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

In the Matter of the Accusation
Against:

MADHU JODHANI, M.D. Case No. 02-2012-226060

Physician's and Surgeon's Certificate No. A50459

Respondent

DECISION

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

This Decision shall become effective at 5:00 p.m. on May 8, 2015.

IT IS SO ORDERED April 9, 2015.

MEDICAL BOARD OF CALIFORNIA

By:
Jamie Wright, J.D., Chair
Panel A
BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:  

MADHU JODHANI, M.D.  
P.O. Box 1224  
Yuba City, CA  95992

Physician’s and Surgeon’s Certificate No. A 50459,

Respondent.

Case No. 02-2012-226060
OAH No. 2014050945

STIPULATED SETTLEMENT AND DISCIPLINARY ORDER

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

PARTIES

1. Kimberly Kirchmeyer ("Complainant") is the Executive Director of the Medical Board of California. She brought this action solely in her official capacity and is represented in this matter by Kamala D. Harris, Attorney General of the State of California, by Megan R. O’Carroll, Deputy Attorney General.

2. Respondent Madhu Jodhani, M.D. ("Respondent") is represented in this proceeding by attorney Robert B. Zaro, Esq., whose address is: 1315 I Street, Suite 200 Sacramento, CA 95814.
3. On or about February 25, 1992, the Medical Board of California issued Physician's and Surgeon's Certificate No. A 50459 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. 02-2012-226060 and will expire on June 30, 2015, unless renewed.

JURISDICTION

4. Accusation No. 02-2012-226060 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 April 29, 2014. Respondent timely filed his Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 02-2012-226060 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. 02-2012-226060. 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.

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

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STIPULATED SETTLEMENT (02-2012-226060)
CULPABILITY

9. Respondent understands and agrees that the charges and allegations in Accusation No. 02-2012-226060, if proven at a hearing, constitute cause for imposing discipline upon his Physician's and Surgeon's Certificate.

10. For the purpose of resolving the Accusation without the expense and uncertainty of further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual basis for the charges in the Accusation, and that Respondent hereby gives up his right to contest those charges.

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

RESERVATION

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

CONTINGENCY

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

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

15. 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**

**A. PUBLIC REPRIMAND**

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 50459 issued to Respondent Madhu Jodhani, M.D. (Respondent) is publicly reprimanded pursuant to Business and Professions Code section 2227, subdivision (a)(4) as follows:

"An investigation by the Medical Board of California revealed that you failed to maintain an office with sufficient emphasis on cleaning and disinfection of surfaces most likely to come in close proximity to patients, and failed to label chemotherapy solutions with the patient’s name, the drug name, the administration route, lot number, total volume of administration of the dose, and the time and date of administration of the preparation. These actions are in violation of California Business and Professions Code section 2234(a), violation of the Medical Practice Act."

**B. MEDICAL RECORD KEEPING COURSE**

Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a course in medical record keeping equivalent to the Medical Record Keeping Course offered by the Physician Assessment and Clinical Education Program, University of California, San Diego School of Medicine (Program), approved in advance by the Board or its designee. Respondent shall provide the program with any information and documents that the Program may deem pertinent. Respondent shall participate in and successfully complete the classroom component of the course not later than six (6) months after Respondent’s initial enrollment. Respondent shall successfully complete any other component of the course within one (1) year of enrollment. The medical record keeping course shall be at Respondent’s expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.
A medical record keeping course taken after the acts that gave rise to the charges in the
Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board
or its designee, be accepted towards the fulfillment of this condition if the course would have
been approved by the Board or its designee had the course been taken after the effective date of
this Decision.

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

C. PRESCRIBING PRACTICES COURSE

Within 60 calendar days of the effective date of this Decision, respondent shall enroll in a
course in prescribing practices equivalent to the Prescribing Practices Course at the Physician
Assessment and Clinical Education Program, University of California, San Diego School of
Medicine (Program), approved in advance by the Board or its designee.

Respondent shall provide the program with any information and documents that the
Program may deem pertinent. Respondent shall participate in and successfully complete the
classroom component of the course not later than six (6) months after respondent’s initial
enrollment. Respondent shall successfully complete any other component of the course within
one (1) year of enrollment. The prescribing practices course shall be at respondent’s expense and
shall be in addition to the Continuing Medical Education (CME) requirements for renewal of
licensure. A prescribing practices course taken after the acts that gave rise to the charges in the
Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board
or its designee, be accepted towards the fulfillment of this condition if the course would have
been approved by the Board or its designee had the course been taken after the effective date of
this Decision. Respondent shall submit a certification of successful completion to the Board or its
designee not later than 15 calendar days after successfully completing the course, or not later than
15 calendar days after the effective date of the Decision, whichever is later.

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ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Robert B. Zaro, 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: Feb 13, 2011
MADHU JODHANI, M.D.
Respondent

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

DATED: 2/24/15
Robert B. Zaro, 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: March 12, 2015

Respectfully submitted,

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

MEGAN R. O'CARROLL
Deputy Attorney General
Attorneys for Complainant
Exhibit A

Accusation No. 02-2012-226060
ATTORNEYS FOR COMPLAINANT

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

The Matter of the Accusation Against: Case No. 02-2012-226060

MADHU JODHANI, M.D.
P.O. Box 1224
Yuba City, CA  95992

Physician's and Surgeon’s Certificate No. A 50459,

Respondent.

Complainant alleges:

PARTIES

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

2. On or about February 25, 1992, the Medical Board of California issued Physician’s and Surgeon’s Certificate No. A 50459 to Madhu Jodhani, M.D. (Respondent). The Physician’s and Surgeon’s Certificate was in full force and effect at all times relevant to the charges and allegations brought herein and will expire on June 30, 2015, unless renewed.

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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 (Code) unless otherwise indicated.

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

5. Section 2234 of the Code provides, in pertinent part, that:

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

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

"(b) Gross negligence.

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

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

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

"..."

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6. Section 2221.1 of the Code provides, in pertinent part, that:

“(a) The board . . . shall investigate and may take disciplinary action, including, but not limited to, revocation or suspension of licenses, against physicians and surgeons and all others licensed or regulated by the board, . . . who, except for good cause, knowingly fail to protect patients by failing to follow infection control guidelines of the applicable board, thereby risking transmission of blood-borne infectious diseases from the physician and surgeon or other health care provider licensed or regulated by the applicable board to patients, from patients, and from patient to physician and surgeon or other health care provider regulated by the applicable board. In so doing, the boards shall consider referencing the standards, regulations, and guidelines of the State Department of Health Services developed pursuant to Section 1250.11 of the Health and Safety Code and the standards, guidelines, and regulations pursuant to the California Occupational Safety and Health Act of 1973 (Part 1 (commencing with Section 6300), Division 5, Labor Code) for preventing the transmission of HIV, hepatitis B, and other blood-borne pathogens in health care settings . . .

“(b) The board shall seek to ensure that licentiates and others regulated by the board are informed of the responsibility of licentiates to follow infection control guidelines and of the most recent scientifically recognized safeguards for minimizing the transmission of blood-borne infectious diseases.”

7. Section 2238 of the Code states:

“A violation of any federal statute or federal regulation or any of the statues or regulations of this state regulating dangerous drugs or controlled substances constitutes unprofessional conduct.”

8. Section 2264 of the Code states:

The employing, directly or indirectly, the aiding, or the abetting of any unlicensed person or any suspended, revoked, or unlicensed practitioner to engage in the practice of medicine or any other mode of treating the sick or afflicted which requires a license to practice constitutes unprofessional conduct.

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Accusation No. 02-2012-226060
9. Section 2266 of the Code states:

"The failure of a physician and surgeon to maintain adequate and accurate records relating to the provision of services to their patients constitutes unprofessional conduct."

10. Section 4170 of the Code states:

"(a) No prescriber shall dispense drugs or dangerous devices to patient in his or her office or place of practice unless all of the following conditions are met:

"...

"(4) The prescriber fulfills all of the labeling requirements imposed upon pharmacists by Section 4076, all of the recordkeeping requirements of this chapter, and all of the packaging requirements of good pharmaceutical practice, including the use of childproof containers.

"...

"(b) The Medical Board of California, the State Board of Optometry, the Bureau of Naturopathic Medicine, the Dental Board of California, the Osteopathic Medical Board of California, the Board of Registered Nursing, the Veterinary Medical Board, and the Physician Assistant Committee shall have authority with the California State Board of Pharmacy to ensure compliance with this section, and those boards are specifically charged with the enforcement of this chapter with respect to their respective licensees.

"(c) 'Prescriber,' as used in this section, means a person, who holds a physician's and surgeon's certificate, a license to practice optometry, a license to practice naturopathic medicine, a license to practice dentistry, a license to practice veterinary medicine, or a certificate to practice podiatry, and who is duly registered by the Medical Board of California, the State Board of Optometry, the Bureau of Naturopathic Medicine, the Dental Board of California, the Veterinary Medical Board, or the Board of Osteopathic Examiners of this state."

FIRST CAUSE FOR DISCIPLINE

(Gross Negligence)

11. Respondent is subject to disciplinary action under sections 2227 and 2234, as defined by section 2234, subdivision (b), of the Code, in that he committed gross negligence in the practice of medicine, as more particularly alleged hereinafter:
12. Respondent has a medical oncology practice in Yuba City, California. On or about May 8, 2013, an investigator with the Medical Board of California paid an unannounced visit to Respondent’s office at 481 Plumas Street, Suite 102 in Yuba City, California, at which he provides chemotherapy treatment to patients. During this visit, the investigator observed surfaces contaminated with pathogens in close proximity to patients. There was a medication tray covered with a blue paper-like covering holding needles, alcohol swabs and syringes. Patients were seated around the blue covered tray, receiving intravenous medication. The blue cover on the tray was stained with spatters of fluid drops. The tray contained a tourniquet that appeared to have been used. Respondent was unable to locate any additional tourniquets in his office, despite the presence of multiple patients receiving intravenous medications. This same patient-care environment also contained a hazardous waste container, significantly soiled with blood and dirt, with no top, which had an opening large enough to put a hand into it without restriction. Next to the hazardous waste container was a trash-like container with a cardboard top. The cardboard top and the area immediately behind it was splattered with dried fluids. Respondent indicated that the area may not have been disinfected or repainted for approximately ten years. When the investigator first entered the patient treatment room, there were no boxes of exam gloves. When Respondent and the investigator returned to the room later during the visit, Respondent pointed out that he had placed two boxes of gloves in the room. The patients sat in upholstered reclining chairs to receive treatment, but there were no protective coverings on the chairs. The office did not demonstrate an emphasis on cleaning and disinfection of surfaces most likely to come in close proximity to patients.

13. On or about May 8, 2013, during the investigator’s visit to Respondent’s Yuba City office, she also observed multiple unlabeled syringes, each filled with clear liquid, resting on a medical record on a table. Respondent told the investigator that the syringes contain chemotherapy medications he was going to administer to a patient. During a subsequent interview with the investigator, Respondent acknowledged that he does not generally label the medication in the syringes of the medications he administers because he treats one patient at a
time, and knows what is in each of the syringes he prepares based on their relative size and his
memory of having prepared them shortly before administration.

14. Respondent has committed gross negligence in the practice of medicine which
included, but was not limited to, the following:

(a) Paragraphs 11, 12 and 13, above, are hereby incorporated by reference and realleged
as if fully set forth herein.

(b) Knowingly failing to protect patients by failing to follow infection control guidelines;
and

(c) Failing to properly label chemotherapy solutions with the patient’s name, the drug
name, administration route, lot number, total volume of administration of the dose, and the time
and date of preparation and administration.

SECOND CAUSE FOR DISCIPLINE

(Repeated Negligent Acts)

15. Respondent is further subject to disciplinary action under sections 2227 and 2234, as
defined by section 2234, subdivision (c), of the Code, in that he has committed repeated negligent
acts in the practice of medicine, as more particularly alleged hereinafter:

16. Paragraphs 11, 12, 13 and 14, above, are hereby incorporated by reference and
realleged as if fully set forth herein.

17. On or about May 8, 2013, during the investigator’s visit to Respondent’s Yuba City
office, the investigator spoke with one of respondent’s medical assistants, H.P. who reported that
she does not start intravenous lines on patients, but sometimes discontinues them. During a
subsequent interview with the investigator, Respondent acknowledged that is common for
medical assistants in his practice to discontinue intravenous lines on patients.

18. Respondent treated patient R.C. at Fremont-Rideout Memorial Hospital in Marysville,
California, beginning in or about May 2012. After his discharge from the hospital, patient R.C.
received two chemotherapy treatments at Respondent’s Yuba City office before transferring his
care elsewhere. Respondent made notes in patient R.C.’s medical record that are largely illegible
to others. During the interview with the Medical Board Investigator, Respondent was unable to
decipher some of the entries, made in his own handwriting, in patient R.C.’s medical record.

19. Respondent has committed repeated negligent acts in the practice of medicine and in
his care and treatment of patient R.C. which included, but was not limited to, the following:

(a) Knowingly failing to protect patients by failing to follow infection control guidelines;
(b) Failing to properly label chemotherapy solutions with the patient’s name, the drug
name, administration route, lot number, total volume of administration of the dose, and the time
and date of preparation and administration;
(c) Permitting medical assistants to discontinue intravenous medications being
administered to patients; and
(d) Failing to maintain adequate and accurate medical records regarding his care and
treatment of patient R.C.

THIRD CAUSE FOR DISCIPLINE
(Aiding and Abetting the Unlicensed Practice of Medicine)

20. Respondent is further subject to disciplinary action under sections 2227 and 2234, as
defined by section 2264, of the Code, in that respondent aided and abetted the unlicensed practice
of medicine by failing to properly and adequately supervise medical assistants as more
particularly alleged in paragraphs 17, 18 and 19 above, which are hereby incorporated by
reference and re-alleged as if fully set forth herein.

FOURTH CAUSE FOR DISCIPLINE
(Failure to Follow Infection Control Guidelines)

21. Respondent is further subject to disciplinary action under sections 2227 and 2234, as
defined by sections 2221.1, of the Code, in the respondent has failed to following infection
control guidelines at his medical office in Yuba City, California, as more particularly alleged in
paragraphs 11, 12, 13, 14, 15, 16, 17, 18 and 19, above, which are hereby incorporated by
reference and re-alleged as if fully set forth herein.

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FIFTH CAUSE FOR DISCIPLINE
(Failure to Label Dangerous Drugs)

22. Respondent is further subject to disciplinary action under sections 2227 and 2234, as defined by section 4170, subdivision (a)(4), of the Code, in the respondent has failed to fulfill the labeling requirements imposed on pharmacists by section 4076 of the Code, by administering intravenous solutions of chemotherapy medication to patients that were not labeled with the patient's name, the drug name, administration route, lot number, total volume of administration of the dose, and the time and date of preparation and administration, as more particularly alleged in paragraphs 11, 12, 13, 14, 15, 16, 17, 18, 19 and 20 above, which are hereby incorporated by reference and realleged as if fully set forth herein.

SIXTH CAUSE FOR DISCIPLINE
(Violation of State Statute Regulating Dangerous Drugs)

23. Respondent is further subject to disciplinary action under sections 2227 and 2234, as defined by section 2238, of the Code, in that he has violated a state statute regulating dangerous drugs, as more particularly alleged in paragraphs 11, 12, 13, 14, 15, 16, 17, 18, 19, 20 and 21, above, which are hereby incorporated by reference and realleged as if fully set forth herein.

SEVENTH CAUSE FOR DISCIPLINE
(Failure to Maintain Adequate and Accurate Medical Records)

24. Respondent is further subject to disciplinary action under sections 2227 and 2234, as defined by section 2266, of the Code, in that he has failed to maintain adequate and accurate medical records regarding his care and treatment of patient R.C., as more particularly alleged in paragraphs 10, 11, 12, 13, 14, 15, 16, 17, 18 and 19 above, which are hereby incorporated by reference and realleged as if fully set forth herein.

EIGHTH CAUSE FOR DISCIPLINE
(Violation of a Provision or Provisions of the Medical Practice Act)

25. Respondent is further subject to disciplinary action under sections 2227 and 2234, as defined by section 2234, subdivision (a), of the Code, in that he has violated a provision or provisions of the Medical Practice Act, as more particularly alleged in paragraphs 11, 12, 13, 14,
15, 16, 17, 18, 19, 20, 21, 22, 23, and 24, above, which are hereby incorporated by reference and realleged as if fully set forth herein.

PRAYER

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


2. Revoking, suspending or denying approval of Respondent Madhu Jodhani, M.D.'s authority to supervise physician's assistants, pursuant to section 3527 of the Code;

3. Ordering Respondent Madhu Jodhani, M.D. to pay the Medical Board of California the costs of probation monitoring, if placed on probation; and

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

DATED: April 29, 2014

KIMBERLY KIRCHMEYER
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant