

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

In the Matter of the Accusation Against:)
)
)
DAVID LOUIS HOBAN, M.D.) Case No. 03-2010-204516
)
Physician's and Surgeon's)
Certificate No. G21690)
)
Respondent.)
_____)

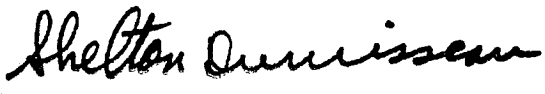
DECISION AND ORDER

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

This Decision shall become effective at 5:00 p.m. on September 30, 2011.

IT IS SO ORDERED August 31, 2011.

MEDICAL BOARD OF CALIFORNIA

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

1 KAMALA D. HARRIS
Attorney General of California
2 JOSE R. GUERRERO
Supervising Deputy Attorney General
3 BRENDA P. REYES
Deputy Attorney General
4 State Bar No. 129718
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 703-5541
6 Facsimile: (415) 703-5480
Attorneys for Complainant
7

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

11 In the Matter of the Accusation Against:

Case No. 03 2010 204516

12 **DAVID LOUIS HOBAN, M.D.**
13 **831 Riverside Avenue**
Santa Cruz, CA 95060

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

14 **Physician's and Surgeon's Certificate**
15 **No. G 21690**

16 Respondent.

17
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 Brenda P. Reyes, Deputy
24 Attorney General.

25 2. Respondent David Louis Hoban, M.D. (Respondent) is represented in this proceeding
26 by attorney Robert B. Zaro, Esq., whose address is: Zaro Sillis & Ramazzini, LLP, 1315 I Street,
27 Suite 200, Sacramento, CA 95814.

28 ///

1 9. Respondent agrees that his Physician's and Surgeon's Certificate is subject to
2 discipline and he agrees to be bound by the Board's imposition of discipline as set forth in the
3 Disciplinary Order below.

4 RESERVATION

5 10. The admissions made by Respondent herein are only for the purposes of this
6 proceeding, or any other proceedings in which the Medical Board of California or other
7 professional licensing agency is involved, and shall not be admissible in any other criminal or
8 civil proceeding.

9 CONTINGENCY

10 11. This stipulation shall be subject to approval by the Medical Board of California.
11 Respondent understands and agrees that counsel for Complainant and the staff of the Medical
12 Board of California may communicate directly with the Board regarding this stipulation and
13 settlement, without notice to or participation by Respondent or his counsel. By signing the
14 stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek
15 to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails
16 to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary
17 Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal
18 action between the parties, and the Board shall not be disqualified from further action by having
19 considered this matter.

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

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

26 DISCIPLINARY ORDER

27 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. G 21690 issued
28 to Respondent David Louis Hoban, M.D. (Respondent) is revoked. However, the revocation is

1 stayed and Respondent is placed on probation for five (5) years on the following terms and
2 conditions.

3 1. ACTUAL SUSPENSION As part of probation, respondent is suspended from the
4 practice of medicine for 135 days beginning the sixteenth (16th) day after the effective date of
5 this decision.

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

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

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

17 3. MONITORING - BILLING **This condition of probation shall be applicable**
18 **under any circumstance where respondent is billing for patient care services.** Within 30
19 calendar days of the effective date of this Decision, respondent shall submit to the Board or its
20 designee for prior approval as a billing monitor, the name and qualifications of one or more
21 licensed physicians and surgeons whose licenses are valid and in good standing, and who are
22 preferably American Board of Medical Specialties (ABMS) certified. A monitor shall have no
23 prior or current business or personal relationship with respondent, or other relationship that could
24 reasonably be expected to compromise the ability of the monitor to render fair and unbiased
25 reports to the Board, including, but not limited to, any form of bartering, shall be in respondent's
26 field of practice, and must agree to serve as respondent's monitor. Respondent shall pay all
27 monitoring costs.

28 ///

1 The Board or its designee shall provide the approved monitor with copies of the Decision
2 and Accusation, and a proposed monitoring plan. Within 15 calendar days of receipt of the
3 Decision, Accusation, and proposed monitoring plan, the monitor shall submit a signed statement
4 that the monitor has read the Decision and Accusation, fully understands the role of a monitor,
5 and agrees or disagrees with the proposed monitoring plan. If the monitor disagrees with the
6 proposed monitoring plan, the monitor shall submit a revised monitoring plan with the signed
7 statement.

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

12 The monitor shall submit a quarterly written report to the Board or its designee which
13 includes an evaluation of respondent's performance, indicating whether respondent's practices are
14 within the standards of practice of medicine or billing, or both, and whether respondent is
15 practicing medicine safely, billing appropriately or both.

16 It shall be the sole responsibility of respondent to ensure that the monitor submits the
17 quarterly written reports to the Board or its designee within 10 calendar days after the end of the
18 preceding quarter.

19 If the monitor resigns or is no longer available, respondent shall, within 5 calendar days of
20 such resignation or unavailability, submit to the Board or its designee, for prior approval, the
21 name and qualifications of a replacement monitor who will be assuming that responsibility within
22 15 calendar days. If respondent fails to obtain approval of a replacement monitor within 60 days
23 of the resignation or unavailability of the monitor, respondent shall be suspended from the
24 practice of medicine until a replacement monitor is approved and prepared to assume immediate
25 monitoring responsibility. Respondent shall cease the practice of medicine within 3 calendar
26 days after being so notified by the Board or designee.

27 In lieu of a monitor, respondent may participate in a professional enhancement program
28 equivalent to the one offered by the Physician Assessment and Clinical Education Program at the

1 University of California, San Diego School of Medicine, that includes, at minimum, quarterly
2 chart review, semi-annual practice assessment, and semi-annual review of professional growth
3 and education. Respondent shall participate in the professional enhancement program at
4 respondent's expense during the term of probation.

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

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

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

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

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

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

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

1 address of record, except as allowed by Business and Professions Code section 2021(b).

2 Respondent shall not engage in the practice of medicine in respondent's place of residence.

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

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

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

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

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

24 Respondent's license shall be automatically cancelled if respondent's periods of temporary
25 or permanent residence or practice outside California total two years. However, respondent's
26 license shall not be cancelled as long as respondent is residing and practicing medicine in another
27 state of the United States and is on active probation with the medical licensing authority of that
28

1 state, in which case the two year period shall begin on the date probation is completed or
2 terminated in that state.

3 11. FAILURE TO PRACTICE MEDICINE - CALIFORNIA RESIDENT

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

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

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

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

23 13. VIOLATION OF PROBATION Failure to fully comply with any term or condition
24 of probation is a violation of probation. If respondent violates probation in any respect, the
25 Board, after giving respondent notice and the opportunity to be heard, may revoke probation and
26 carry out the disciplinary order that was stayed. If an Accusation, Petition to Revoke Probation,
27 or an Interim Suspension Order is filed against respondent during probation, the Board shall have
28

1 continuing jurisdiction until the matter is final, and the period of probation shall be extended until
2 the matter is final.

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

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

19 ///

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

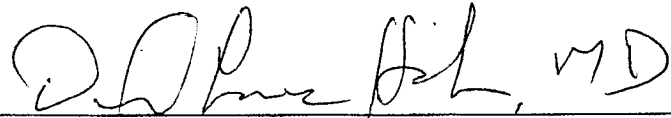
26 ///

27 ///


28 ///

1 ACCEPTANCE

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

7
8 DATED: 7/21/2011 
9 DAVID LOUIS HOBAN, M.D.
Respondent

10 I have read and fully discussed with Respondent David Louis Hoban, M.D. the terms and
11 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
12 I approve its form and content.


13 DATED: 7/21/11 
14 Robert B. Zaro, Esq.
Attorney for Respondent

15 ENDORSEMENT

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

19 Dated: August 4, 2011

20 KAMALA D. HARRIS
Attorney General of California
21 JOSE R. GUERRERO
Supervising Deputy Attorney General

22 
23 BRENDA P. REYES
24 Deputy Attorney General
Attorneys for Complainant

25
26
27 SF2010201308
28 Stipulation.rtf

Exhibit A

Accusation No. 03 2010 204516

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO July 20 20 10
BY [Signature] ANALYST

1 EDMUND G. BROWN JR.
Attorney General of California
2 JOSE R. GUERRERO
Supervising Deputy Attorney General
3 BRENDA P. REYES
Deputy Attorney General
4 State Bar No. 129718
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 703-5541
6 Facsimile: (415) 703-5480
Attorneys for Complainant
7

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

11 In the Matter of the Accusation Against:

Case No. 03-2010-204516

12 **DAVID LOUIS HOBAN, M.D.**
13 **831 Riverside Avenue**
Santa Cruz, CA 95060

A C C U S A T I O N

14 **Physician's and Surgeon's Certificate**
15 **No. G 21690**

Respondent.

16
17
18 Complainant alleges:

19 **PARTIES**

20 1. Linda K. Whitney (Complainant), brings this Accusation solely in her official
21 capacity as the Executive Director of the Medical Board of California, Department of Consumer
22 Affairs.

23 2. On or about November 9, 1971, the Medical Board of California issued Physician's
24 and Surgeon's Certificate Number G 21690 to respondent David Louis Hoban, M.D. (respondent).
25 At all times relevant to the charges brought herein this license has been in full force and effect.
26 Unless renewed, the certificate will expire on July 31, 2011.

27 ///

28 ///

1 **JURISDICTION**

2 3. This Accusation is brought before the Medical Board of California (Board),¹
3 Department of Consumer Affairs, under the authority of the following laws. All section
4 references are to the Business and Professions Code unless otherwise indicated.

5 4. Section 2004 of the Code states, in relevant part:

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

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

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

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

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

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

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

20 6. Section 2234 of the Code states, in pertinent part:

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

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

27 ¹ The term "board" means the Medical Board of California. "Division of Medical
28 Quality" shall also be deemed to refer to the Board. (Bus. & Prof. Code, § 2002.)

1 "
2 "(e) The commission of any act involving dishonesty or corruption which is substantially
3 related to the qualifications, functions, or duties of a physician and surgeon."

4 7. Section 2236 of the Code states, in relevant part:

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

9 "

10 "(d) A plea or verdict of guilty or a conviction after a plea of nolo contendere is deemed to
11 be a conviction within the meaning of this section and Section 2236.1. The record of conviction
12 shall be conclusive evidence of the fact that the conviction occurred."

13 8. Section 2261 of the Code provides that "knowingly making or signing any certificate
14 or other document directly or indirectly related to the practice of medicine . . . which falsely
15 represents the existence or nonexistence of a state of facts, constitutes unprofessional conduct."

16 **FACTS**

17 9. At all times relevant herein, respondent worked as a contract psychiatrist for the
18 California Department of Corrections and Rehabilitation (CDCR) assigned to Salinas Valley State
19 Prison (SVSP). Between March 1, 2007, through June 30, 2007, respondent fraudulently billed
20 or caused to be billed 241.8 hours of work which respondent did not actually provide. In
21 addition, on fifteen separate dates during this same time period respondent falsified the SVSP
22 Contractor/Volunteer Logs, documenting entry to and exit from the prison grounds, by entering
23 an exit time later than the actual time he had left the prison grounds.

24 10. On or about November 20, 2008, an indictment was filed in *People v. David Hoban,*
25 *et al.*, Monterey County Superior Court Case No. SS082797A, alleging four counts of felony
26 violation of Penal Code § 72 [Presentation of Fraudulent Claim] for willfully, unlawfully, and
27 with intent to defraud, presenting and causing to be presented false and fraudulent Contractor's
28 Daily Worksheets for payment to the State of California; two counts of felony violation of

1 Government Code § 6201 [Falsifying Public Records] for willfully and unlawfully falsifying the
2 Entry/Exit Logs and Records of the SVSP; one count of a felony violation of Penal Code § 487(a)
3 [Grand Theft by False Pretenses] for knowingly and designedly by false and fraudulent
4 representation and pretense defrauding of the State of California of money in the sum of \$60,446;
5 and, one count of a felony violation of Penal Code § 182(a)(1) [Conspiracy to Commit Grand
6 Theft] for unlawfully conspiring with co-defendants to commit the crime of theft by false
7 pretense by altering and falsifying the Entry/Exit Logs of the SVSP.

8 11. On or about December 22, 2009, respondent entered a conditional plea of *nolo*
9 *contendere* to a single felony violation of Government Code § 6201. On or about January 21,
10 2010, pursuant to Penal Code § 17(b), the Court reduced the conviction to a misdemeanor and
11 respondent was sentenced to three years probation. Among other terms of probation, respondent
12 was ordered to complete 300 hours of community service and to complete a theft offender class;
13 and, he was ordered to pay restitution to the State of California in the amount of \$42,425.

14 **FIRST CAUSE FOR DISCIPLINE**

15 (Conviction of a Crime)

16 12. Respondent's certificate to practice medicine is subject to disciplinary action for
17 unprofessional conduct under sections 2234 and 2236 of the Code in that respondent has been
18 convicted of a violation of Government Code § 6201, a crime that is substantially related to the
19 qualifications, functions, or duties of a physician and surgeon.

20 **SECOND CAUSE FOR DISCIPLINE**

21 (Dishonest Acts/False Statements)

22 13. Respondent's certificate to practice medicine is subject to disciplinary action for
23 unprofessional conduct under section 2234 (e), and/or section 2261 of the Code in that respondent
24 did knowingly make and/or sign documents related to the practice of medicine which falsely
25 represented the true state of facts.

26 ///

27 ///


28 ///

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 or suspending Physician's and Surgeon's Certificate Number G 21690,
5 issued to David Louis Hoban, M.D.;
- 6 2. Revoking, suspending or denying approval of David Louis Hoban, M.D.'s authority
7 to supervise physician's assistants, pursuant to section 3527 of the Code;
- 8 3. Ordering David Louis Hoban, M.D., if placed on probation, to pay the Medical Board
9 of California the costs of probation monitoring; and,
- 10 4. Taking such other and further action as deemed necessary and proper.

11
12 DATED: July 20, 2010


13 LINDA K. WHITNEY
14 Executive Director
15 Medical Board of California
16 Department of Consumer Affairs
17 State of California
18 *Complainant*

17 SF2010400551
18 accusation.rtf