation.

2           When at least three years has elapsed since the effective date of the Board's  
3 adopting this Stipulation, the practice monitor may notify the division that he /she believes no  
4 further monitoring is necessary. The Board then may, in its sole discretion, discontinue this term  
5 of probation.

6           5.     NOTIFICATION Prior to engaging in the practice of medicine, the  
7 Respondent shall provide a true copy of the Decision(s) and Accusation(s) to the Chief of Staff  
8 or the Chief Executive Officer at every hospital where privileges or membership are extended to  
9 Respondent, at any other facility where Respondent engages in the practice of medicine,  
10 including all physician and locum tenens registries or other similar agencies, and to the Chief  
11 Executive Officer at every insurance carrier which extends malpractice insurance coverage to  
12 Respondent. Respondent shall submit proof of compliance to the Division or its designee within  
13 15 calendar days.

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

16           6.     SUPERVISION OF PHYSICIAN ASSISTANTS During probation,  
17 Respondent is prohibited from supervising physician assistants.

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

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

25           9.     PROBATION UNIT COMPLIANCE Respondent shall comply with the  
26 Division's probation unit. Respondent shall, at all times, keep the Division informed of  
27 Respondent's business and residence addresses. Changes of such addresses shall be immediately  
28 communicated in writing to the Division or its designee. Under no circumstances shall a post

1 office box serve as an address of record, except as allowed by Business and Professions Code  
2 section 2021(b).

3 Respondent shall not engage in the practice of medicine in Respondent's place of  
4 residence. Respondent shall maintain a current and renewed California physician's and  
5 surgeon's license.

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

9 10. INTERVIEW WITH THE DIVISION, OR ITS DESIGNEE Respondent  
10 shall be available in person for interviews either at Respondent's place of business or at the  
11 probation unit office, with the Division or its designee, upon request at various intervals, and  
12 either with or without prior notice throughout the term of probation.

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

19 All time spent in an intensive training program outside the State of California  
20 which has been approved by the Division or its designee shall be considered as time spent in the  
21 practice of medicine within the State. A Board-ordered suspension of practice shall not be  
22 considered as a period of non-practice. Periods of temporary or permanent residence or practice  
23 outside California will not apply to the reduction of the probationary term. Periods of temporary  
24 or permanent residence or practice outside California will relieve Respondent of the  
25 responsibility to comply with the probationary terms and conditions with the exception of this  
26 condition and the following terms and conditions of probation: Obey All Laws; and Probation  
27 Unit Compliance.

28 Respondent's license shall be automatically canceled if Respondent's periods of

1 temporary or permanent residence or practice outside California total two years. However,  
2 Respondent's license shall not be canceled as long as Respondent is residing and practicing  
3 medicine in another state of the United States and is on active probation with the medical  
4 licensing authority of that state, in which case the two year period shall begin on the date  
5 probation is completed or terminated in that state.

6 12. FAILURE TO PRACTICE MEDICINE - CALIFORNIA RESIDENT

7 In the event Respondent resides in the State of California and for any reason  
8 Respondent stops practicing medicine in California, Respondent shall notify the Division or its  
9 designee in writing within 30 calendar days prior to the dates of non-practice and return to  
10 practice. Any period of non-practice within California, as defined in this condition, will not  
11 apply to the reduction of the probationary term and does not relieve Respondent of the  
12 responsibility to comply with the terms and conditions of probation. Non-practice is defined as  
13 any period of time exceeding 30 calendar days in which Respondent is not engaging in any  
14 activities defined in sections 2051 and 2052 of the Business and Professions Code.

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

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

22 13. COMPLETION OF PROBATION Respondent shall comply with all  
23 financial obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to  
24 the completion of probation. Upon successful completion of probation, Respondent's certificate  
25 shall be fully restored.

26 14. VIOLATION OF PROBATION Failure to fully comply with any term or  
27 condition of probation is a violation of probation. If Respondent violates probation in any  
28 respect, the Division, after giving Respondent notice and the opportunity to be heard, may revoke

1 probation and carry out the disciplinary order that was stayed. If an Accusation, Petition to  
2 Revoke Probation, or an Interim Suspension Order is filed against Respondent during probation,  
3 the Division shall have continuing jurisdiction until the matter is final, and the period of  
4 probation shall be extended until the matter is final.

5 15. LICENSE SURRENDER Following the effective date of this Decision, if  
6 Respondent ceases practicing due to retirement, health reasons or is otherwise unable to satisfy  
7 the terms and conditions of probation, Respondent may request the voluntary surrender of  
8 Respondent's license. The Division reserves the right to evaluate Respondent's request and to  
9 exercise its discretion whether or not to grant the request, or to take any other action deemed  
10 appropriate and reasonable under the circumstances. Upon formal acceptance of the surrender,  
11 Respondent shall within 15 calendar days deliver Respondent's wallet and wall certificate to the  
12 Division or its designee and Respondent shall no longer practice medicine. Respondent will no  
13 longer be subject to the terms and conditions of probation and the surrender of Respondent's  
14 license shall be deemed disciplinary action. If Respondent re-applies for a medical license, the  
15 application shall be treated as a petition for reinstatement of a revoked certificate.

16 16. PROBATION MONITORING COSTS Respondent shall pay the costs  
17 associated with probation monitoring each and every year of probation, as designated by the  
18 Division but may be adjusted on an annual basis. Such costs shall be payable to the Medical  
19 Board of California and delivered to the Division or its designee no later than January 31 of each  
20 calendar year. Failure to pay costs within 30 calendar days of the due date is a violation of  
21 probation.

22 ACCEPTANCE

23 I have carefully read the above Stipulated Settlement and Disciplinary Order and  
24 have fully discussed it with my attorney, Robert S. McWhorter. I understand the stipulation and  
25 the effect it will have on my certificate. I enter into this Stipulated Settlement and Disciplinary  
26 Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order  
27 of the Medical Board of California.

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DATED: \_\_\_\_\_

\_\_\_\_\_  
STEWART W. LOVELACE, M.D.  
Respondent

I have read and fully discussed with Respondent Stewart W. Lovelace, M.D. the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: \_\_\_\_\_

\_\_\_\_\_  
ROBERT S. MCWHORTER  
Attorney for Respondent

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board.

DATED: \_\_\_\_\_

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

PAUL C. AMENT  
Supervising Deputy Attorney General

\_\_\_\_\_  
CHRIS LEONG  
Deputy Attorney General

Attorneys for Complainant

DOJ Matter ID: LA2008501454  
50413511.wpd



DATED: 3.27.09

Stewart W. Lovelace M.D.  
STEWART W. LOVELACE, M.D.  
Respondent

I have read and fully discussed with Respondent Stewart W. Lovelace, M.D. the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 4-1-09

Robert S. McWhorter  
ROBERT S. MCWHORTER  
Attorney for Respondent

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board.

DATED: 4/6/09

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

PAUL G. AMENT  
Supervising Deputy Attorney General

Chris Leong  
CHRIS LEONG  
Deputy Attorney General  
Attorneys for Complainant

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Exhibit A

Accusation No. 06-2005-169412



1 then stayed, then placed on probation for a period of three years and ordered, among other  
2 conditions, to pay a civil penalty in the amount of \$244,000. A copy of that decision is attached  
3 as Exhibit A and is incorporated by reference. On October 26, 2007, a Petition for Writ of  
4 Mandamus case No. 07CS01434 was filed in The Superior Court of the State of California for  
5 the County of Sacramento (Court). On May 9, 2008, the Court ordered the civil penalty in the  
6 amount of \$244,000 stayed pending the outcome of the case.

#### 7 JURISDICTION

8 4. This Accusation is brought before the Board under the authority of the  
9 following laws. All section references are to the Business and Professions Code (Code) unless  
10 otherwise indicated.

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

15 6. Section 2234 of the Code states:

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

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

22 "(b) Gross negligence.

23 "(c) Repeated negligent acts. To be repeated, there must be two or more  
24

25 1. California Business and Professions Code section 2002, as amended and effective  
26 January 1, 2008, provides that, unless otherwise expressly provided, the term "board" as used in  
27 the State Medical Practice Act (Cal. Bus. & Prof. Code, §§ 2000, et seq.) means the "Medical  
28 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 negligent acts or omissions. An initial negligent act or omission followed by a separate  
2 and distinct departure from the applicable standard of care shall constitute repeated  
3 negligent acts.

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

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

12 "(d) Incompetence.

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

15 "(f) Any action or conduct which would have warranted the denial of a  
16 certificate."

17 7. Section 2266 of the Code states: "The failure of a physician and surgeon to  
18 maintain adequate and accurate records relating to the provision of services to their patients  
19 constitutes unprofessional conduct."

20 FIRST CAUSE FOR DISCIPLINE

21 (Gross Negligence - Patient S.S.)

22 8. Respondent is subject to disciplinary action under Code section 2234,  
23 subdivision (b), in that he engaged in unprofessional conduct/gross negligence in the care and  
24 treatment of patient "S.S."<sup>2</sup> The circumstances are as follows:

25 A. On or about July 22, 2005, Patient S.S., a fifty-three-year-old female, was

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28 2. The names of patients are kept confidential to protect their privacy rights and, though  
known to Respondent, will be revealed to him upon receipt of his written request for discovery.

1 seen initially with complaints of depression and anxiety. Patient S.S. told Respondent  
2 that another physician had prescribed the antidepressant Wellbutrin, which had worked  
3 relatively well for about three years. Respondent recommended that Patient S.S. take a  
4 new drug Strattera, while remaining on Wellbutrin. He advised her to initially take 10 mg  
5 per day, and then titrate up to the therapeutic dose of 40 mg twice a day. Respondent  
6 informed the patient that Strattera was approved for treatment of Adult Attention Deficit  
7 Disorder, but informal studies indicated that it also worked for treatment of depression.  
8 Respondent did not inform the patient that Strattera cost more than \$4.00 per pill and was  
9 generally not paid for by insurance companies, since it was not FDA approved for  
10 depression.

11 B. During this initial visit, Respondent did not document a complete history  
12 and mental status examination. He did not describe the problem as understood by the  
13 patient. There was no documentation of an objective assessment of the patient's current  
14 issues, and a bio psycho social formulation of her problems. There was no  
15 documentation of the patient's psychiatric diagnosis in a Diagnostic and Statistical  
16 Manual of Mental Disorders (DSM) format. There was no documentation of the risks  
17 and benefits of his proposed treatment plan, or any alternate treatments for the patient.

18 C. When Patient S.S. went to a Sav-On Pharmacy to get her prescription  
19 filled, she was informed that her HMO insurance company would not authorize payment  
20 of Strattera. Since the entire prescription of 240 pills would have cost the patient more  
21 than \$900, she partially filled her prescription (eight pills), and waited for Respondent to  
22 complete the appropriate forms to request preauthorization from her HMO insurance.

23 D. Over the next three weeks, Patient S.S. called Respondent multiple times,  
24 requesting that he call her insurance company, obtain forms, and complete the  
25 authorization process. The patient continued to obtain partial refills of Strattera which  
26 she paid for with the intention of being reimbursed when the drug was approved for  
27 payment by her insurance company. Respondent did not document any follow-up efforts  
28 to achieve medication authorization through the patient's HMO insurance or seek an

1 alternate medication for the patient. There was no documentation that he responded to  
2 the patient's telephone calls.

3 E. On or about August 12, 2005, Patient S.S. had a second appointment with  
4 Respondent. He asked the patient the same questions that he had asked her on her first  
5 visit. Respondent told Patient S.S. that he would contact her insurance company and  
6 complete the paperwork so her HMO insurance would pay for the drug.

7 F. After her second visit, Patient S.S. attempted to follow-up repeatedly with  
8 Respondent to determine if he had completed the paperwork for her insurance.  
9 Respondent did not pursue or document any follow-up efforts to achieve medication  
10 authorization through the patient's insurance or seek an alternate medication. The patient  
11 had progressed to taking about 50 mg of Strattera per day. She called Respondent to tell  
12 him that the higher dose of Strattera made her agitated, and to ask his advice on whether  
13 to continue to increase the dosage, given its adverse effect. There was no documentation  
14 that he responded to the patient's telephone calls.

15 G. Respondent was grossly negligent in the care and treatment of Patient S.S.  
16 as follows: Respondent failed to document a complete history and mental status  
17 examination. He failed to describe the problem as understood by the patient. He failed to  
18 document an objective assessment of the patient's current issues, and a biopsychosocial  
19 formulation of her problems. He failed to document the patient's psychiatric diagnosis in  
20 a DSM format. He failed to document the risks and benefits of his proposed treatment  
21 plan, or consider any alternate treatments for the patient. Respondent failed to document  
22 any efforts to achieve authorization of the patient's medication through her HMO  
23 insurance or authorization of any alternate medication. He failed to document and  
24 respond to the patient's telephone calls.

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1 SECOND CAUSE FOR DISCIPLINE

2 (Gross Negligence - Patient K.S.)

3 9. Respondent is subject to disciplinary action under Code section 2234,  
4 subdivision (b), in that he engaged in unprofessional conduct/gross negligence in the care and  
5 treatment of patient "K.S." The circumstances are as follows:

6 A. Patient K.S. was forty years old when he initially saw respondent in 1990.  
7 The patient had a history of severe psychiatric problems related to time he spent in  
8 Vietnam. Respondent did not document in the record a complete history and a thorough  
9 mental status examination. He did not describe the problem as understood by the patient.  
10 There was no documentation of an objective assessment of the patient's current issues  
11 and a bio psycho social formulation of his problems in a treatment plan. Respondent  
12 diagnosed the patient with Post Traumatic Syndrome Disorder (PTSD). There was no  
13 documentation of the patient's psychiatric diagnosis in a DSM format.

14 B. Patient K.S. saw respondent from 1990 until about February 2007.  
15 Respondent prescribed various antidepressant medications including Prozac, Librax and  
16 Wellbutrin, and bipolar medications including Geodon and Depakote. Patient K.S.  
17 experienced considerable, enduring, and extreme symptoms of PTSD, including severe  
18 depression and explosive episodes. He had a propensity for physical violence, and was a  
19 danger to himself and to others. Respondent treated this patient single-handedly over the  
20 years, and he did not use a multi-disciplinary approach.

21 C. On follow-up appointments, respondent did not document the patient's  
22 subjective symptoms, assess the patient's current level of functioning and mental status,  
23 and did not formulate and document a reasonable plan of action. There was no  
24 documentation of telephonic communications with the patient. On several occasions  
25 when Patient K.S. experienced severe symptoms, he attempted to contact respondent,  
26 who did not return his telephone calls.

27 D. In about February 2007, respondent advised Patient K.S. to taper off his  
28 Depakote medication, and said he would place him on a different medication. Patient



1 K.S. began to experience severe psychiatric symptoms. In March 2007, he was admitted  
2 to Redlands Community Hospital with severe chest pains. The patient and his wife left  
3 telephone messages for respondent which were not returned. When the patient no longer  
4 had any medication left, he attempted to contact respondent, who could not be reached.  
5 In June 2007, the patient sent a certified letter to respondent stating he was in desperate  
6 need of medication, treatment, and follow-up care. Respondent did not retrieve the  
7 certified mail letter.

8 E. Respondent was grossly negligent in the care and treatment of Patient  
9 K.S. as follows: Respondent failed to document a complete history and mental status  
10 examination. He failed to describe the problem as understood by the patient. He failed to  
11 document an objective assessment of the patient's current issues, and a bio-psycho-social  
12 formulation of his problems. He failed to document the patient's psychiatric diagnosis in  
13 a DSM format. He failed to document telephonic communications with the patient. He  
14 failed to treat a seriously ill patient with extreme symptoms in a multi-disciplinary  
15 setting.

### 16 THIRD CAUSE FOR DISCIPLINE

17 (Gross Negligence - Patient R.D.)

18 10. Respondent is subject to disciplinary action under Code section 2234,  
19 subdivision (b), in that he engaged in unprofessional conduct/gross negligence in the care and  
20 treatment of patient "R.D." The circumstances are as follows:

21 A. On or about April 19, 2000, Patient R.D., a thirty-two-year-old male, was  
22 seen initially with complaints of depression, post-traumatic stress disorder, and bipolar  
23 issues. Respondent did not document in the record a complete history, including the  
24 patient's family history of mood disorders, and a thorough mental status examination.  
25 There was no documentation of an objective assessment and consideration of bio-  
26 psycho-social factors. There is no documentation of a treatment plan. There was no  
27 documentation of the patient's psychiatric diagnosis in a DSM format. Respondent  
28 prescribed the antidepressant Zoloft for the patient.

1 B. Over the following months, respondent continued to treat Patient R.D.  
2 with Zoloft. The patient experienced violent dreams, rapid thoughts, surges of energy,  
3 and aggressive behavior. Respondent adjusted the dosage of Zoloft several times, and  
4 also prescribed the anti-anxiety medication BuSpar.

5 C. From about May 2002 through December 2002, the patient experienced  
6 erratic highs and lows, depression, numbness and constant buzzing in his head. His  
7 concentration and focus deteriorated, and his sensitivity to noise became more  
8 problematic. In May 2002, and for the next several months, Respondent prescribed the  
9 drug Sonata, which is used for the short-term treatment of insomnia.

10 D. The patient's condition continued to deteriorate over the months, his  
11 symptoms became more severe, and in September 2003, he reached a crisis point. He  
12 experienced symptoms of despondency, followed by erratic thought processes and bursts  
13 of energy, and he would then collapse. The patient could not focus or concentrate, and he  
14 told Respondent that he was approaching the point of incapacitation. Respondent did not  
15 properly address the patient's symptoms. He did not recognize the patient was  
16 experiencing bipolar switching induced by Zoloft. Respondent continued to prescribe  
17 sleeping pills, alternate SSRIs (selective serotonin reuptake inhibitors) such as Zoloft and  
18 Lexapro, and benzodiazepines to the patient who was exhibiting manic symptoms.  
19 Respondent prescribed 10 mg of Lexapro for depression and anxiety, continued the 10 mg  
20 of Sonata, and added .5 mg of the anti-anxiety medication Clonazepam.

21 E. The patient's family intervened and brought the patient to a medical  
22 center for treatment. His condition was diagnosed as Bipolar II brought on by  
23 mismanaged administration of Zoloft and Lexapro. The patient's medication was  
24 changed and his symptoms resolved.

25 F. Respondent was grossly negligent in the care and treatment of Patient  
26 R.D. as follows: Respondent failed to document a complete history, including the  
27 patient's family history of mood disorders, and a complete mental status examination.  
28 There was no documentation of an objective assessment and consideration of bio-psycho-

1 social factors. There is no documentation of a treatment plan. There was no  
2 documentation of the patient's psychiatric diagnosis in a DSM format. Respondent failed  
3 to document telephone communications with the patient. He failed to recognize and  
4 properly treat the patient's developing manic symptoms, including bipolar switching,  
5 which resulted from his prescribing Zoloft. Respondent failed to properly diagnose the  
6 patient's psychiatric issues, and continued to prescribe sleeping pills, alternate SSRIs, and  
7 benzodiazepines to a patient who exhibited manic symptoms.

8 FOURTH CAUSE FOR DISCIPLINE

9 (Repeated Negligent Acts - Patients S.S., K.S. and R.D.)

10 11. By reasons of the matters set forth in the First, Second and Third Causes  
11 for Discipline, Respondent is subject to disciplinary action under Code section 2234, subdivision  
12 (c), in that he committed repeated negligent acts in the discharge of his medical obligations.

13 FIFTH CAUSE FOR DISCIPLINE

14 (Unprofessional Conduct/Incompetence)

15 12. By reasons of the matters set forth in the First, Second, Third, and Fourth  
16 Causes for Discipline, Respondent is subject to disciplinary action under Code section 2234,  
17 subdivision (d), in that he demonstrated incompetence in the discharge of his medical obligations  
18 to patients S.S., K.S., and R.D..

19 SIXTH CAUSE FOR DISCIPLINE

20 (Failure to Maintain Adequate/Accurate Medical Records)

21 13. By reasons of the matters set forth in First, Second and Third Causes for  
22 Discipline, Respondent is subject to disciplinary action under Code section 2266 in that he failed  
23 to maintain adequate and accurate medical records for patients S.S., K.S., and R.D..

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PRAYER

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

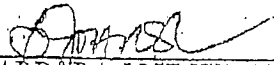
1. Revoking or suspending Physician and Surgeon's Certificate Number C30263 issued to Stewart W. Lovelace, M.D.;

2. Revoking, suspending or denying approval of his authority to supervise physicians' assistants, pursuant to section 3527 of the Code;

3. Ordering him to pay the Board the reasonable costs of probation monitoring, if he is placed on probation; and,

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

DATED: June 25, 2008

  
\_\_\_\_\_  
BARBARA JOHNSTON  
Executive Director  
Medical Board of California  
Department of Consumer Affairs  
State of California  
Complainant

LA200850145:  
50275455.wpd

**EXHIBIT F**

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

In the Matter of the Petition to Revoke Probation )  
against: )

STEWART W. LOVELACE, M.D. )

Case No. D1-2005-169412

Physician's & Surgeon's )  
Certificate No. C 30263 )

Respondent. )

CEASE PRACTICE ORDER


In the Medical Board of California (Board) Case No. D1-2005-169412, the Board issued a Decision adopting a Stipulated Settlement and Disciplinary Order, which became effective August 17, 2012. In the Board's Order, Physician's and Surgeon's License No. C 30263, issued to STEWART W. LOVELACE, M.D., was revoked, stayed, and placed on 2 years' probation, in addition to the previous probationary term imposed, with certain terms and conditions.

Disciplinary Order No. 3, "Clinical Training Program," which states in part, "Respondent shall enroll in a clinical training or educational program equivalent to the Physician Assessment and Clinical Education Program (PACE) offered at the University of California - San Diego School of Medicine ("Program"). Respondent shall successfully complete the Program not later than six (6) months after Respondent's initial enrollment..."

"If Respondent failed to enroll, participate in, or successfully complete the clinical training program within the designated time period, Respondent shall receive a notification from the Board or its designee to cease the practice of medicine within three (3) calendar days after being so notified..."

The Respondent has failed to obey Disciplinary Order No. 3 as mandated in the above Decision, by failing to successfully complete the clinical training program. Accordingly, within 3 days from the date of this Order, Respondent, STEWART W. LOVELACE, M.D., is prohibited from engaging in the practice of medicine. The Respondent shall not resume the practice of medicine until final decision has been rendered on the Petition to Revoke Probation in the Matter.

IT IS SO ORDERED November 19, 2013 at 5:00 p.m.

  
A. RENEE THREADGILL  
Chief of Enforcement

**EXHIBIT G**



MEDICAL BOARD OF CALIFORNIA  
 DEPARTMENT OF CONSUMER AFFAIRS  
 CITATION AND FINE PROGRAM  
 1434 HOWE AVENUE, SUITE #92  
 SACRAMENTO, CA 95825-3236  
 (916) 263-2419  
[www.caldocinfo.ca.gov](http://www.caldocinfo.ca.gov)

JOAN M. JERZAK  
 Chief of Enforcement

## CITATION ORDER

March 3, 2006

Stewart W. Lovelace, M.D.  
 1112 Ocean Drive  
 Manhattan Beach, CA 90266

MEDICAL BOARD OF CALIFORNIA

I do hereby certify that this document is a true and correct copy of the original on file in this office.

Signature

Title

Date

*C. J. Hamilton*  
 For the Custodian of Records  
 November 18, 2013

Citation No: 20-2006-172480

**CITATION AGAINST:** Stewart W. Lovelace, M.D.  
**LICENSE NUMBER:** C-30263  
**VIOLATION:** 2225(d) Business and Professions Code - Failed to Provide Medical Records

An investigation or inquiry has been conducted by the Medical Board of California. As a result, Joan M. Jerzak issues this citation in her official capacity as Chief of Enforcement of the Medical Board of California (hereinafter referred to as the "Board").

### Citation

An administrative citation is hereby issued to you in accordance with Business and Professions Code section 125.9 for violation of section 2225(d) of the Business and Professions Code.

### License

License C-30263 was issued to you on 7/19/1968 and expires 12/31/2006.

### Cause for Citation

You failed to provide the Board with certified copies of a patient's medical records within 15 days of receiving a written request. To date, the medical records have not been received by the Medical Board.

### Order of Abatement

Within 15 days from the date you receive the Citation Order, you are ordered to provide the Board with certified copies of the patient's medical records.



Stewart W. Lovelace, M.D.  
March 3, 2006  
Page Two

Fine

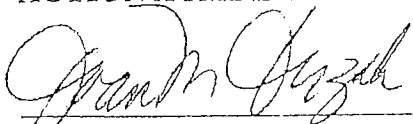
**WITHIN THIRTY (30) DAYS OF RECEIPT OF THIS CITATION, YOU ARE REQUIRED TO PAY AN ADMINISTRATIVE FINE IN THE AMOUNT OF \$2,500.00 AS PROVIDED BY TITLE 16 OF THE CALIFORNIA CODE OF REGULATIONS SECTIONS 1364.10 AND 1364.11 FOR VIOLATION OF SECTION 2225(d) OF THE BUSINESS AND PROFESSIONS CODE.**

Payment of the administrative fine should be sent, in the form of check or money order, made payable to the Medical Board of California, to the following address: **Medical Board of California, Citation and Fine Program, Attn: Pamela L. Mosher, P. O. Box 255729, Sacramento, CA 95865-5729.**

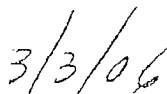
If you appeal this citation, the days given for compliance will be held in abeyance only for the violation(s) you contest. The time to correct all uncontested violations must be adhered to as given.

If you fail to notify the Board within the allotted time that you intend to appeal the citation, it shall be deemed a final order and shall not be subject to further administrative review. Any questions or concerns should be directed to Pamela L. Mosher, Analyst, at (916) 263-2419.

**FAILURE TO COMPLY WITH THIS CITATION WILL RESULT IN DISCIPLINARY ACTION AGAINST YOUR LICENSE.**



JOAN M. JERZAK  
Chief of Enforcement  
Medical Board of California



DATE

Attachments: Sections 125.9 and 2225(d), Business and Professions Code  
Sections 1364.10 - 1364.15, Title 16, California Code of Regulations  
Appeal Process and Information Sheet  
Request for Informal Conference