

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

In the Matter of the Accusation )  
Against: ) File No. 02-2006-179736  
)  
MANDEEP BEHNIWAL, M.D. )  
)  
)  
Physician's and Surgeon's )  
Certificate No. A 79753 )  
)  
)  
)  
Respondent. )

DECISION

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

This Decision shall become effective at 5:00 p.m. on December 30, 2010.

DATED November 30, 2010

MEDICAL BOARD OF CALIFORNIA



Shelton Duruisseau, Ph.D.  
Chair, Panel A

1 EDMUND G. BROWN JR.  
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2 GAIL M. HEPPELL  
Supervising Deputy Attorney General  
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6 *Attorneys for Complainant*

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

12 In the Matter of the First Accusation Against:

Case No. 02-2006-179736

13 **MANDEEP BEHNIWAL, M.D.**

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

14 **8490 WOOD THRUSH WAY**  
**GRANITE BAY, CA 95746**

15 **Physician and Surgeon's No. A 79753**

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 Edmund G. Brown Jr., Attorney General of the State of California, by Gail M. Heppell,  
24 Supervising Deputy Attorney General.

25 2. Respondent Mandeep Behniwal, M.D. (Respondent) is represented in this proceeding  
26 by attorney Robert J. Sullivan, whose address is Nossaman LLP, 1315 J Street, Suite 1000,  
27 Sacramento, California.

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1 CULPABILITY

2 8. Respondent admits the truth of the allegations in the Third Cause for Discipline in the  
3 First Amended Accusation No. 02-2006-179736. Respondent does not contest that, at an  
4 administrative hearing, Complainant could establish a prima facie case with respect to the charges  
5 contained in the First and Second Cause for Discipline in the First Amended Accusation and that  
6 he has thereby subjected his license to disciplinary action.

7 9. Respondent agrees that if he ever petitions for early termination or modification of  
8 probation, or if the Board petitions for revocation of probation, all of the charges and allegations  
9 contained in the First Amended Accusation No. 02-2006-179736 shall be deemed true, correct  
10 and fully admitted by Respondent for purposes of that proceeding or any other licensing matter  
11 involving Respondent in the State of California. Respondent agrees to be bound by the Medical  
12 Board of California (Board's) imposition of discipline as set forth in the Disciplinary Order  
13 below.

14 RESERVATION

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

19 CONTINGENCY

20 11. This stipulation shall be subject to approval by the Medical Board of California.  
21 Respondent understands and agrees that counsel for Complainant and the staff of the Medical  
22 Board of California may communicate directly with the Board regarding this stipulation and  
23 settlement, without notice to or participation by Respondent or his counsel. By signing the  
24 stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek  
25 to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails  
26 to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary  
27 Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal  
28

1 action between the parties, and the Board shall not be disqualified from further action by having  
2 considered this matter.

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

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

9 **DISCIPLINARY ORDER**

10 IT IS HEREBY ORDERED that Physician and Surgeon's Certificate No. A 79753 issued to  
11 Respondent Mandeep Behniwal, M.D. (Respondent) is revoked. However, the revocation is  
12 stayed and Respondent is placed on probation for seven (7) years on the following terms and  
13 conditions.

14 1. ETHICS COURSE Within 60 calendar days of the effective date of this Decision,  
15 Respondent shall enroll in a course in ethics, at Respondent's expense, approved in advance by  
16 the Board or its designee. Failure to successfully complete the course during the first year of  
17 probation is a violation of probation.

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

22 Respondent shall submit a certification of successful completion to the Board or its  
23 designee not later than 15 calendar days after successfully completing the course, or not later than  
24 15 calendar days after the effective date of the Decision, whichever is later.

25 2. PROFESSIONAL BOUNDARIES PROGRAM Within 60 calendar days from the  
26 effective date of this Decision, Respondent shall enroll in a professional boundaries program, at  
27 Respondent's expense, equivalent to the Professional Boundaries Program, Physician Assessment  
28 and Clinical Education Program at the University of California, San Diego School of Medicine

1 (“Program”). Respondent, at the Program’s discretion, shall undergo and complete the Program’s  
2 assessment of Respondent’s competency, mental health and/or neuropsychological performance,  
3 and at minimum, a 24 hour program of interactive education and training in the area of  
4 boundaries, which takes into account data obtained from the assessment and from the Decision(s),  
5 Accusation(s) and any other information that the Board or its designee deems relevant. The  
6 Program shall evaluate Respondent at the end of the training, and the Program shall provide any  
7 data from the assessment and training as well as the results of the evaluation to the Board or its  
8 designee.

9 Failure to complete the entire Program not later than six months after Respondent’s initial  
10 enrollment shall constitute a violation of probation unless the Board or its designee agrees in  
11 writing to a later time for completion. Based on Respondent’s performance in and evaluations  
12 from the assessment, education, and training, the Program shall advise the Board or its designee  
13 of its recommendation(s) for additional education, training, psychotherapy and other measures  
14 necessary to ensure that Respondent can practice medicine safely. Respondent shall comply with  
15 Program recommendations. At the completion of the Program, Respondent shall submit to a final  
16 evaluation. The Program shall provide the results of the evaluation to the Board or its designee.

17 The Program’s determination whether or not Respondent successfully completed the  
18 Program shall be binding.

19 If Respondent fails to complete the Program within the designated time period, Respondent  
20 shall cease the practice medicine within 72 hours after being notified by the Board or its designee  
21 that Respondent failed to complete the Program.

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

26 The Program shall consist of a Comprehensive Assessment program comprised of a two-  
27 day assessment of Respondent’s physical and mental health; basic clinical and communication  
28 skills common to all clinicians; and medical knowledge, skill and judgment pertaining to

1 Respondent's specialty or sub-specialty, and at minimum, a 40 hour program of clinical education  
2 in the area of practice in which Respondent was alleged to be deficient and which takes into  
3 account data obtained from the assessment, Decision(s), Accusation(s), and any other information  
4 that the Board or its designee deems relevant. Respondent shall pay all expenses associated with  
5 the clinical training program.

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

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

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

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

18 Respondent shall not practice medicine until Respondent has successfully completed the  
19 Program and has been so notified by the Board or its designee in writing, except that Respondent  
20 may practice in a clinical training program approved by the Board or its designee. Respondent's  
21 practice of medicine shall be restricted only to that which is required by the approved training  
22 program.

23 4. PSYCHIATRIC EVALUATION Within 30 calendar days of the effective date of  
24 this Decision, and on whatever periodic basis thereafter may be required by the Board or its  
25 designee, Respondent shall undergo and complete a psychiatric evaluation (and psychological  
26 testing, if deemed necessary) by a Board-appointed board certified psychiatrist, who shall  
27 consider any information provided by the Board or designee and any other information the  
28 psychiatrist deems relevant, and shall furnish a written evaluation report to the Board or its

1 designee. Psychiatric evaluations conducted prior to the effective date of the Decision shall not  
2 be accepted towards the fulfillment of this requirement. Respondent shall pay the cost of all  
3 psychiatric evaluations and psychological testing.

4 Respondent shall comply with all restrictions or conditions recommended by the evaluating  
5 psychiatrist within 15 calendar days after being notified by the Board or its designee. Failure to  
6 undergo and complete a psychiatric evaluation and psychological testing, or comply with the  
7 required additional conditions or restrictions, is a violation of probation.

8 Respondent shall not engage in the practice of medicine until notified by the Board or its  
9 designee that Respondent is mentally fit to practice medicine safely. The period of time that  
10 Respondent is not practicing medicine shall not be counted toward completion of the term of  
11 probation.

12 5. MONITORING – PRACTICE Within 30 calendar days of the effective date of  
13 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 physicians and surgeons  
15 whose licenses are valid and in good standing, and who are preferably American Board of  
16 Medical Specialties (ABMS) certified. A monitor shall have no prior or current business or  
17 personal relationship with Respondent, or other relationship that could reasonably be expected to  
18 compromise the ability of the monitor to render fair and unbiased reports to the Board, including,  
19 but not limited to, any form of bartering, shall be in Respondent's field of practice, and must  
20 agree to serve as Respondent's monitor. Respondent shall pay all monitoring costs.

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

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

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

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

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

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

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

1           4.    PROHIBITED PRACTICE During probation, Respondent is prohibited from  
2 treating female patients. After the effective date of this Decision, the first time that a patient  
3 seeking the prohibited services makes an appointment, Respondent shall orally notify the patient  
4 that Respondent does not treat female patients. Respondent shall maintain a log of all patients to  
5 whom the required oral notification was made. The log shall contain the: 1) patient's name,  
6 address and phone number; 2) patient's medical record number, if available; 3) the full name of  
7 the person making the notification; 4) the date the notification was made; and 5) a description of  
8 the notification given. Respondent shall keep this log in a separate file or ledger, in chronological  
9 order, shall make the log available for immediate inspection and copying on the premises at all  
10 times during business hours by the Board or its designee, and shall retain the log for the entire  
11 term of probation. Failure to maintain a log as defined in the section, or to make the log available  
12 for immediate inspection and copying on the premises during business hours is a violation of  
13 probation.

14           In addition to the required oral notification, after the effective date of this Decision, the first  
15 time that a patient who seeks the prohibited services presents to Respondent, Respondent shall  
16 provide a written notification to the patient stating that Respondent does not treat female patients.  
17 Respondent shall maintain a copy of the written notification in the patient's file, shall make the  
18 notification available for immediate inspection and copying on the premises at all times during  
19 business hours by the Board or its designee, and shall retain the notification for the entire term of  
20 probation. Failure to maintain the written notification as defined in the section, or to make the  
21 notification available for immediate inspection and copying on the premises during business  
22 hours is a violation of probation.

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

1 Respondent shall submit proof of compliance to the Board or its designee within 15 calendar  
2 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. Respondent shall submit quarterly declarations  
12 not later than 10 calendar days after the end of the preceding quarter.

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

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

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

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

27 11. RESIDING OR PRACTICING OUT-OF-STATE In the event Respondent should  
28 leave the State of California to reside or to practice, Respondent shall notify the Board or its

1 designee in writing 30 calendar days prior to the dates of departure and return. Non-practice is  
2 defined as any period of time exceeding 30 calendar days in which Respondent is not engaging in  
3 any activities defined in sections 2051 and 2052 of the Business and Professions Code.

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

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

19 12. FAILURE TO PRACTICE MEDICINE - CALIFORNIA RESIDENT

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

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

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

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

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

19 15. LICENSE SURRENDER Following the effective date of this Decision, if  
20 Respondent ceases practicing due to retirement, health reasons or is otherwise unable to satisfy  
21 the terms and conditions of probation, Respondent may request the voluntary surrender of  
22 Respondent's license. The Board reserves the right to evaluate Respondent's request and to  
23 exercise its discretion whether or not to grant the request, or to take any other action deemed  
24 appropriate and reasonable under the circumstances. Upon formal acceptance of the surrender,  
25 Respondent shall within 15 calendar days deliver Respondent's wallet and wall certificate to the  
26 Board or its designee and Respondent shall no longer practice medicine. Respondent will no  
27 longer be subject to the terms and conditions of probation and the surrender of Respondent's


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1 license shall be deemed disciplinary action. If Respondent re-applies for a medical license, the  
2 application shall be treated as a petition for reinstatement of a revoked certificate.


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

8 ACCEPTANCE

9 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully  
10 discussed it with my attorney, Robert J. Sullivan. I understand the stipulation and the effect it  
11 will have on my Physician and Surgeon's Certificate. I enter into this Stipulated Settlement and  
12 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the  
13 Decision and Order of the Medical Board of California.

14  
15 DATED: 6/17/10   
16 MANDEEP BEHNIWAL, M.D.  
17 Respondent

18 I concur with this stipulated settlement.

19  
20 DATED: 6/17/10   
21 Robert J. Sullivan / Timothy Aspinwall  
22 Attorney for Respondent

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25 ///

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**Exhibit A**

**Accusation No. 02-2006-179736**



1 EDMUND G. BROWN JR.  
2 Attorney General of California  
3 GAIL M. HEPPELL  
4 Supervising Deputy Attorney General  
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11 *Attorneys for Complainant*

12 **BEFORE THE**  
13 **MEDICAL BOARD OF CALIFORNIA**  
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15 **STATE OF CALIFORNIA**

16 In the Matter of the First Amended Accusation  
17 Against:

18 **MANDEEP BEHNIWAL, M.D.**  
19 **8490 WOOD THRUSH WAY**  
20 **GRANITE BAY, CA 95746**

21 **Physician and Surgeon's No. A 79753**

22 Respondent.

Case No. 02-2006-179736.

**FIRST AMENDED ACCUSATION**

23 Complainant alleges:

24 **PARTIES**

25 1. Linda K. Whitney (Complainant) brings this First Amended Accusation solely in her  
26 official capacity as the Executive Director of the Medical Board of California, Department of  
27 Consumer Affairs.

28 2. On or about July 10, 2002, Physician's and Surgeon's Certificate Number A 79753  
was issued by the Board to respondent Mandeep Behniwal, M.D. (respondent), and at all times  
relevant to this proceeding, said license has been in full force and effect and will expire unless  
renewed on October 31, 2007. On December 5, 2006, an administrative law judge issued an  
order suspending respondent Dr. Behniwal's Physician and Surgeon's Certificate. On December

1 18, 2006. Dr. Behniwal stipulated, and an administrative law judge ordered, that his Physician  
2 and Surgeon's Certificate be suspended until the final resolution of this accusation, or until such  
3 time as an administrative law judge orders otherwise.

#### 4 JURISDICTION

5 3. This First Amended Accusation is brought before the Division of Medical Quality  
6 (Division) for the Medical Board of California, Department of Consumer Affairs, under the  
7 authority of the following laws. All section references are to the Business and Professions Code  
8 unless otherwise indicated.

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

13 b. Section 2234(b) of the Code provides that gross negligence constitutes  
14 unprofessional conduct subject to discipline.

15 c. Section 726 of the Code provides that the commission of any act of sexual  
16 abuse, misconduct or relations with a patient constitutes unprofessional conduct subject to  
17 discipline.

18 d. Section 2236 of the code provides in part that conviction of any offense  
19 substantially related to the qualifications, functions, or duties of a physician constitutes  
20 unprofessional conduct.

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25  
26 <sup>1</sup> California Business and Professions Code section 2002, as amended and effective  
27 January 1, 2008, provides that, unless otherwise expressly provided, the term "[B]oard" as used in  
28 the Medical Practice Act refers to the Medical Board of California. References to the "Division  
of Medical Quality" and "Division of Licensing" set forth in the Medical Practice Act are also  
referable to the Medical Board of California.

1 **FIRST CAUSE OF DISCIPLINE**

2 (Sexual Misconduct)

3 [Business and Professions Code § 726]

4 4. Respondent is subject to disciplinary action under section 726 of the Code in that he  
5 engaged in sexual misconduct or relations with a patient. The circumstances are set forth below.

6 5. Respondent, a psychiatrist, had been providing patient J.T.<sup>2</sup> medication management  
7 for approximately one year. On the morning of October 30, 2006, respondent saw J.T. for a  
8 scheduled office visit. The appointment proceeded in a normal manner until the patient J.T.  
9 began to exit the examination room. Before exiting the door, J.T. gave respondent a side hug, as  
10 she often did, and thanked him for all of his help. However, before she could open the door to the  
11 examination room, respondent pulled her back to the side of the door away from the door's  
12 window, out of the view of anyone outside the examination room. Respondent proceeded to put  
13 his hand down J.T.'s blouse and under her bra. He then firmly gripped her breast. Respondent  
14 pulled J.T.'s breast out of her bra and blouse and sucked on it. J.T. observed that respondent's  
15 penis was out of his fly and exposed. Respondent put his hand down J.T.'s pants and inserted his  
16 finger into her vagina. He ejaculated on his hand and the hand of J.T. He told J.T. that she was  
17 beautiful and that he was attracted to her.

18 6. On the evening of October 30, 2006, J.T. reported the above-referenced incident to  
19 law enforcement. The responding officer took J.T. to U.C. Davis Medical center for an  
20 evidentiary examination where a preliminary finding showed a positive wood lamp test for DNA  
21 fluid on her ring finger.

22 7. Respondent's conduct as set forth above is sexual misconduct within the meaning of  
23 Section 726 of the Code and constitutes unprofessional conduct subject to discipline.

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<sup>2</sup> The patient's name is abbreviated herein to protect patient confidentiality. The patient's  
28 full name and relevant records will be provided upon receipt of a properly executed and served  
Request for Discovery.

1 **SECOND CAUSE OF DISCIPLINE**

2 (Gross Negligence)  
3 [Business and Professions Code § 2234(b)]

4 8. The facts alleged in paragraphs 5 and 6, above, are realleged and incorporated by  
5 reference as if fully set forth here.

6 9. Respondent is subject to discipline within the meaning of section 2234(b) of the  
7 Code, in that respondent's conduct as set forth in paragraphs 5 and 6, relative to patient J.T.,  
8 constitutes gross negligence.

9 **THIRD CAUSE OF DISCIPLINE**

10 (Conviction of a Crime)  
11 [Business and Professions Code § 2236]

12 10. Respondent is subject to discipline within the meaning of section 2236 of the Code in  
13 that he was convicted of a crime substantially related to qualifications, functions or duties of a  
14 physician on March 24, 2010. The facts and circumstances are as follows:

15 a. On May 16, 2008, Case No. 06F 10148, "The People of the State of California,  
16 vs. Mandeep J. Behniwal, Defendant" was filed in the Superior Court of California, County  
17 of Sacramento. Respondent was charged with two felony counts of violating Penal Code  
18 section 243.4(a), unlawfully touching the intimate parts of Jane Doe; one count of violating  
19 Penal Code section 289(a)(1), penetration of the genital opening of Jane Doe; and one  
20 misdemeanor count of violating Code section 729, sexual misconduct with patient Jane  
21 Doe.

22 b. On March 24, 2010, respondent pled nolo contendere to Count 4 of the  
23 Complaint which had been amended to a violation of Penal Code section 240, assault, a  
24 misdemeanor. Respondent was sentenced to 3 years informal probation with terms and  
25 conditions.

26 **PRAYER**

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

1. Revoking or suspending Physician and Surgeon's Certificate No. A79753 heretofore  
issued to Mandeep Behniwal, M.D.;

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- 2. Revoking, suspending or denying approval of Respondent's authority to supervise physician assistants pursuant to section 3527 of the Code;
  - 3. Ordering respondent to pay the costs of probation monitoring if probation is imposed;
- and
- 4. Take such other and further action as the Division may deem necessary and proper.

DATED: June 10, 2010

Linda M. Hagedorn  
LINDA K. WHIPNEY  
Executive Director  
Medical Board of California  
Department of Consumer Affairs  
State of California

*Complainant*

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