

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

In the Matter of the Accusation Against:)

LEANDRO GULAPA GATUS, M.D.)

Case No. 05-2011-216703

**Physician's and Surgeon's)
Certificate No. A 45231)**

Respondent)

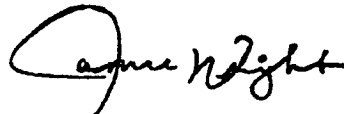
DECISION AND ORDER

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 29, 2015.

IT IS SO ORDERED: September 29, 2015.

MEDICAL BOARD OF CALIFORNIA



**Jamie Wright, J.D., Chair
Panel A**

1 KAMALA D. HARRIS
Attorney General of California
2 JUDITH T. ALVARADO
Supervising Deputy Attorney General
3 RICHARD D. MARINO
Deputy Attorney General
4 State Bar No. 90471
California Department of Justice
5 300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
6 Telephone: (213) 897-8644
Facsimile: (213) 897-9395
7

8 *Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:

Case No. 05-2011-216703

12 **LEANDRO GULAPA GATUS, M.D.**
13 **4731 Conchita Way**
Tarzana, CA 91356

OAH No. 2014010827

14 **Physician's and Surgeon's Certificate No. A**
15 **45231**

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

16 Respondent.

17 In the interest of a prompt and speedy settlement of this matter, consistent with the public
18 interest and the responsibility of the Medical Board of California of the Department of Consumer
19 Affairs, the parties hereby agree to the following Stipulated Settlement and Disciplinary Order
20 which will be submitted to the Board for approval and adoption as the final disposition of the
21 Accusation.

22 **PARTIES**

23 1. Kimberly Kirchmeyer ("Complainant") is the Executive Director of the Medical
24 Board of California. She brought this action solely in her official capacity and is represented in
25 this matter by Kamala D. Harris, Attorney General of the State of California, by Richard D.
26 Marino, Deputy Attorney General.

27
28 //

2. Respondent LEANDRO GULAPA GATUS, M.D. ("Respondent") is represented in this proceeding by attorney Henry Lewin, Esq., whose address is: 11377 West Olympic Blvd., 5th Floor, Los Angeles, CA 90064-1683.

3. On or about August 22, 1988, the Medical Board of California issued Physician's and Surgeon's Certificate No. A 45231 to LEANDRO GULAPA GATUS, 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 Accusation No. 05-2011-216703 and will expire on February 29, 2016, unless renewed.

JURISDICTION

4. Accusation No. 05-2011-216703 was filed before the Medical Board of California (Board) , Department of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on October 15, 2013. Respondent timely filed his Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 05-2011-216703 is attached as Exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 05-2011-216703. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

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

//

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

3 **CULPABILITY**

4 9. Respondent admits that, if the matter proceeded to hearing, Complainant would be
5 able to present a *prima facie* case for each and every charge and allegation in Accusation No. 05-
6 2011-216703.

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

10 **RESERVATION**

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

15 **CONTINGENCY**

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

26 13. The parties understand and agree that Portable Document Format (PDF) and facsimile
27 copies of this Stipulated Settlement and Disciplinary Order, including Portable Document Format
28 (PDF) and facsimile signatures thereto, shall have the same force and effect as the originals.

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

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 45231 issued to Respondent LEANDRO GULAPA GATUS, M.D. (Respondent) is revoked. However, the revocation is stayed and Respondent is placed on probation for five (5) years on the following terms and conditions.

1. CONTROLLED SUBSTANCES - TOTAL RESTRICTION. Respondent shall not order, prescribe, dispense, administer, furnish, or possess any controlled substances as defined in the California Uniform Controlled Substances Act.

Respondent shall not issue an oral or written recommendation or approval to a patient or a patient's primary caregiver for the possession or cultivation of marijuana for the personal medical purposes of the patient within the meaning of Health and Safety Code section 11362.5.

If Respondent forms the medical opinion, after an appropriate prior examination and a medical indication, that a patient's medical condition may benefit from the use of marijuana, Respondent shall so inform the patient and shall refer the patient to another physician who, following an appropriate prior examination and a medical indication, may independently issue a medically appropriate recommendation or approval for the possession or cultivation of marijuana for the personal medical purposes of the patient within the meaning of Health and Safety Code section 11362.5. In addition, Respondent shall inform the patient or the patient's primary caregiver that Respondent is prohibited from issuing a recommendation or approval for the possession or cultivation of marijuana for the personal medical purposes of the patient and that the patient or the patient's primary caregiver may not rely on Respondent's statements to legally possess or cultivate marijuana for the personal medical purposes of the patient. Respondent shall fully document in the patient's chart that the patient or the patient's primary caregiver was so informed. Nothing in this condition prohibits Respondent from providing the patient or the patient's primary caregiver information about the possible medical benefits resulting from the use

1 of marijuana.

2 2. CONTROLLED SUBSTANCES - SURRENDER OF DEA PERMIT. Respondent is
3 prohibited from practicing medicine until Respondent provides documentary proof to the Board
4 or its designee that Respondent's DEA permit has been surrendered to the Drug Enforcement
5 Administration for cancellation, together with any state prescription forms and all controlled
6 substances order forms. Thereafter, Respondent shall not reapply for a new DEA permit without
7 the prior written consent of the Board or its designee.

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

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

24 Respondent shall submit a certification of successful completion to the Board or its
25 designee not later than 15 calendar days after successfully completing the course, or not later than
26 15 calendar days after the effective date of the Decision, whichever is later.

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

1 the Medical Record Keeping Course offered by the Physician Assessment and Clinical Education
2 Program, University of California, San Diego School of Medicine (Program), approved in
3 advance by the Board or its designee. Respondent shall provide the program with any information
4 and documents that the Program may deem pertinent. Respondent shall participate in and
5 successfully complete the classroom component of the course not later than six (6) months after
6 Respondent's initial enrollment. Respondent shall successfully complete any other component of
7 the course within one (1) year of enrollment. The medical record keeping course shall be at
8 Respondent's expense and shall be in addition to the Continuing Medical Education (CME)
9 requirements for renewal of licensure.

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

15 Respondent shall submit a certification of successful completion to the Board or its
16 designee not later than 15 calendar days after successfully completing the course, or not later than
17 15 calendar days after the effective date of the Decision, whichever is later.

18 5. PROFESSIONALISM PROGRAM (ETHICS COURSE). Within 60 calendar days of
19 the effective date of this Decision, Respondent shall enroll in a professionalism program, that
20 meets the requirements of Title 16, California Code of Regulations (CCR) section 1358.

21 Respondent shall participate in and successfully complete that program. Respondent shall
22 provide any information and documents that the program may deem pertinent. Respondent shall
23 successfully complete the classroom component of the program not later than six (6) months after
24 Respondent's initial enrollment, and the longitudinal component of the program not later than the
25 time specified by the program, but no later than one (1) year after attending the classroom
26 component. The professionalism program shall be at Respondent's expense and shall be in
27 addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

28 A professionalism program taken after the acts that gave rise to the charges in the

1 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board
2 or its designee, be accepted towards the fulfillment of this condition if the program would have
3 been approved by the Board or its designee had the program been taken after the effective date of
4 this Decision.

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

8 6. SOLO PRACTICE PROHIBITION. Respondent is prohibited from engaging in the
9 solo practice of medicine. Prohibited solo practice includes, but is not limited to, a practice
10 where: 1) Respondent merely shares office space with another physician but is not affiliated for
11 purposes of providing patient care, or 2) Respondent is the sole physician practitioner at that
12 location.

13 If Respondent fails to establish a practice with another physician or secure employment in
14 an appropriate practice setting within 60 calendar days of the effective date of this Decision,
15 Respondent shall receive a notification from the Board or its designee to cease the practice of
16 medicine within three (3) calendar days after being so notified. The Respondent shall not resume
17 practice until an appropriate practice setting is established.

18 If, during the course of the probation, the Respondent's practice setting changes and the
19 Respondent is no longer practicing in a setting in compliance with this Decision, the Respondent
20 shall notify the Board or its designee within 5 calendar days of the practice setting change. If
21 Respondent fails to establish a practice with another physician or secure employment in an
22 appropriate practice setting within 60 calendar days of the practice setting change, Respondent
23 shall receive a notification from the Board or its designee to cease the practice of medicine within
24 three (3) calendar days after being so notified. The Respondent shall not resume practice until an
25 appropriate practice setting is established.

26 7. NOTIFICATION. Within seven (7) days of the effective date of this Decision, the
27 Respondent shall provide a true copy of this Decision and Accusation to the Chief of Staff or the
28 Chief Executive Officer at every hospital where privileges or membership are extended to

Respondent, at any other facility where Respondent engages in the practice of medicine, including all physician and locum tenens registries or other similar agencies, and to the Chief Executive Officer at every insurance carrier which extends malpractice insurance coverage to Respondent. Respondent shall submit proof of compliance to the Board or its designee within 15 calendar days.

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

8. SUPERVISION OF PHYSICIAN ASSISTANTS. During probation, Respondent is prohibited from supervising physician assistants.

9. 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.

10. QUARTERLY DECLARATIONS. Respondent shall submit quarterly declarations under penalty of perjury on forms provided by the Board, 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.

11. GENERAL PROBATION REQUIREMENTS.

Compliance with Probation Unit

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

Address Changes

Respondent shall, at all times, keep the Board informed of Respondent's business and residence addresses, email address (if available), and telephone number. Changes of such addresses shall be immediately communicated in writing to the Board 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(b).

Place of Practice

Respondent shall not engage in the practice of medicine in Respondent's or patient's place

1 of residence, unless the patient resides in a skilled nursing facility or other similar licensed
2 facility.

3 License Renewal

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

6 Travel or Residence Outside California

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

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

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

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

27 In the event Respondent's period of non-practice while on probation exceeds 18 calendar
28 months, Respondent shall successfully complete a clinical training program that meets the criteria

1 of Condition 18 of the current version of the Board's "Manual of Model Disciplinary Orders and
2 Disciplinary Guidelines" prior to resuming the practice of medicine.

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

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

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

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

12 15. 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, or 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 16. LICENSE SURRENDER. Following the effective date of this Decision, if
20 Respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy
21 the terms and conditions of probation, Respondent may request to surrender his or her license.
22 The Board reserves the right to evaluate Respondent's request and to exercise its discretion in
23 determining whether or not to grant the request, or to take any other action deemed appropriate
24 and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent
25 shall within 15 calendar days deliver Respondent's wallet and wall certificate to the Board or its
26 designee and Respondent shall no longer practice medicine. Respondent will no longer be subject
27 to the terms and conditions of probation. If Respondent re-applies for a medical license, the
28 application shall be treated as a petition for reinstatement of a revoked certificate.

17. PROBATION MONITORING COSTS. Respondent shall pay the costs associated with probation monitoring each and every year of probation, as designated by the Board, which may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of California and delivered to the Board or its designee no later than January 31 of each calendar years.

ACCEPTANCE

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

DATED:

LEANDRO GULAPA GATÚS, M.D.
Respondent

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

DATA

HENRY LEWIN, Esq.
Attorney for Respondent

ENDORSEMENT

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

Dated:

August 28, 2015

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
JUDITH T. ALVARADO
Supervising Deputy Attorney General



RICHARD D. MARINO
Deputy Attorney General

Attorneys for Complainant

Exhibit A

Accusation No. 05-2011-216703

1 KAMALA D. HARRIS
Attorney General of California
2 E. A. JONES III
Supervising Deputy Attorney General
3 RICHARD D. MARINO
Deputy Attorney General
4 California Department of Justice
State Bar No. 90471
5 300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
6 Telephone: (213) 897-8644
Facsimile: (213) 897-9395
7 E-mail: Richard.Marino@doj.ca.gov

8 *Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:

Case No. 05-2011-216703

12 **LEANDRO GULAPA GATUS, M.D.**
13 **4731 Conchita Way**
14 **Tarzana, CA 91356**

A C C U S A T I O N

15 **Physician's and Surgeon's Certificate No. A
45231**

16 Respondent.

17
18
19 Complainant alleges:

20 **PARTIES**

21 1. Kimberly Kirchmeyer (Complainant) brings this Accusation solely in her official
22 capacity as the Interim Executive Director of the Medical Board of California, Department of
23 Consumer Affairs.

24 2. On or about August 22, 1988, the Medical Board of California issued Physician's and
25 Surgeon's Certificate Number A 45231 to LEANDRO GULAPA GATUS, M.D. (Respondent).
26 The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the
27 charges brought herein and will expire on February 28, 2014, unless renewed.

28 //

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO October 15, 2012.
BY [Signature] ANALYST

JURISDICTION

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

4. Section 2220 of the Code empowers Board with the responsibility of enforcing the provisions of the Medical Practice Act as to holders of physician's and surgeon's certificates.

5. Section 2227 of the Code provides:

"(a) A licensee whose matter has been heard by an administrative law judge of the Medical Quality Hearing Panel as designated in Section 11371 of the Government Code, or whose default has been entered, and who is found guilty, or who has entered into a stipulation for disciplinary action with the board, may, in accordance with the provisions of this chapter:

"(1) Have his or her license revoked upon order of the board.

"(2) Have his or her right to practice suspended for a pursuant not to exceed one year upon order of the board.

"(3) Be placed on probation and be required to pay the costs of probation monitoring upon order of the board.

"(4) Be publicly reprimanded by the board. The public reprimand may include a requirement that the licensee complete relevant educational courses approved by the board.

"(5) Have any other action taken in relation to discipline as part of an order of probation, as the board or an administrative law judge may deem appropriate.

"(b) Any matter heard pursuant to subdivision (a), except for warning letters, medical review or advisory conferences, professional competency examinations, continuing education activities, and cost reimbursement associated therewith that are agreed to with the board and successfully completed by the licensee, or other matters made confidential or privileged by existing law, is deemed public, and shall be made available to the public by the board pursuant to Section 803.1."

//

1 6. Section 2234 of the Code provides:

2 "The board shall take action against any licensee who is charged with unprofessional
3 conduct. In addition to other provisions of this article, unprofessional conduct includes, but
4 is not limited to, the following:

5 "(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting
6 the violation of, or conspiring to violate any provision of this chapter.

7 "(b) Gross negligence.

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

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

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

18 "(d) Incompetence.

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

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

22 "(g) The practice of medicine from this state into another state or country without
23 meeting the legal requirements of that state or country for the practice of medicine. Section
24 2314 shall not apply to this subdivision. This subdivision shall become operative upon the
25 implementation of the proposed registration program described in Section 2052.5.

26 "(h) The repeated failure by a certificate holder, in the absence of good cause, to
27 attend and participate in an interview scheduled by the mutual agreement of the certificate
28 holder and the board. This subdivision shall only apply to a certificate holder who is the

1 subject of an investigation by the board."

2 7. Section 2238 of the Code provides:

3 AA violation of any federal statute or federal regulation or any of the statutes or
4 regulations of this state regulating dangerous drugs or controlled substances constitutes
5 unprofessional conduct.@

6 8. Section 2241 of the Code, in pertinent part, provides:

7 "(a) . . .

8 "(b) A physician and surgeon may prescribe, dispense, or administer prescription
9 drugs or prescription controlled substances to an addict for purposes of maintenance on, or
10 detoxification from, prescription drugs or controlled substances only as set forth in
11 subdivision (c) or in Sections 11215, 11217, 11217.5, 11218, 11219, and 11220 of the
12 Health and Safety Code. Nothing in this subdivision shall authorize a physician and
13 surgeon to prescribe, dispense, or administer dangerous drugs or controlled substances to a
14 person he or she knows or reasonably believes is using or will use the drugs or substances
15 for a nonmedical purpose.

16 "(c)"

17 9. Section 2242 of the Code, in pertinent part, provides:

18 "(a) Prescribing, dispensing, or furnishing dangerous drugs as defined in Section 4022
19 without an appropriate prior examination and a medical indication, constitutes
20 unprofessional conduct.

21 ". . . ."

22 10. Section 2266 of the Code provides:

23 AThe failure of a physician and surgeon to maintain adequate and accurate records
24 relating to the provision of services to their patients constitutes unprofessional conduct.@

25 11. Section 725 of the Code provides:

26 "Repeated acts of clearly excessive prescribing, furnishing, dispensing, or
27 administering of drugs or treatment, repeated acts of clearly excessive use of diagnostic
28 procedures, or repeated acts of clearly excessive use of diagnostic or treatment facilities as

1 determined by the standard of the community of licensees is unprofessional conduct for a
2 physician and surgeon, dentist, podiatrist, psychologist, physical therapist, chiropractor,
3 optometrist, speech-language pathologist, or audiologist.

4 “(b) Any person who engages in repeated acts of clearly excessive prescribing or
5 administering of drugs or treatment is guilty of a misdemeanor and shall be punished by a
6 fine of not less than one hundred dollars (\$100) nor more than six hundred dollars (\$600),
7 or by imprisonment for a term of not less than 60 days nor more than 180 days, or by both
8 that fine and imprisonment.

9 “(c) A practitioner who has a medical basis for prescribing, furnishing, dispensing, or
10 administering dangerous drugs or prescription controlled substances shall not be subject to
11 disciplinary action or prosecution under this section.

12 “(d) No physician and surgeon shall be subject to disciplinary action pursuant to this
13 section for treating intractable pain in compliance with Section 2241.5.”

14 12. Health and Safety Code section 11152 provides:

15 “No person shall write, issue, fill, compound, or dispense a prescription that does not
16 conform to this division.”

17 13. Health and Safety Code section 11153, in relevant part, provides:

18 “(a) A prescription for a controlled substance shall only be issued for a legitimate
19 medical purpose by an individual practitioner acting in the usual course of his or her
20 professional practice. The responsibility for the proper prescribing and dispensing of
21 controlled substances is upon the prescribing practitioner, but a corresponding
22 responsibility rests with the pharmacist who fills the prescription. Except as authorized by
23 this division, the following are not legal prescriptions: (1) an order purporting to be a
24 prescription which is issued not in the usual course of professional treatment or in
25 legitimate and authorized research; or (2) an order for an addict or habitual user of
26 controlled substances, which is issued not in the course of professional treatment or as part
27 of an authorized narcotic treatment program, for the purpose of providing the user with
28 controlled substances, sufficient to keep him or her comfortable by maintaining customary

1 use.

2 “...”

3 14. Health and Safety Code section 11155 provides:

4 “Any physician, who by court order or order of any state or governmental agency, or
5 who voluntarily surrenders his controlled substance privileges, shall not possess,
6 administer, dispense, or prescribe a controlled substance unless and until such privileges
7 have been restored, and he has obtained current registration from the appropriate federal
8 agency as provided by law.”

9 **CONTROLLED SUBSTANCES AND OTHER DANGEROUS DRUGS**

10 15. **Norco** (Hydrocodone Bitartrate and Acetaminophen): A Schedule III controlled
11 substance pursuant to Health and Safety Code section 11056 and a dangerous drug pursuant
12 Business and Professions Code section 4022 primarily used to treat and manage pain.

13 16. **Xanax (Alprazolam)**: A Schedule IV controlled substance pursuant to Health and
14 Safety Code section 11057 and a dangerous drug pursuant to Business and Professions Code
15 section 4022 primarily used to treat and manage anxiety.

16 17. **Oxycontin (Oxycodone Hydrochloride)**: A Schedule II controlled substance
17 pursuant to Health and Safety Code section 11055, subdivision (b)(1)(M), and a dangerous drug
18 pursuant to Business and Professions Code section 4022 primarily used to treat and manage pain.

19 18. **Methadone HCL**: A Schedule III controlled substance pursuant to Health and Safety
20 Code section 11056 and a dangerous drug pursuant Business and Professions Code section 4022
21 primarily used to treat opiate addiction.

22 19. **Suboxone**: A Schedule III controlled substance pursuant to Health and Safety Code
23 section 11055 and a dangerous drug pursuant Business and Professions Code section 4022
24 primarily used to treat opiate addiction.

25 20. **Soma (Carisoprodol)**: A Schedule III controlled substance pursuant to Health and
26 Safety Code section 11056 and a dangerous drug pursuant Business and Professions Code section
27 4022 primarily used to treat pain and manage pain.

28 21. **Klonopin (Clonazepam)**: A Schedule IV controlled substance pursuant to Health and

1 Safety Code section 11057 and a dangerous drug pursuant to Business and Professions Code
2 section 4022 primarily used to treat and manage anxiety.

3 22. **Seroquel**: A dangerous drug pursuant to Business and Professions Code section 4022
4 primarily used to treat bipolar disorder.

5 23. **Celexa (citalopram hydrobromide)**: A dangerous drug pursuant to Business and
6 Professions Code section 4022 primarily used to treat depression.

7 24. **Roxicodone (Oxycodone Hydrochloride)**: A Schedule II controlled substance
8 pursuant to Health and Safety Code section 11055 and a dangerous drug pursuant to Business and
9 Professions Code section 4022 primarily used to treat and manage pain.

10 **PRIOR DISCIPLINARY HISTORY**

11 25. Effective August 11, 2000, *In the Matter of the Accusation Against Leandro Gatus,*
12 *M.D.*, MBC Case No. 05-1997-81247, the Medical Board of California, pursuant to a Stipulated
13 Settlement and Disciplinary Order, issued its Decision and Order, a copy of which is hereto
14 attached as Exhibit A, revoking Respondent's Physician's and Surgeon's Certificate No. A45231.
15 The Board then stayed the revocation and placed Respondent on probation, with terms and
16 conditions, for two years. Respondent successfully completed probation and his Physician and
17 Surgeon's Certificate No. 05-1997-81247, was fully restored as of August 11, 2002.

18 **FIRST CAUSE FOR DISCIPLINE**

19 **(Prescribing Without Performing Appropriate Prior Examination)**

20 26. Respondent is subject to disciplinary action under Business and Professions Code
21 section 2242 for prescribing controlled substances and other dangerous drugs without performing
22 a physical examination and/or without medical indication, as follows:

23 **Patient M.Z.¹**

24 A. On or about July 4, 2011, M.Z., who was 46 years old, died at his home
25 from an overdose of prescription pain medication.

26 ¹ In order to protect the individuals' rights of privacy, all persons referenced in this
27 pleading other than Respondent are identified by initials only. The true names of these
28 individuals are known to Respondent and will be provided to him upon his timely request for
discovery.

1 B. M.Z. was a known opiate addict and prescription drug abuser. Between
2 2009 and 2011, M.Z. received prescriptions for treatment of opiate addiction, pain, and
3 anxiety from Respondent and two other California licensed physicians and surgeons, J.W.
4 and W.J.

5 C. On June 30, 2011, four days prior to his death, M.Z. received from
6 Respondent the following pain treatment prescription: Soma (carisprodol), 30 tablets, 350
7 milligrams (mg); and, the following anti-anxiety medication: Klonopin (clonazepam) 90
8 tablets, 1 mg. Also, on June, 30, 2011, M.Z. received the following anti-anxiety medication
9 from J.W.: Klonopin (clonazepam), 60 tablets, 1 mg. On June 23, 11 days prior to his
10 death, M.Z., received from W.J. the following opiate addiction prescription: Suboxone, 8
11 tablets, 2 mg.

12 D. On or about and between January 2009 and June 2011, a period of 30
13 months, M.Z. received 45 prescriptions for clonazepam.

14 E. On or about and between January 2009 and June 2011, a period of 30
15 months, M.Z. received 30 prescriptions for hydrocoone.

16 F. On or about and between January 2009 and June 2011, a period of 30
17 months, M.Z. received 24 prescriptions for methadone HCL, a controlled substance used to
18 treat opiate addiction.

19 G. On or about and between January 2009 and June 2011, a period of 30
20 months, M.Z. received 7 prescriptions for alprazolam, an anti-anxiety medication.

21 H. On or about and between January 2009 and June 2011, a period of 30
22 months, M.Z. received 20 prescriptions for suboxone, a controlled substance used to treat
23 opiate addition.

24 I. On or about and between January 2009 and June 2011, Respondent failed
25 to perform or, in the alternative, failed to document that he performed regular physical
26 examinations prior to prescribing controlled substances and other dangerous drugs, as
27 hereinabove described in paragraph 25, subparagraphs A through H, above. As a
28 consequence, prescriptions written by Respondent for Patient M.Z. between January 2009

1 and June 2011 were without substantiated medical indication.

2 **Patient J.G.**

3 J. J.G., addicted to prescription medications for a number of years,
4 presented to Respondent for the purpose of obtaining prescription pain medication.² On
5 May 13, 2009, she presented with “chronic knee pain/detached quad muscle, chronic back
6 pain.” At that time, J.G. was taking roxicodone and oxycodone. Respondent continued the
7 same prescriptions for J.G. but did not contact J.G.’s prior treating physician(s).

8 K. On or about August 25, 2009, Respondent began prescribing Soma to J.G.
9 However, Respondent did not advise J.G. of the risks associated with taking Soma or, in the
10 alternative, did not record that he did so in the patient’s records.

11 L. In September 2009, Respondent was notified that J.G. was having
12 multiple pain medication prescriptions from Respondent and “at least [two] other
13 physicians . . . in at least [three] different pharmacies in a 3-month period.”³

14 M. Respondent next saw J.G. on October 27, 2009, at which time he
15 prescribed roxicodone, 10 mg, 90 tablets, and Soma, 350 mg, 30 tablets. A CURES report
16 showed that J.G. obtained prescription medications, including Roxicodone, from another
17 provider at or about the same time.

18 N. J.G. next saw Respondent on July 8, 15, 20; August 3 and 19; and,
19 September 9, 2010. During those visits, Respondent prescribed Roxicodone, 10 mg, 15
20 tablets; Norco, 350 mg., 30 tablets; Soma, 350 mg, 30 tablets; Roxicodone, 15 mg, 15
21 tablets; Roxicodone, 30 mg, 60 tablets; Norco, 350 mg, 30 tablets; Xanax, 1 mg, 15 tablets;
22 soma, 325 mg, 30 tablets; Xanax, 1 mg, 15 tablets; Soma, 325 mg, 30 tablets; and, Xanax 2
23 mg, 30 tablets. Respondent’s records for these six (6) office visits did not contain any
24 information with regard, among other things, to the frequency of the prescriptions, the
25 changes in dosage, and whether J.G. was counseled regarding the effects of taking these

26 ² Respondent first saw J.G, a gymnast, during 2003, when she underwent dual knee
27 surgery.³ According to Respondent’s medical records, he advised J.G. that she would be
28 terminated if she continued “doctor shopping.”

1 medications in concert.

2 O. Respondent next saw J.G. on October 19, 2010, at which time
3 Respondent again wrote prescriptions for Norco, 325 mg, 30 tablets; Xanax, 2 mg, 30
4 tablets; and, Soma, 325 mg, 30 tablets. Respondent's medical records for this visit did not
5 show that Respondent conducted a physical examination. However, during an interview
6 with representatives from the Medical Board of California, conducted about one year later,
7 Respondent stated that he performed a physical examination on October 19, 2010.

8 P. Respondent continued to see J.G. from October 2010 until February 2012
9 during which time he continued to write prescriptions for Soma, Norco, and Xanax.

10 Q. Between October 2011 and February 2012, J.G. continued to obtain pain
11 medication from other medical providers as evidenced by CURES reports for that period of
12 time.

13 R. On February 28, 2012, J.G. was found dead from a drug overdose at her
14 apartment. The autopsy report, in part, read:

15 "Toxicological testing detected a toxic level of hydrocodone, therapeutic levels
16 of alprazolam and acetaminophen, and low to trace levels of doxylamine,
17 carisoprodol, meprobamate . . . , dihydrocodeine . . . , and naproxen. . . [C]ause of
18 death is mixed medication (hydrocodone, alprazolam, doxylamine, and carisoprodol)
19 intoxication, and the manner of death is accident."

20 S. On or about and between May 2009 and February 2012, Respondent
21 failed to perform or, in the alternative, failed to document that he performed regular
22 physical examinations prior to prescribing controlled substances and other dangerous drugs,
23 as hereinabove described in paragraph 25, subparagraphs J through R, above. As a
24 consequence, prescriptions written by Respondent for Patient J.G. between May 2009 and
25 February 2012 were without substantiated medical indication.

26 **Patient J.C.**

27 T. On July 6, 2010, J.C., then 64 years old, presented to Respondent for
28 "pain back hip knee." At the initial visit, J.C. completed an intake questionnaire in which

1 he wrote that he took Oxycodone, Xanax and Soma.

2 U. At the time, J.C. was under the care of a number of physicians and
3 surgeons for a variety of medical issues. According to Respondent's medical records, J.C.
4 had been taking pain medications for 15 years.

5 V. During that first visit, Respondent prescribed Oxycontin, 80 mg, 60
6 tablets; Soma, 350 mg, 60 tablets; and, Xanax, 2 mg, 30 tablets. Respondent did not review
7 J.C.'s medical records from other providers and did not review J.C.'s prescription history
8 prior to writing the Oxycontin, Soma and Xanax prescriptions or, in the alternative, did not
9 record that he had done so in the patient's medical records.

10 W. On July 29, 2010, J.C. had a prescription for hydrocodone, 80 mg, 60
11 tablets, written by a dentist filled.

12 X. Respondent next saw J.C. on September 9, 2010, at which time he again
13 prescribed Xanax, 2 mg, 30 tablets and Oxycontin, 80 mg, 60 tablets. Respondent's
14 progress note was brief and did not explain where J.C. obtained prescription medications, if
15 any, during three months since last visiting Respondent.

16 Y. Respondent next saw J.C. on October 18, 2010, at which time Respondent
17 prescribed Roxicodone, 30 mg, 90 tablets; Xanax, 2 mg, 30 tablets; and, Soma, 350 mg, 60
18 tablets. Respondent referred J.C. to an internist based on the patient's elevated vital signs.

19 Z. A CURES report showed that J.C. filled prescriptions for Xanax and
20 Hydrocodone, written by another physician and surgeon, two days later.

21 AA. Respondent continued to see J.C. on a monthly basis over the next 25
22 months. On each occasion, Respondent renewed the prescriptions he had been writing for
23 J.C.⁴ Although Respondent conducted a physical examination at J.C.'s initial visit,
24 Respondent did not reexamine or record that he had reexamined the patient during the
25 ensuing two years of treatment.

26
27
28 ⁴ At some point, Respondent started prescribing Ambien in lieu of Xanax.

1 **SECOND CAUSE FOR DISCIPLINE**

2 **(Prescribing To Known Addicts)**

3 27. Respondent is subject to disciplinary action Business and Professions Code section
4 2241, in that Respondent prescribed controlled substances and other dangerous drugs to persons
5 he knew or should have known were drug addicts, as follows:

6 A. Complainant refers to and, by this reference incorporates paragraph 25, above,
7 as though fully set forth.

8 **THIRD CAUSE FOR DISCIPLINE**

9 **(Excessive Prescribing)**

10 28. Respondent is subject to disciplinary action pursuant to Business and Professions
11 Code section 725 for excessively prescribing controlled substances and other dangerous drugs to
12 patients, as follows:

13 A. Complainant refers to and, by this reference incorporates paragraph 25, above,
14 as though fully set forth.

15 **FOURTH CAUSE FOR DISCIPLINE**

16 **(Violation of Drug Laws)**

17 29. Respondent is subject to disciplinary action pursuant to Business and Professions
18 Code section 2238, in connection with Business and Professions Code sections 725, 2241 and
19 2242 and Health and Safety Code sections 11152, 11153 and 11155, as follows:

20 A. Complainant refers to and, by this reference incorporates paragraph 25, above,
21 as though fully set forth.

22 **FIFTH CAUSE FOR DISCIPLINE**

23 **(Gross Negligence)**

24 30. Respondent is subject to disciplinary action Business and Professions Code section
25 2234, subdivision (b), in that Respondent was grossly negligent during his care, treatment and
26 management of patients M.Z., J.G., and J.C., as follows:

27 A. Complainant refers to and, by this reference incorporates paragraph 25, above,
28 as though fully set forth.

1 B. The following acts and omissions, considered individually and collectively,
2 constitute extreme departures from the applicable standard of care as to all patients..

3 1) Respondent did not take a complete medical history of the patients
4 for whom he prescribed controlled substances and other dangerous drugs.

5 2) Respondent did not perform a complete physical examination on
6 the patients for whom he prescribed controlled substances and other dangerous drugs
7 or, in the alternative, continued to prescribed pain medications to patients for years
8 without ever conducting a follow-up physical examination.

9 3) Respondent did not devise a treatment plan for the patients for
10 whom he prescribed controlled substances and other dangerous drugs.

11 4) Respondent did not discuss the risks and benefits of controlled
12 substances and other dangerous drugs with patients before prescribing same.

13 5) Respondent did not review the treatment, if any, rendered by others
14 to the patients for whom he prescribed controlled substances and other dangerous
15 drugs.

16 6) Respondent did not consider referring patients for whom he
17 prescribed controlled substances and other dangerous drugs to specialists in pain
18 management.

19 7) Respondent failed to keep adequate and accurate medical records in
20 that the records did not contain an adequate history and physical, treatment plan with
21 objectives, progress of treatment, informed consent, appropriate follow-up care and/or
22 referrals to specialists.

23 8) Respondent prescribed controlled substances and other dangerous
24 drugs to individuals he reasonably suspected or should have reasonably suspected
25 were addicts or otherwise dependent on controlled substances and other dangerous
26 drugs.

27 9) Respondent did not utilize CURES reports to determine whether
28 patients were obtaining pain medications from other providers at the same time the

1 patients were obtaining pain medication prescriptions from Respondent or if the
2 patients were obtaining pain medications prescriptions from other providers when the
3 patients went months without seeing Respondent.

4 C. As to Patient M.Z., “[Respondent] did document an adequate history and
5 physical examination of [M.Z.], who had a history of Bipolar Disorder, severe
6 intractable pain and a history of opiate dependence . . . [but his failure to] document
7 an adequate initial psychiatric evaluation, which would include a psychiatric history,
8 history of psychiatric treatment, substance abuse history, psychiatric review of
9 symptoms, social history, and a mental status examination . . . is an extreme departure
10 from [the applicable standard] of care.”

11 D. As to Patient M.Z., “[t]here were no prior medical records or documented
12 contact with a prior health care provider, establishing the diagnosis of chronic pain
13 condition and prior use of Methadone, before [Respondent] started prescribing
14 Methadone to a patient with a history of chronic pain, Bipolar Disorder, and history
15 of opiate dependence.” This and the “multiple instances . . . [of] inadequate
16 monitoring of Methadone . . . [are] . . . extreme departure[s] [from the applicable]
17 standard of care.”

18 E. As to Patient M.Z., “[Respondent] did not adequately document the
19 progress/treatment response of the symptoms of Bipolar Disorder and anxiety in the
20 treatment of [M.Z.], who ha[d] a history of opiate dependency. There were multiple
21 instances . . . of inadequate monitoring of Klonopin , . . [and] no medical record
22 documentation of informed consent for the psychiatric medications[,]” all of which
23 constitute an extreme departure from the applicable standard of care.

24 F. As to Patient J.G., the lack “of medical records or documentation from
25 another health care provider establishing a chronic pain condition and treatment
26 before [Respondent] started prescribing . . . high dose narcotic pain medication . . . is
27 an extreme departure [from the applicable] standard of care.”

28 G. As to Patient J.G., “[t]he lack of adequate documentation, for a patient

1 with a history of chronic pain and history of doctor shopping/overuse of pain
2 medications, of: (1) the progress of treatment of chronic pain and anxiety; (2) lack of
3 documentation of [J.G.]’s overuse of addictive medications as a problem; (3) lack of
4 informed consent for the addictive medications being prescribed; (4) lack of
5 documentation of using CURES to monitor [J.G.]’s prescription of narcotic pain
6 medications and other controlled substances . . . from other health care providers or to
7 contact the pharmacies he was using to inquire whether [J.G.] was receiving similar
8 medications from other doctors; and [,] (5) the lack of documentation of approval of
9 refills . . . is an extreme departure from the [applicable] standard of care.”

10 H. As to Patient J.C., “[f]or a 64 year old patient with a history of chronic
11 pain and anxiety and [other medical issues] who is being treated with chronic narcotic
12 pain medication and benzodiazepines, (1) the lack of adequate documentation of the
13 progress of treatment of the symptoms of chronic pain and anxiety with narcotic pain
14 medications and benzodiazepines in many of the progress notes; and (2) the lack of
15 documentation of informed consent for the risks and benefits of the addictive
16 medications—narcotic pain medications, *e.g.*, Oxycontin, Roxicodone . . . is an
17 extreme departure from the [applicable] standard of care.”

18 SIXTH CAUSE FOR DISCIPLINE

19 (Repeated Negligent Acts)

20 31. Respondent is subject to disciplinary action pursuant to Business and Professions
21 Code section 2234, subdivision (c), in that Respondent was repeatedly negligent during his care,
22 treatment and management of Patients M.Z., J.G., and J.C., as follows:

23 A. Complainant refers to and, by this reference incorporates paragraph 25, above,
24 as though fully set forth.

25 B. Complainant refers to and, by this reference incorporates paragraph 27,
26 subparagraphs C through H, inclusive, above, as though fully set forth.

27 C. The following acts and omission constitute departures from the applicable
28 standard of care as to all patients.

1 1) Respondent did not take a complete medical history of the patients
2 for whom he prescribed controlled substances and other dangerous drugs.

3 2) Respondent did not perform a complete physical examination on
4 the patients for whom he prescribed controlled substances and other dangerous
5 drugs.

6 3) Respondent did not devise a treatment plan for the patients for
7 whom he prescribed controlled substances and other dangerous drugs.

8 4) Respondent did not discuss the risks and benefits of controlled
9 substances and other dangerous drugs with patients before prescribing same.

10 5) Respondent did not review the treatment, if any, rendered by others
11 to the patients for whom he prescribed controlled substances and other dangerous
12 drugs.

13 6) Respondent did not consider referring patients for whom he
14 prescribed controlled substances and other dangerous drugs to specialists in pain
15 management.

16 7) Respondent failed to keep adequate and accurate medical records in
17 that the records did not contain an adequate history and physical, treatment plan
18 with objectives, progress of treatment, informed consent, appropriate follow-up
19 care and/or referrals to specialists.

20 8) Respondent prescribed controlled substances and other dangerous
21 drugs to individuals he reasonably suspected or should have reasonably suspected
22 were addicts or otherwise dependent on controlled substances and other
23 dangerous drugs.

24 9) Respondent did not utilize CURES reports to determine whether
25 patients were obtaining pain medications from other providers at the same time the
26 patients were obtaining pain medication prescriptions from Respondent or if the
27 patients were obtaining pain medications prescriptions from other providers when
28 the patients went months without seeing Respondent.

1 D. As to Patient M.Z., “[t]he lack of documentation to attempt to obtain
2 psychiatric records or to contact the other current treating psychiatrist(s) is a simple
3 departure from the standard of care.

4 E. As to Patient J.C., “[t]he lack of documentation . . . of a release of health
5 care information form to obtain treatment records from the patient’s current health care
6 providers . . . and the lack of copies of medical records or documented contact by
7 [Respondent] with [J.C.]’s primary care physician and orthopedic surgeon, is a simple
8 departure from the [applicable] standard of care”

9 **SEVENTH CAUSE FOR DISCIPLINE**

10 **(Incompetence)**

11 32. Respondent is subject to disciplinary action under Business and Professions Code
12 section 2234, subdivision (d), in that he was incompetent during his care, treatment and
13 management of patients, as follows:

14 A. Complainant refers to and, by this reference incorporates paragraph 25, above,
15 as though fully set forth.

16 B. Complainant refers to and, by this reference incorporates paragraph 27,
17 subparagraphs C through H, inclusive, above, as though fully set forth.

18 C. Complainant refers to and, by this reference incorporates paragraph 28,
19 subparagraphs C, D and E, above, as though fully set forth.

20 **EIGHTH CAUSE FOR DISCIPLINE**

21 **(Dishonest or Corrupt Acts)**

22 33. Respondent is subject to disciplinary action pursuant to Business and Professions
23 Code section 2234, subdivision (e), in that he committed dishonest or corrupt acts while caring
24 for, treating and managing patients, as follows:

25 A. Complainant refers to and, by this reference incorporates paragraph 25, above,
26 as though fully set forth.

27
28 //

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
28

NINTH CAUSE FOR DISCIPLINE

(Failure to Maintain Adequate and Accurate Medical Records)

34. Respondent is subject to disciplinary action pursuant to Business and Professions Code section 2266 in that he failed to maintain adequate and accurate records pertaining to the provision of medical services to Patients M.Z., J.G., and J.C., as follows:

A. Complainant refers to and, by this reference incorporates paragraph 25, above, as though fully set forth.

TENTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct)

35. Respondent is subject to disciplinary action pursuant to Business and Professions Code section 2234, generally, in that he was grossly negligent during his care, treatment and management of Patients M.Z. J.G., and J.C., as follows:

A. Complainant refers to and, by this reference incorporates paragraph 31, above, as though fully set forth.

//

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 A 45231,
5 issued to Leandro Gulapa Gatus, M.D.

6 2. Revoking, suspending or denying approval of Leandro Gulapa Gatus, M.D.'s
7 authority to supervise physician assistants, pursuant to Business and Professions Code section
8 3527;

9 3. Ordering Leandro Gulapa Gatus, M.D., if placed on probation, to pay the Medical
10 Board of California the costs of probation monitoring; and

11 4. Taking such other and further action as deemed necessary, and appropriate.

12 DATED: October 15, 2013


13 KIMBERLY KIRCHMEYER
14 Interim Executive Director
15 Medical Board of California
16 Department of Consumer Affairs
17 State of California

18 *Complainant*

19
20
21
22
23
24
25
26
27
28 LA2013607365
61056766.doc

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)
Against:)
)
LEANDRO GATUS, M.D.,)
)
Physician's and Surgeon's)
Certificate #A-45231)
)
)
Respondent.)
_____)

File No: 05-1997-81247

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted as the Decision and Order of the Division of Medical Quality 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 11, 2000.

IT IS SO ORDERED July 12, 2000

MEDICAL BOARD OF CALIFORNIA



**Ira Lubell, M.D.
Chair, Panel A
Division of Medical Quality**

1 Bill Lockyer, Attorney General
of the State of California
2 RICHARD D. MARINO (State Bar No. 90471)
Deputy Attorney General
3 California Department of Justice
300 South Spring Street, Suite 5212
4 Los Angeles, California 90013-1233
Telephone: (213) 897-8644

5
Attorneys for Complainant
6
7

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

11 In the Matter of the Accusation) Case No. 05-1997-81247
Against:) OAH No. L-2000010507
12)
LEANDRO G. GATUS, M.D.) **STIPULATED SETTLEMENT AND**
13 4731 Conchita Way) **DISCIPLINARY ORDER**
Tarzana, Ca. 91356)
14)
Physician and Surgeon's Certificate)
15 No. A 45231,)
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 05-1997-81247 was filed
22 with the Division of Medical Quality, Medical Board of California,
23 Department of Consumer Affairs (hereinafter the "Division") on
24 December 1, 1999, and is currently pending against LEANDRO G.
25 GATUS, M.D. ("respondent").

26 2. The Accusation, together with all statutorily
27 required documents, was duly served on the respondent on or about

1 December 1, 1999, and respondent filed his Notice of Defense
2 contesting the Accusation on or about December 8, 1999. A copy of
3 Accusation No. 05-1997-81247 is attached as Exhibit "1" and hereby
4 incorporated by reference as if fully set forth.

5 3. Complainant, Ron Joseph, is the Executive Director of
6 the Medical Board of California ("Complainant") and brought this
7 action solely in his official capacity. The Complainant is
8 represented by the Attorney General of California, Bill Lockyer, by
9 and through Deputy Attorney General Richard D. Marino.

10 4. At all times relevant herein, respondent has been
11 licensed by the Medical Board of California under Physician and
12 Surgeon's Certificate No. A 45231.

13 5. Respondent is representing himself in this matter in
14 *propria persona*.

15 6. Respondent has fully read the charges contained in
16 Accusation No. 05-94-40204. Respondent is fully aware of his legal
17 rights and the effects of this Stipulated Settlement and
18 Disciplinary Order.

19 7. Respondent understands the nature of the charges
20 alleged in the Accusation and that, if proven at hearing, the
21 charges and allegations would constitute cause for imposing
22 discipline upon his Physician and Surgeon's Certificate.
23 Respondent is fully aware of his right to a hearing on the charges
24 contained in the Accusation, his right to confront and cross-
25 examine witnesses against him, his right to the use of subpoenas to
26 compel the attendance of witnesses and the production of documents
27 in both defense and mitigation of the charges, his right to

1 reconsideration, court review and any and all other rights accorded
2 by the California Administrative Procedure Act and other applicable
3 laws.

4 8. Respondent knowingly, intelligently, voluntarily and
5 irrevocably waives and gives up each of these rights.

6 9. Respondent admits the truth of paragraphs 1 through
7 5, inclusive, of Accusation No. 05-1997-81247, and agrees that he
8 has thereby subjected his Physician and Surgeon's Certificate to
9 disciplinary action under Business and Professions Code section
10 2236 for having a sustained a criminal conviction for an offense
11 substantially related to the qualifications, functions or duties of
12 a physician and surgeon--namely, driving with a blood alcohol level
13 greater than .08 percent, in violation of Vehicle Code section
14 23152, subdivision (B). Respondent agrees to be bound by the
15 Division's Disciplinary Order as set forth below.

16 10. The admissions made by respondent herein are for the
17 purpose of this proceeding and any other proceedings in which the
18 Division of Medical Quality, Medical Board of California, or other
19 professional licensing agency is involved, and shall not be
20 admissible in any other criminal or civil proceedings.

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

24
25
26
27

1

2

15

17

20

1 probation by respondent.

2 4. ETHICS COURSE Within sixty (60) days of the
3 effective date of this decision, respondent shall enroll in a
4 course in Ethics approved in advance by the Division or its
5 designee, and shall successfully complete the course during the
6 first year of probation.

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

11 6. QUARTERLY REPORTS Respondent shall submit quarterly
12 declarations under penalty of perjury on forms provided by the
13 Division, stating whether there has been compliance with all the
14 conditions of probation.

15 7. PROBATION SURVEILLANCE PROGRAM COMPLIANCE Respondent
16 shall comply with the Division's probation surveillance program.
17 Respondent shall, at all times, keep the Division informed of his
18 business and residence addresses which shall both serve as
19 addresses of record. Changes of such addresses shall be
20 immediately communicated in writing to the Division. Under no
21 circumstances shall a post office box serve as an address of
22 record.

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

27 8. INTERVIEW WITH THE DIVISION, ITS DESIGNEE OR ITS DESIGNATED

1 PHYSICIAN(S) Respondent shall appear in person for interviews with
2 the Division, its designee or its designated physician(s) upon
3 request at various intervals and with reasonable notice.

4 9. TOLLING FOR OUT-OF-STATE PRACTICE, RESIDENCE OR IN-STATE NON-
5 PRACTICE In the event respondent should leave California to reside
6 or to practice outside the State or for any reason should
7 respondent stop practicing medicine in California, respondent shall
8 notify the Division or its designee in writing within ten (10) days
9 of the dates of departure and return or the dates of non-practice
10 within California. Non-practice is defined as any period of time
11 exceeding thirty (30) days in which respondent is not engaging in
12 any activities defined in Sections 2051 and 2052 of the Business
13 and Professions Code. All time spent in an intensive training
14 program approved by the Division or its designee shall be
15 considered as time spent in the practice of medicine. Periods of
16 temporary or permanent residence or practice outside California or
17 of non-practice within California, as defined in this condition,
18 will not apply to the reduction of the probationary period.

19 10. COMPLETION OF PROBATION Upon successful completion of
20 probation, respondent's certificate shall be fully restored.

21 11. VIOLATION OF PROBATION If respondent violates
22 probation in any respect, the Division, after giving respondent
23 notice and the opportunity to be heard, may revoke probation and
24 carry out the disciplinary order that was stayed. If an accusation
25 or petition to revoke probation is filed against respondent during
26 probation, the Division shall have continuing jurisdiction until
27 the matter is final, and the period of probation shall be extended

1 until the matter is final.

2 12. COST RECOVERY The respondent is hereby ordered to
3 reimburse the Division the amount of \$4,000, in 12 equal
4 installments during the first year of probation, for its
5 investigative and prosecution costs. The first installment is due
6 within thirty (30) days of the effective date of this decision and
7 each subsequent installment every thirty (30) days thereafter.
8 Failure to reimburse the Division's cost of investigation and
9 prosecution shall constitute a violation of the probation order,
10 unless the Division agrees in writing to payment by an alternate
11 installment plan because of financial hardship. The filing of
12 bankruptcy by the respondent shall not relieve the respondent of
13 his responsibility to reimburse the Division for its investigative
14 and prosecution costs.

15 13. PROBATION COSTS Respondent shall pay the costs
16 associated with probation monitoring each and every year of
17 probation, which are currently set at \$2,304, but may be adjusted
18 on an annual basis. Such costs shall be payable to the Division of
19 Medical Quality and delivered to the designated probation
20 surveillance monitor at the beginning of each calendar year.
21 Failure to pay costs within 30 days of the due date shall
22 constitute a violation of probation.

23 14. LICENSE SURRENDER Following the effective date of
24 this decision, if respondent ceases practicing due to retirement,
25 health reasons or is otherwise unable to satisfy the terms and
26 conditions of probation, respondent may voluntarily tender his
27 certificate to the Board. The Division reserves the right to

1 evaluate the respondent's request and to exercise its discretion
2 whether to grant the request, or to take any other action deemed
3 appropriate and reasonable under the circumstances. Upon formal
4 acceptance of the tendered license, respondent will not longer be
5 subject to the terms and conditions of probation.

6 / /

7 / /

8 / /

9 / /

10 / /

11 / /

12 / /

13 / /

14 / /

15 / /

16 / /

17 / /

18 / /

19 / /

20 / /

21 / /

22 / /

23 / /

24 / /

25 / /

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

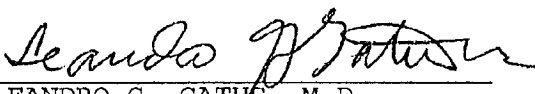
CONTINGENCY

This Stipulated Settlement and Disciplinary Order shall be subject to the approval of the Division of Medical Quality. Respondent understands and agrees that Board staff and counsel for complainant may communicate directly with the Division regarding this Stipulated Settlement and Disciplinary Order, without notice to or participation by respondent or his counsel. If the Division fails to adopt this stipulation as its Order, the stipulation shall be of no force or effect, it shall be inadmissible in any legal action between the parties, and the Division shall not be disqualified from further action in this matter by virtue of its consideration of this stipulation.

ACCEPTANCE

I have read the above Stipulated Settlement and Disciplinary Order. I understand the effect this Stipulated Settlement and Disciplinary Order will have on my Physician and Surgeon's Certificate, and agree to be bound thereby. I enter this stipulation freely, knowingly, intelligently and voluntarily.

DATED: 2-17-2000.


LEANDRO G. GATUS, M.D.
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

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: March 14, 2000.

BILL LOCKYER, Attorney General
of the State of California


RICHARD D. MARINO
Deputy Attorney General

Attorneys for Complainant

Exhibit: Accusation
shell.stp [1197 rev]

EXHIBIT 1

Accusation No. 05-1997-81247

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO Dec. 1 1999
BY Arden & Suppinski ASSOCIATE

1 Bill Lockyer, Attorney General
of the State of California
2 RICHARD D. MARINO (State Bar No. 90471)
Deputy Attorney General
3 California Department of Justice
300 South Spring Street, Suite 5212
4 Los Angeles, California 90013-1233
Telephone: (213) 897-8644

5 Attorneys for Complainant
6
7

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

11 In the Matter of the Accusation) Case No. 05-1997-81247
Against:)

12 LEANDRO G. GATUS, M.D.)
13 4731 Conchita Way)
Tarzana, Ca. 91356)

ACCUSATION

14 Physician and Surgeon's Certificate)
15 No. A 45231,)

16 Respondent.)
17

18 The Complainant alleges:

19 PARTIES

20 1. Complainant, Ron Joseph, is the Executive Director
21 of the Medical Board of California, Department of Consumer Affairs,
22 State of California (hereinafter "Board") and brings this
23 accusation solely in his official capacity.

24 2. On or about August 22, 1988, Physician and Surgeon's
25 Certificate No. A 45231 was issued by the Board to LEANDRO G.
26 GATUS, M.D. (hereinafter "respondent"), and at all times relevant
27 to the charges brought herein, this license has been in full force

1 and effect. Unless renewed, it will expire on February 28, 2000.

2 **JURISDICTION**

3 3. This accusation is brought before the Board's
4 Division of Medical Quality (hereinafter "Division"), under the
5 authority of the following sections of the California Business and
6 Professions Code (hereinafter "Code"):

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

13 B. Section 2234 provides that unprofessional
14 conduct includes, but is not limited to, the following:

15 "(a) Violating or attempting to violate, directly or
16 indirectly, or assisting in or abetting the violation of,
17 or conspiring to violate, any provision of this chapter.

18 "(b) Gross negligence.

19 "(c) Repeated negligent acts.

20 "(d) Incompetence.

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

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

27 ". . . ."

1 C. Section 2236 of the Code provides:

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

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

20 "(c) The clerk of the court in which a
21 licensee is convicted of a crime shall, within 48 hours
22 after the conviction, transmit a certified copy of the
23 record of conviction to the board. The division may
24 inquire into the circumstances surrounding the commission
25 of a crime in order to fix the degree of discipline or to
26 determine if the conviction is of an offense
27 substantially related to the qualifications, functions,

1 or duties of a physician and surgeon.

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

8 D. Section 2239 of the Code provides:

9 "(a) The use or prescribing for or
10 administering to himself or herself, of any controlled
11 substance; or the use of any of the dangerous drugs
12 specified in Section 4211, or of alcoholic beverages, to
13 the extent, or in such a manner as to be dangerous or
14 injurious to the licensee, or to any other person or to
15 the public, or to the extent that such use impairs the
16 ability of the licensee to practice medicine safely or
17 more than one misdemeanor or any felony involving the
18 use, consumption, or self-administration of any of the
19 substances referred to in this section, or any
20 combination thereof, constitutes unprofessional conduct.
21 The record of the conviction is conclusive evidence of
22 such unprofessional conduct.

23 "(b) A plea or verdict of guilty or a
24 conviction following a plea of nolo contendere is deemed
25 to be a conviction within the meaning of this section.
26 The Division of Medical Quality may order discipline of
27 the licensee in accordance with Section 2227 or the

1 Division of Licensing may order the denial of the license
2 when the time for appeal has elapsed or the judgment of
3 conviction has been affirmed on appeal or when an order
4 granting probation is made suspending imposition of
5 sentence, irrespective of a subsequent order under the
6 provisions of Section 1203.4 of the Penal Code allowing
7 such person to withdraw his or her plea of guilty and to
8 enter a plea of not guilty, or setting aside the verdict
9 of guilty, or dismissing the accusation, complaint,
10 information, or indictment."

11 E. Section 490 of the Code provides:

12 "A board may suspend or revoke a license on the
13 ground that the licensee has been convicted of a crime,
14 if the crime is substantially related to the
15 qualifications, functions, or duties of the business or
16 profession for which the license was issued . A
17 conviction within the meaning of this section means a
18 plea or verdict of guilty or a conviction following a
19 plea of nolo contendere. Any action which a board is
20 permitted to take following the establishment of a
21 conviction may be taken when the time for appeal has
22 elapsed, or the judgment of conviction has been affirmed
23 on appeal, or when an order granting probation is made
24 suspending the imposition of sentence, irrespective of a
25 subsequent order under the provisions of Section 1203.4
26 of the Penal Code."

27 F. Section 820 of the Code provides:

1 "Whenever it appears that any person holding a
2 license, certificate or permit under this division or
3 under any initiative act referred to in this division may
4 be unable to practice his or her profession safely
5 because the licentiate's ability to practice is impaired
6 due to mental illness, or physical illness affecting
7 competency, the licensing agency may order the licentiate
8 to be examined by one or more physicians and surgeons or
9 psychologists designated by the agency. The report of
10 the examiners shall be made available to the licentiate
11 and may be received as direct evidence in proceedings
12 conducted pursuant to Section 822.

13 G. Section 821 of the Code provides:

14 "The licentiate's failure to comply with an
15 order issued under Section 820 shall constitute grounds
16 for the suspension or revocation of the licentiate's
17 certificate or license. "

18 H. Section 822 of the Code provides:

19 "If a licensing agency determines that its
20 licentiate's ability to practice his or her profession
21 safely is impaired because the licentiate is mentally
22 ill, or physically ill affecting competency, the
23 licensing agency may take action by any one of the
24 following methods:

25 "(a) Revoking the licentiate's certificate or
26 license.

27 "(b) Suspending the licentiate's right to

1 practice.

2 "(c) Placing the licentiate on probation.

3 "(d) Taking such other action in relation to
4 the licentiate as the licensing agency in its discretion
5 deems proper.

6 "The licensing agency shall not reinstate a
7 revoked or suspended certificate or license until it has
8 received competent evidence of the absence or control of
9 the condition which caused its action and until it is
10 satisfied that with due regard for the public health and
11 safety the person's right to practice his or her
12 profession may be safely reinstated."

13 I. Section 826 of the Code provides:

14 "The proceedings under Sections 821 and 822
15 shall be conducted in accordance with Chapter 5
16 (commencing with Section 11500) of Part 1 of Division 3
17 of Title 2 of the Government Code [Administrative
18 Procedure Act], and the licensing agency and the
19 licentiate shall have all the rights and powers granted
20 therein."

21 J. Section 125.3 of the Code provides, in relevant
22 part, that the Board may request the administrative law judge
23 to direct any licentiate found to have committed a violation
24 or violations of the licensing act, to pay the Board a sum not
25 to exceed the reasonable costs of the investigation and
26 enforcement of the case.

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

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

25
26
27

26

27

1 **FIRST CAUSE FOR DISCIPLINE**

2 (Criminal Conviction--

3 **Driving With Greater Than .08 Percent Blood Alcohol Level)**

4 5. Respondent Leandro G. Gatus, M.D., is subject to
5 disciplinary action under sections 490, generally, and 2236,
6 specifically, of the Business and Professions Code in that
7 respondent has sustained a conviction for driving a motor vehicle
8 while having blood alcohol content of .08 percent or greater, in
9 violation of Vehicle Code section 23152, subdivision (B), a
10 misdemeanor and a crime substantially related to the
11 qualifications, functions and duties of a respondent's licensure.
12 The facts and circumstances underlying respondent's conviction are
13 as follows:

14 A. On or about January 3, 1994, in the matter
15 entitled *The People of the State of California v. Leandro*
16 *Gulapa Gatus*, Misdemeanor Complaint No. 93D05510, Los Angeles
17 County Municipal Court, Van Nuys Judicial District, respondent
18 was charged, in Count 1, with driving under the influence of
19 alcohol or drugs, a misdemeanor and violation of Vehicle Code
20 section 22152, subdivision (a), and in Count 2, with driving
21 with greater than .08 percent blood alcohol. Respondent had
22 been stopped for suspicion of drunk driving on December 10,
23 1993, and arrested for each of the charged offenses when he
24 thereafter failed to pass the field sobriety test or was found
25 to have a blood alcohol level greater than .08 percent.
26 Respondent entered not guilty pleas to both charges.

27 B. On or about February 10, 1994, pursuant to a

1 negotiated plea agreement, respondent changed his previously
2 entered not guilty plea to the charge set forth in Count 2 of
3 the complaint--namely, driving with a blood alcohol level
4 greater than .08 percent--to nolo contendere. Proceedings
5 were suspended. Respondent was placed on summary probation
6 for 36 months with certain terms and conditions including,
7 among others, that respondent complete an alcohol and drug
8 education program and pay a \$390 fine. Thereafter, the
9 driving under the influence charge in Count 1 was dismissed in
10 the furtherance of justice.

11 C. On or about April 11, 1994, respondent failed
12 to appear before the court or, in the alternative, to file
13 with the court proof of having completed the alcohol and drug
14 education program. A bench warrant for respondent in the
15 amount of \$15,000 was issued by the Court.

16 D. On or about May 17, 1994, respondent appeared
17 with proof of having completed the alcohol and drug education
18 program. Proceedings were terminated and the bench warrant
19 was recalled.

20 E. Respondent's December 1993 arrest was not his
21 first.

22 (1) On or about November 4, 1987,
23 respondent was found to be in possession of a
24 stolen .357 Magnum revolver during a police
25 investigation of his wife's report of domestic
26 violence.

27 (2) On that date, respondent and his

1 wife engaged in a heated dispute that escalated
2 into a physical altercation when respondent struck
3 his wife across her right cheek.

4 (3) The police were called. Upon their
5 arrival, they observed that respondent's wife right
6 cheek reddened and swollen.

7 (4) Upon asking respondent's wife
8 whether respondent had any weapons in the
9 residence, respondent's wife stated that respondent
10 kept a .357 revolver in a kitchen drawer and a .22
11 caliber rifle in the master bedroom. The police
12 retrieved the .357 revolver from the kitchen and
13 proceeded upstairs where they found respondent in
14 the master bedroom.

15 (5) Respondent was arrested for
16 inflicting corporal injury on a spouse, a violation
17 of Penal Code section 273.5. The police seized the
18 .22 caliber rifle which was located in the bedroom
19 as indicated by respondent's wife.

20 (6) The police checked the serial number
21 on the .357 Magnum revolver and found that it was
22 stolen. Before learning the handgun was stolen,
23 the police were told by respondent that he had
24 purchased the handgun six months earlier.
25 Respondent, however, refused to divulge the
26 identity of the seller.

27 (7) The police booked respondent for

1 receiving stolen property, a violation of Penal
2 Code section 496.1.

3 (8) On or about November 11, 1987, in
4 the matter entitled *The People of the State of*
5 *California v. Leandro Gulapa Gatus*, Misdemeanor
6 Complaint No. 87F10705, Los Angeles County
7 Municipal Court, San Fernando Judicial District,
8 respondent was charged with inflicting corporal
9 injury on a spouse, in violation of Penal Code
10 section 273.5, subdivision (a), and battery, in
11 violation of Penal Code section 242.

12 (9) On or about August 29, 1988, the
13 case was dismissed, respondent having successfully
14 completed a diversion program to which he was
15 admitted on or about February 29, 1988, upon his
16 motion.

17 **SECOND CAUSE FOR DISCIPLINE**

18 **(Criminal Conviction--Possession of Dangerous Weapon)**

19 6. Respondent Leandro G. Gatus, M.D., is subject to
20 disciplinary action under sections 490, generally, and 2236,
21 specifically, of the Business and Professions Code in that
22 respondent has sustained a conviction for possession of a dangerous
23 weapon, in violation of Penal Code section 12020, subdivision (a),
24 a misdemeanor and a crime which, under the facts and circumstances
25 of its commission, is substantially related to the qualifications,
26 functions and duties of respondent's licensure. The facts and
27 circumstances underlying respondent's conviction are as follows:

1 A. On or about September 22, 1996, at
2 approximately, 2:45 a.m., respondent was stopped for suspected
3 drunk driving. Prior to being stopped, respondent was
4 observed straddling the traffic lane dividing lines and
5 driving 55 miles per hour in a 35 miles per hour speed zone.

6 B. After detecting the strong odor of alcohol on
7 respondent and administering the standard field sobriety test
8 which respondent failed, the police placed respondent under
9 arrest for driving under the influence of alcohol or drugs, a
10 violation of Vehicle Code section 22152. subdivision (a), and
11 transported him to the police station. During booking, the
12 police found a knife in respondent's front pants pocket.
13 Respondent was charged with possession of a dangerous weapon,
14 a violation of Penal Code section 12020, subdivision (a).

15 C. On or about September 30, 1996, in the matter
16 entitled *The People of the State of California v. Leandro G.*
17 *Gatus*, Misdemeanor Complaint No. 6PN06997, Los Angeles County
18 Municipal Court, Van Nuys Judicial District, respondent was
19 charged, in Count 1, with possession of a dangerous weapon, a
20 violation of Penal Code section 12020, subdivision (a).

21 D. At his arraignment on October 17, 1996,
22 respondent entered a not guilty plea.

23 E. On or about November 20, 1996, pursuant to a
24 negotiated plea agreement, respondent changed his previously
25 entered not guilty plea to the charge to *nolo contendere*.
26 Proceedings were suspended. Respondent was placed on summary
27 probation for 12 months on the term and condition, among

1 others, that he pay a fine in the amount of \$300.

2 **THIRD CAUSE FOR DISCIPLINE**

3 **(Use of Alcoholic Beverages)**

4 7. Respondent Leandro G. Gatus, M.D., is subject to
5 disciplinary action under section 2239 of the Business and
6 Professions Code in that respondent has used alcoholic beverages or
7 any of the dangerous drugs specified in section 4211 of the
8 Business and Professions Code to the extent or in such a manner as
9 to be dangerous or injurious to himself or to the public; and, that
10 respondent has sustained more than one misdemeanor conviction
11 involving the use or consumption of alcoholic beverages or
12 self-administration of any of the substances referred to in section
13 2239, as follows:

14 A. Complainant refers to and, by this reference,
15 incorporates herein paragraphs 5, subparagraphs A through E,
16 inclusive, and 6, subparagraphs A through E, inclusive, above
17 as though fully set forth.

18 **FOURTH CAUSE FOR DISCIPLINE**

19 **(Unprofessional Conduct)**

20 8. Respondent Leandro G. Gatus, M.D., is subject to
21 disciplinary action under section 2234, generally, of the Business
22 and Professions Code in that respondent has engaged in
23 unprofessional conduct by reason of his 1994 and 1996 criminal
24 convictions for offenses which under the facts and circumstances of
25 their commission are substantially related to the qualifications,
26 functions, and duties of a physician and surgeon; by using
27 alcoholic beverages or any of the dangerous drugs specified in

1 section 4211 of the Business and Professions Code to the extent or
2 in such a manner as to be dangerous or injurious to himself or to
3 the public; or, by sustaining more than one misdemeanor conviction
4 involving the use or consumption of alcoholic beverages or any of
5 the dangerous drugs specified in section 4211 of the Business and
6 Professions Code, as follows:

7 A. Complainant refers to and, by this reference,
8 incorporates herein paragraphs 5, subparagraphs A through E,
9 inclusive, and 6, subparagraphs A through E, inclusive, above
10 as though fully set forth.

11 ///

12 ///

13 ///

14 ///

15 ///

16 ///

17 ///

18 ///

19 ///

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

1 PRAYER

2 **WHEREFORE**, the complainant requests that a hearing be
3 held on the matters herein alleged, and that following the hearing,
4 the Division issue a decision:


5 1. Revoking or suspending Physician and Surgeon's
6 Certificate Number A 45231, heretofore issued to respondent LEANDRO
7 G. GATUS, M.D.;

8 2. Revoking, suspending or denying approval of the
9 respondent's authority to supervise physician's assistants,
10 pursuant to Business and Professions Code section 3527;

11 3. Ordering respondent to pay the Division the actual
12 and reasonable costs of the investigation and enforcement of this
13 case as well as the costs of probation monitoring, if applicable;
14 and,

15 4. Taking such other and further action as the Division
16 deems necessary and proper.

17 DATED: December 1, 1999

18
19
20 
21 Ron Joseph
22 Executive Director
23 Medical Board of California
24 Department of Consumer Affairs
25 State of California

26 Complainant

27 03573160-LA99AD0000