

2. By Decision and Order effective September 24, 1998 before the Medical Board of the State of California, respondent entered into an agreement which revoked respondent's license to practice medicine in California, which revocation was stayed and respondent placed on probation for five years. During the period of probation respondent must have a third party present while examining or treating female patients under the age of 18 years, and within 90 days of the effective date of the Order he must attend a Board approved sensitivity program. Respondent must, at all times, keep the Medical Board of California apprised of business and residence addresses in compliance with the Board's probation surveillance program.

3. Respondent admitted that he had engaged in unprofessional conduct in so far as the manner in which respondent communicated with a minor female patient.

CONCLUSIONS OF LAW

1. Respondent's actions as set forth herein constitute professional misconduct in violation of N.J.S.A. 45:1-21(e). In addition, the disciplinary action taken against respondent's license by the Medical Board of the State of California provides grounds for discipline pursuant to N.J.S.A. 45:1-21(g).

DISCUSSION ON FINALIZATION

Based on the foregoing findings and conclusions, a Provisional Order of Discipline ("POD") was entered by this Board on January 12, 2000 and served upon Respondent. The POD was subject to finalization by the Board at 5:00 P.M. on the 30th business day following entry unless Respondent requested a modification or dismissal of the stated Findings of Fact or Conclusions of Law by submitting a written request for modification or dismissal setting forth any and all reasons why said findings and conclusions should be modified or dismissed and submitting any and all documents or other written evidence supporting Respondent's request for consideration and reasons therefor.

Respondent, through counsel, Louis M. Martin, Esq., submitted a response to the POD on January 31, 2000. Respondent argued that the only substantive factual finding to which he agreed was that he acted unprofessionally in the course of his communication with a 16 year old female patient. Respondent further argued that language in a letter written by a California Deputy Attorney General stating that "any additional private or other disciplinary action would not appear to be need (sic) or appropriate" should have kept this Board from taking action under its statute. He also stated that he had complied with the terms of his probation, which he maintained was a mitigating factor.

Respondent's submissions were reviewed by the Board, and the Board determined that further proceedings were not necessary and that no material discrepancies had been raised. The Board found that because respondent acted unprofessionally, there is a basis to discipline him in this State. The Board considered the submission by the California Deputy Attorney General, but was ultimately unpersuaded by it. The Board was not persuaded that the submitted materials merited further consideration, as respondent did not dispute the Findings of Fact or Conclusions of Law.

ACCORDINGLY, IT IS on this 22nd day of January, 2002
ORDERED that:

1. Respondent's license to practice medicine and surgery in the State of New Jersey is hereby suspended for five years.
2. Prior to commencing practice in New Jersey, respondent shall be required to appear before a committee of the Board to demonstrate his fitness to practice medicine in this State. Any medical practice in New Jersey prior to said appearance shall constitute grounds for automatic revocation if his New Jersey license. In addition, the Board reserves the right to place restrictions of respondent's practice should his license be reinstated.

NEW JERSEY STATE BOARD OF
MEDICAL EXAMINERS

By: *William V. Harrer M.D.*

William V. Harrer, M.D., B.L.D.
Board President

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

In the Matter of the Accusation Against:)
)
 HITESH D. PATEL, M.D.)
)
 Physician and Surgeon Certificate No. A-50292,)
)
 Respondent.)
 _____)

No. 17-95-58554

OAH No. L-1997120367

MEDICAL BOARD OF CALIFORNIA,
 I do hereby certify that
 this document is true
 and correct copy of the
 original on file in this
 office.

Carl F. Jones 2/9/99
 SIGNED DATE

Carl F. Jones
 TITLE

DECISION AND ORDER

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

This Decision shall become effective on September 24, 1998.

Order Dated August 25, 1998.

DIVISION OF MEDICAL QUALITY
 MEDICAL BOARD OF CALIFORNIA

Carl F. Jones

1 DANIEL E. LUNGREN, Attorney General
of the State of California
2 GLORIA A. BARRIOS (State Bar No. 94811)
Deputy Attorney General
3 California Department of Justice
300 South Spring Street, Suite 5212
4 Los Angeles, California 90013-1233
Telephone: (213) 897-8854

5 Attorneys for Complainant
6

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

11 In the Matter of the Accusation) Case No.17-95-58554
Against:)
12) OAH No. L-1997120367
HITESH D. PATEL, M.D.)
13 12470 Hazeltine Drive) **STIPULATED SETTLEMENT**
Tustin, California) **AND**
14 92680) **DISCIPLINARY ORDER**
)
15 Physician and Surgeon Certificate)
No. A-50292,)
16)
Respondent.)
17

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

21 1. An Accusation in case number 17-95-58554 was filed
22 with the Division of Medical Quality, of the Medical Board of
23 California Department of Consumer Affairs (the "Division") on
24 December 1, 1997, and is currently pending against Hitesh D.
25 Patel, M.D. (the "respondent").
26

27 / / /

1 cross-examine witnesses against him, his right to the use of
2 subpoenas to compel the attendance of witnesses and the
3 production of documents in both defense and mitigation of the
4 charges, his right to reconsideration, court review and any and
5 all other rights accorded by the California Administrative
6 Procedure Act and other applicable laws.

7 8. Respondent knowingly, voluntarily and irrevocably
8 waives and gives up each of these rights.

9 9. Respondent admits the truth of those portions of
10 the allegations of the Accusation No. 17-95-58554 which allege
11 the status of the parties and the jurisdiction of the Division of
12 Medical Quality of the Medical Board of California. Respondent
13 further admits the truth of those portions of said Accusation
14 which allege unprofessional conduct in so far as they address the
15 manner in which respondent communicated with a minor female
16 patient. Respondent does not admit that he committed any sexual
17 misconduct pursuant to Business and Professions Code section 726.
18 Respondent agrees to be bound by the Division's Disciplinary
19 Order as set forth below.

20 10. Based on the foregoing admissions and stipulated
21 matters, the parties agree that the Division shall, without
22 further notice or formal proceeding, issue and enter the
23 following order:

24

25

DISCIPLINARY ORDER

26

27

IT IS HEREBY ORDERED that Physician and Surgeon
Certificate No. A-50292 issued to Hitesh D. Patel, M.D. is

1 court ordered criminal probation, payments and other orders.

2 4. QUARTERLY REPORTS Respondent shall submit
3 quarterly declarations under penalty of perjury on forms provided
4 by the Division, stating whether there has been compliance with
5 all the conditions of probation.

6 5. PROBATION SURVEILLANCE PROGRAM COMPLIANCE Respondent
7 shall comply with the Division's probation surveillance program.
8 Respondent shall, at all times, keep the Division informed of his
9 business and residence addresses which shall both serve as
10 addresses of record. Changes of such addresses shall be
11 immediately communicated in writing to the Division. Under no
12 circumstances shall a post office box serve as an address of
13 record.

14 Respondent shall also immediately inform the Division,
15 in writing, of any travel to any areas outside the jurisdiction
16 of California which lasts, or is contemplated to last, more than
17 thirty (30) days.

18 6. INTERVIEW WITH THE DIVISION, ITS DESIGNEE OR ITS DESIGNATED
19 PHYSIGIAN(S) Respondent shall appear in person for interviews with
20 the Division, its designee or its designated physician(s) upon
21 request at various intervals and with reasonable notice.

22 7. TOLLING FOR OUT-OF-STATE PRACTICE, RESIDENCE OR IN-STATE NON-
23 PRACTICE In the event respondent should leave California to
24 reside or to practice outside the State or for any reason should
25 respondent stop practicing medicine in California, respondent
26 shall notify the Division or its designee in writing within ten
27 (10) days of the dates of departure and return or the dates of

1 hardship. The filing of bankruptcy by the respondent shall not
2 relieve the respondent of his responsibility to reimburse the
3 Division for its investigative and prosecution costs.

4 11. PROBATION COSTS Respondent shall pay the costs
5 associated with probation monitoring each and every year of
6 probation, which are currently set at one thousand, five hundred
7 dollars, \$1,500.00 but may be adjusted on an annual basis. Such
8 costs shall be payable to the Division of Medical Quality and
9 delivered to the designated probation surveillance monitor at the
10 beginning of each calendar year. Failure to pay costs within 30
11 days of the due date shall constitute a violation of probation.

12 12. LICENSE SURRENDER Following the effective date of
13 this decision, if respondent ceases practicing due to retirement,
14 health reasons or is otherwise unable to satisfy the terms and
15 conditions of probation, respondent may voluntarily tender his
16 certificate to the Board. The Division reserves the right to
17 evaluate the respondent's request and to exercise its discretion
18 whether to grant the request, or to take any other action deemed
19 appropriate and reasonable under the circumstances. Upon formal
20 acceptance of the tendered license, respondent will not longer be
21 subject to the terms and conditions of probation.

22 CONTINGENCY

23 This stipulation shall be subject to the approval of
24 the Division of Medical Quality. Respondent understands and
25 agrees that Board staff and counsel for complainant may
26 communicate directly with the Division regarding this stipulation

27 / / /

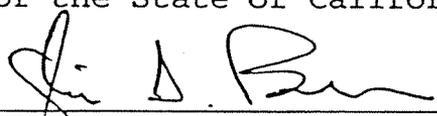
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

ENDORSEMENT

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

DATED: 7/22/98.

DANIEL E. LUNGREN, Attorney General
of the State of California



GLORIA A. BARRIOS
Deputy Attorney General

Attorneys for Complainant

Exhibit: Accusation

shell.stp [1197 rev]

1 DANIEL E. LUNGREN, Attorney General
 of the State of California
 2 GLORIA A. BARRIOS, STATE BAR NO. 94811
 Deputy Attorney General
 3 California Department of Justice
 300 South Spring Street, Suite 5212
 4 Los Angeles, California 90013-1233
 Telephone: (213) 897-8854

FILED
 STATE OF CALIFORNIA
 MEDICAL BOARD OF CALIFORNIA
 SACRAMENTO December 1 19 97
 BY Hette Johnson ANALYST

5 Attorneys for Complainant
 6

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

11 In the Matter of the Accusation) Case No. 17-95-58554
 12 Against:)
 13 HITESH D. PATEL, M.D.,) **ACCUSATION**
 14 12470 Hazeltine Drive)
 Tustin, California)
 15 92680)
 Physician and Surgeon's Certificate)
 16 No. A-50292,)
 Respondent.)
 17

18 The Complainant alleges:

19 **PARTIES**

20 1. Ron Joseph (hereinafter "Complainant") brings this
 21 accusation solely in his official capacity as the Executive
 22 Director of the Medical Board of California (hereinafter the
 23 "Board").

24 2. On or about December 17, 1991, Physician and
 25 Surgeon's Certificate No. A-50292 was issued by the Board to Hitesh

26 ///
 27 ///

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

(c) Repeated negligent acts.

(d) Incompetence.

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

C. Section 726 of the Code provides that the commission of any act of sexual abuse, misconduct, or relations with a patient, client, or customer constitutes unprofessional conduct and grounds for disciplinary action for any person licensed under this division, under any initiative act referred to in this division and under Chapter 17 (commencing with Section 9000) of Division 3.

D. Section 16.01 of the 1997/1998 Budget Act of the State of California provides, in pertinent part, that:

"(a) No funds appropriated by this act may be expended to pay any Medi-Cal claim for any service performed by a physician while that physician's license is under suspension or revocation due to disciplinary action of the Medical Board of California.

"(b) No funds appropriated by this act may be expended to pay any Medi-Cal claim for any surgical services or other invasive procedure performed on any Medi-Cal beneficiary by a physician if that physician has been placed on probation due to a disciplinary action of the Medical Board of California related to the performance of that specific service or procedure on any patient, except in any case where the board

1 B. Patient C.V.^{1'}

2 1. On or about December 18, 1992, patient C.V.
3 went to Children's Hospital for a check up for her asthma.
4 Patient C.V. was seeing respondent for the first time.
5 Patient C.V. was fifteen years old.

6 2. Patient C.V. was accompanied in the examination
7 room by her mother. Respondent asked patient C.V. general
8 questions about her asthma. Respondent asked patient C.V. to
9 lie down on the examination table and remove her bra.
10 Respondent pressed his fingers against patient C.V.'s stomach,
11 chest and breast.

12 3. Patient C.V. mentioned she had a rash on the
13 back of her thighs. Respondent asked patient C.V. to pull
14 down her pants. He looked at the back of her thighs.

15 4. Respondent took patient C.V. to another
16 examination room. Patient C.V.'s mother did not accompany
17 them. Respondent administered a breathing test to patient
18 C.V. He was very friendly to her and asked her if she had a
19 boyfriend. Respondent asked patient C.V. questions about
20 patient C.V.'s boyfriend. He asked her whether she and her
21 boyfriend had sexual intercourse. Respondent asked patient
22 C.V if she wanted to step outside so that he could ask her
23 some personal questions. Respondent told patient C.V. there
24 was something wrong with the breathing machine because the
25

26 1. All patient references in this pleading are by initials
27 only. The true name of the patient shall be revealed to respondent
upon his request for discovery pursuant to Government Code section
11507.6.

1 6. On or about January 8, 1993, in response to
2 Children's Hospital investigation of the above incidents,
3 respondent misrepresented his medical treatment of patient
4 C.V. and the nature of his telephone calls to her. Respondent
5 also misrepresented and where and when he telephoned patient
6 C.V.

7 C. S.L.

8 1. S.L. was a secretary at Children's Hospital in
9 the Allergy/Immunology unit where respondent worked.

10 2. On or about November through December, 1992,
11 respondent asked S.L. out for dinner several times. She
12 always refused. S.L. made it clear to respondent that she,
13 S.L. would not go out with him, but respondent persisted.
14 S.L. told respondent that he was married and should not be
15 asking her out. He replied that "there is nothing wrong with
16 that."

17 3. Part of S.L.'s duties were to escort patient to
18 the examination rooms. On or about and during November and
19 December, 1992, she often encountered respondent in the
20 hallway. Respondent often went to her work station and joked
21 around with her. He told her he liked to ride on his
22 motorcycle and he asked her on more than one occasion if she
23 would like to ride with him. Respondent told S.L. it would
24 be her choice if she wanted a smooth ride or a bumpy ride.

25 4. When respondent was on call on weekends he
26 would stay in Los Angeles instead of his home in Encinitas.
27 On or about and during November and December, 1992, respondent

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

3. Taking such other and further action as the Division
deems necessary and proper.

DATED: December 1, 1997



Ron Joseph
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California

Complainant