

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

In the Matter of the Accusation Against:)

GEORGE D. FLANIGAN, M.D.)

File No. 11-2004-156292

Physician's and Surgeon's)
Certificate No. A47749)

Respondent.)
_____)

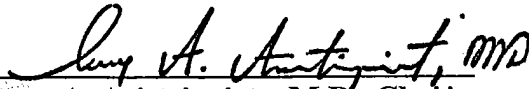
DECISION

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 February 15, 2007.

IT IS SO ORDERED January 16, 2007.

MEDICAL BOARD OF CALIFORNIA

By: 
Cesar A. Aristeiguieta, M.D., Chair
Panel A
Division of Medical Quality

BILL LOCKYER, Attorney General
of the State of California
RICHARD D. MARINO, State Bar No. 90471
Deputy Attorney General
California Department of Justice
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Los Angeles, CA 90013
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Attorneys for Complainant

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

In the Matter of the Accusation Against:

GEORGE D. FLANIGAN, M.D.
956 S. Longwood Ave.
Los Angeles, California 90019

Physician and Surgeon's Certificate No. A47749

Respondent.

Case Nos. 11-2004-156292

OAH No. L20006010625

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

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

PARTIES

1. David T. Thornton (Complainant) is the Executive Director of the Medical Board of California. He brought this action solely in his official capacity and is represented in this matter by Bill Lockyer, Attorney General of the State of California, by Richard D. Marino, Deputy Attorney General.

2. Respondent George D. Flanigan, M.D. (Respondent) is represented in this

proceeding by attorney Henry R. Fenton, Esq., whose address is Law Offices of Fenton and Harris, 11835 West Olympic Blvd., Suite 705, Los Angeles, CA 90064

3. On or about November 27, 1989, the Medical Board of California issued Physician and Surgeon's Certificate No. A47749 to George D. Flanigan, M.D. (Respondent). The Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. 11-2004-156292 and will expire on May 31, 2007, unless renewed.

JURISDICTION

4. Accusation No. 11-2004-156292 was brought before the Division of Medical Quality (Division) for the Medical Board of California, Department of Consumer Affairs, and are currently pending against Respondent. Accusation No. 11-2004-156292 and all other statutorily required documents were properly served on Respondent on September 13, 2005. Respondent subsequently filed his Notice of Defense contesting the Accusation. A copy of Accusation No. 11-2004-156292 is as Exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 11-2004-156292. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

6. 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.

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

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1 later than 15 calendar days after the effective date of the Decision, whichever is later.

2 **3. Clinical Training Program** Within 180 calendar days of the effective
3 date of this Decision, respondent shall enroll in a clinical training or educational program
4 equivalent to the Physician Assessment and Clinical Education Program (PACE) offered at the
5 University of California - San Diego School of Medicine ("Program").

6 The Program shall consist of a Comprehensive Assessment program comprised of
7 a two-day assessment of respondent's physical and mental health; basic clinical and
8 communication skills common to all clinicians; and medical knowledge, skill and judgment
9 pertaining to respondent's specialty or sub-specialty, and at minimum, a 40 hour program of
10 clinical education in the area of practice in which respondent was alleged to be deficient and
11 which takes into account data obtained from the assessment, Decision(s), Accusation(s), and any
12 other information that the Division or its designee deems relevant. Respondent shall pay all
13 expenses associated with the clinical training program.

14 Based on respondent's performance and test results in the assessment and clinical
15 education, the Program will advise the Division or its designee of its recommendation(s) for the
16 scope and length of any additional educational or clinical training, treatment for any medical
17 condition, treatment for any psychological condition, or anything else affecting respondent's
18 practice of medicine. Respondent shall comply with Program recommendations.

19 At the completion of any additional educational or clinical training, respondent
20 shall submit to and pass an examination. The Program's determination whether or not
21 respondent passed the examination or successfully completed the Program shall be binding.

22 Respondent shall complete the Program not later than one year after respondent's
23 initial enrollment unless the Division or its designee agrees in writing to a later time for
24 completion.

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

27 **If respondent fails to complete the clinical training program within the**
28 **designated time period, respondent shall cease the practice of medicine within 72 hours**

1 after being notified by the Division or its designee that respondent failed to complete the
2 clinical training program.

3 Failure to participate in and complete successfully the professional enhancement
4 program outlined above is a violation of probation.

5 4. **Monitoring - Practice/Billing** Within 30 calendar days of the effective
6 date of this Decision, respondent shall submit to the Division or its designee for prior approval as
7 a billing monitor, the name and qualifications of one or more licensed physicians and surgeons
8 whose licenses are valid and in good standing, and who are preferably American Board of
9 Medical Specialties (ABMS) certified. A monitor shall have no prior or current business or
10 personal relationship with respondent, or other relationship that could reasonably be expected to
11 compromise the ability of the monitor to render fair and unbiased reports to the Division,
12 including, but not limited to, any form of bartering, shall be in respondent's field of practice, and
13 must agree to serve as respondent's monitor. Respondent shall pay all monitoring costs.

14 The Division or its designee shall provide the approved monitor with copies of the
15 Decision(s) and Accusation(s), and a proposed monitoring plan. Within 15 calendar days of
16 receipt of the Decision(s), Accusation(s), and proposed monitoring plan, the monitor shall submit
17 a signed statement that the monitor has read the Decision(s) and Accusation(s), fully understands
18 the role of a monitor, and agrees or disagrees with the proposed monitoring plan. If the monitor
19 disagrees with the proposed monitoring plan, the monitor shall submit a revised monitoring plan
20 with the signed statement.

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

26 The monitor(s) shall submit a quarterly written report to the Division or its
27 designee which includes an evaluation of respondent's performance, indicating whether
28 respondent's practices are within the standards of practice of medicine or billing, or both, and

1 whether respondent is practicing medicine safely, billing appropriately or both.

2 It shall be the sole responsibility of respondent to ensure that the monitor submits
3 the quarterly written reports to the Division or its designee within 10 calendar days after the end
4 of the preceding quarter.

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

13 **In lieu of a monitor, respondent may participate in a professional**
14 **enhancement program equivalent to the one offered by the Physician Assessment and**
15 **Clinical Education Program at the University of California, San Diego School of Medicine,**
16 **that includes, at minimum, quarterly chart review, semi-annual practice assessment, and**
17 **semi-annual review of professional growth and education. Respondent shall participate in**
18 **the professional enhancement program at respondent's expense during the term of**
19 **probation.**

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

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

1 submit proof of compliance to the Division or its designee within 15 calendar days.

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

4 6. **Obey All Laws** Respondent shall obey all federal, state and local laws,
5 all rules governing the practice of medicine in California, and remain in full compliance with any
6 court ordered criminal probation, payments and other orders.

7 7. **Quarterly Declarations** Respondent shall submit quarterly declarations
8 under penalty of perjury on forms provided by the Division, stating whether there has been
9 compliance with all the conditions of probation. Respondent shall submit quarterly declarations
10 not later than 10 calendar days after the end of the preceding quarter.

11 8. **Probation Unit Compliance** Respondent shall comply with the
12 Division's probation unit. Respondent shall, at all times, keep the Division informed of
13 respondent's business and residence addresses. Changes of such addresses shall be immediately
14 communicated in writing to the Division or its designee. Under no circumstances shall a post
15 office box serve as an address of record, except as allowed by Business and Professions Code
16 section 2021(b).

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

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

23 9. **Interview with the Division, or its Designee** Respondent shall be
24 available in person for interviews either at respondent's place of business or at the probation unit
25 office, with the Division or its designee, upon request at various intervals, and either with or
26 without prior notice throughout the term of probation.

27 10. **Residing or Practicing Out-of-state** In the event respondent should
28 leave the State of California to reside or to practice, respondent shall notify the Division or its

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

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

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

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

28 All time spent in an intensive training program which has been approved by the

1 Division or its designee shall be considered time spent in the practice of medicine. For purposes
2 of this condition, non-practice due to a Board-ordered suspension or in compliance with any
3 other condition of probation, shall not be considered a period of non-practice.

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

7 **12. Completion of Probation** Respondent shall comply with all financial
8 obligations (e.g., cost recovery, restitution, probation costs) not later than 120 calendar days prior
9 to the completion of probation. Upon successful completion of probation, respondent's
10 certificate shall be fully restored.

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

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

1 15. **Probation Monitoring Costs** Respondent shall pay the costs associated
2 with probation monitoring each and every year of probation, as designated by the Division. Such
3 costs shall be payable to the Medical Board of California and delivered to the Division or its
4 designee no later than January 31 of each calendar year. Failure to pay costs within 30 calendar
5 days of the due date is a violation of probation.

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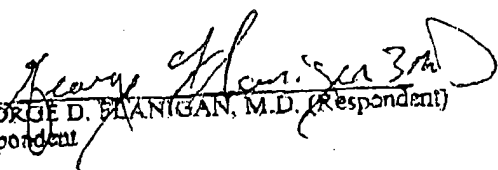
ATTORNEY GENERAL LA

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ACCEPTANCE

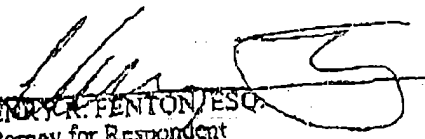
I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Henry R. Fenton, Esq.. I understand the stipulation and the effect it will have on my Physician and Surgeon's Certificate. I enter into this Stipulated Settlement and Disciplinary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

DATED: 8/11/06


GEORGE D. FLANIGAN, M.D. (Respondent)
Respondent

I have read and fully discussed with Respondent George D. Flanigan, 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: 8-11-06



HENRY R. FENTON, ESQ.
Attorney for Respondent

1 **ENDORSEMENT**

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

5
6 DATED: August 15, 2006
7

8 BILL LOCKYER, Attorney General
9 of the State of California

10
11 
12 RICHARD D. MARINO
13 Deputy Attorney General

14 Attorneys for Complainant

15 DOJ Matter ID: LA2005600315
16 FlaniganStipulation.wpd
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Exhibit A

Accusation No. 11-2004-156292

BILL LOCKYER, Attorney General
of the State of California
AMY FAN (State Bar No. 156211)
Deputy Attorney General
California Department of Justice
300 South Spring Street, Suite 1702
Los Angeles, California, 90013-1230
Telephone: (213) 897-0188
Facsimile: (213) 897-9395

Attorneys for Complainant

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO September 13, 20 05
BY Valerie Mon ANALYST

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

In the Matter of the Accusation Against:

GEORGE DALTON FLANIGAN, III, M.D.
956 South Longwood Avenue
Los Angeles, California 90019

Physician's and Surgeon's Certificate
No. A 47749,

Respondent.

Case No. 11-2004-156292

ACCUSATION

Complainant David T. Thornton, alleges:

PARTIES

1. He is the Executive Director of the Medical Board of California ("Board")
and brings these charges solely in his official capacity.

2. At all times material to this action, Respondent George Dalton Flanigan,
III, M.D., ("Respondent") has held physician's and surgeon's certificate No. A 47749, which
was issued to him on November 27, 1989 by the Board. Unless renewed, the certificate will
expire on May 31, 2007.

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JURISDICTION

3. This Accusation is brought before the Board's Division of Medical Quality ("Division"), under the authority of the following laws. All section references are to the California 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, or such other action taken in relation to discipline as the Division deems proper.

5. Section 2234 of the Code¹ states:

"The Division of Medical Quality 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 [Chapter 5, pertinent part, that unprofessional conduct included, but was not limited to, the following:

"(b) Gross negligence.

"(c) Repeated negligent acts.

"(d) Incompetence.

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

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

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

"(a) The conviction of any offense substantially related to the qualifications,

1. Section 2234, subdivision (c) of the Code was amended by Stats. 2002 which became effective January, 2003. The acts and/or omissions alleged herein occurred in 2002.

1 functions, or duties of a physician and surgeon constitutes unprofessional conduct within
2 the meaning of this chapter [Chapter 5, the Medical Practice Act]. The record of
3 conviction shall be conclusive evidence only of the fact that the conviction occurred.

4 “ ...

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

9 7. Section 2261 of the Code states:

10 “Knowingly making or signing any certificate or other document directly or
11 indirectly related to the practice of medicine or podiatry which falsely represents the
12 existence or nonexistence of a state of facts, constitutes unprofessional conduct.”

13 8. Penal Code section 32, states:

14 “Every person who, after a felony has been committed, harbors, conceals or aids a
15 principal in such felony, with the intent that said principal may avoid or escape from
16 arrest, trial, conviction or punishment, having knowledge that said principal has
17 committed such felony or has been charged with such felony or conviction thereof, is an
18 accessory to such felony.

19 9. California Code of Regulations, title 16, section 1360, states:

20 “For the purposes of denial, suspension or revocation of a license, certificate or
21 permit pursuant to Division 1.5 (commencing with Section 475) of the code, a crime or
22 act shall be considered to be substantially related to the qualifications, functions or duties
23 of a person holding a license, certificate or permit under the Medical Practice Act if to a
24 substantial degree it evidences present or potential unfitness of a person holding a license,
25 certificate or permit to perform the functions authorized by the license, certificate or
26 permit in a manner consistent with the public health, safety or welfare. Such crimes or
27 acts shall include but not be limited to the following: Violating or attempting to violate,
28

1 directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate
2 any provision of the Medical Practice Act.”

3 10. Section 2266 of the Code states:

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

6 **COST RECOVERY**

7 11. Section 125.3 of the Code provides, in part, that the board may request the
8 administrative law judge to direct any licentiate found to have committed a violation or
9 violations of the licensing act, to pay the Board a sum not to exceed the reasonable costs
10 of the investigation and enforcement of the case.

11 **RESPONDENT'S PRACTICE**

12 12. At all times relevant to this matter, Respondent practiced as an
13 obstetrician / gynecologist in Los Angeles, California.

14 **PATIENT MARIA R.²**

15 13. Patient, Maria R. was a 26-year-old female patient, gravida 3, para 2³ who
16 was attended by Respondent during her pregnancy from on or about December of 2001 through
17 and until August of 2002. Respondent's medical records indicate that the patient's last menstrual
18 period was on November 3, 2001, and that her estimated due date was August 10, 2002.⁴

19 14. On her first prenatal visit, Maria R. advised Respondent that her two
20 previous babies, who were born in Honduras, weighed 12 and 14.5 pounds, respectively. She
21 further indicated that her first child was delivered after 10 hours of labor and the second child
22

23 2. The full name of the patient may be disclosed through the discovery process. The
24 patient may also be referred as “Maira R.”

25 3. Gravida refers to the number of times a woman has been pregnant. For example, a
26 woman who has never been pregnant is referred to as Gravida 0; a woman who is pregnant for
27 the first time is known as a primigravida or Gravida 1. Parity (para) refers to the number of live
28 births. Hence, this patient had been pregnant three times and had delivered twice.

28 4. Human pregnancy lasts approximately 40 weeks between the time of the last menstrual
cycle and birth (38 weeks from fertilization).

1 was delivered after 30 hours of labor. The patient was 5 feet one inch tall. In August of 2002, at
2 pregnancy term, she weighed 231 pounds after having gained 50 pounds during her pregnancy.

3 15. On May 16, 2002, Maria R. underwent a one-hour glucose tolerance test
4 which was abnormal. On May 25, 2002, the patient underwent a three-hour glucose tolerance
5 test which was incomplete because the amount of blood obtained was insufficient.
6 Notwithstanding this incomplete test finding, no further testing was ordered by Respondent or
7 performed and the result was assumed to be normal.

8 16. On June 10, 2002, an ultrasound was performed to rule out macrosomia⁵
9 which reported the size of the baby to be 32 weeks with an estimated weight of 5 pounds.

10 17. On July 15, 2002, another ultrasound was performed which reported the
11 size of the baby at 39 weeks with an estimated weight of 8 pounds, eleven ounces or 3,777
12 grams.

13 18. During an office visit on August 14, 2002, with gestation at 40 4/7 weeks,
14 Maria R. was sent to the hospital for evaluation because of elevated blood pressure and possible
15 pre-eclampsia.⁶ An ultrasound performed on that date put the estimated weight of the baby at
16 4,470 grams or 10 pounds.

17
18 5. Babies are considered large for their gestational age (LGA) if their weights fall above
19 the 90th percentile for that gestational age. Macrosomia, also known as big baby syndrome, is
20 sometimes used synonymously with LGA, or is otherwise defined as a fetus that weighs above
21 4,000 grams (8 pounds, 13 ounces) or 4,500 grams (9 pounds, 15 ounces) regardless of
22 gestational age. One of the primary risk factors for macrosomia is diabetes which increases
23 maternal plasma glucose levels as well as insulin, stimulating fetal growth. Other indicating
24 factors include gestational age (pregnancies that go beyond 40 weeks increase incidence); fetal
sex (male infants tend to weigh more than female infants); genetic factors (taller, heavier
parents tend to have larger babies, with an obese mother greatly increasing the chances); and
excessive maternal weight gain. Macrosomia has been observed to be most common in
mothers of Hispanic origin, partly due to the higher incidence of diabetes in that classification.

25 6. Pre-eclampsia is a hypertensive disorder of pregnancy. It is defined to exist when a
26 pregnant woman with gestational hypertension develops proteinuria. Pre-eclampsia is thought
27 to be caused by inflammatory mediators secreted by the placenta and acting on the vascular
28 endothelium. If severe, it can progress to life-threatening conditions, not only for the
developing fetus but for the mother as well. The only treatment for eclampsia, or advancing
pre-eclampsia is delivery, either by induction or Caesarean section. In some cases, women can
be stabilized temporarily with magnesium sulphate.

1 19. On August 21, 2002, with gestation at 41 4/7 weeks, Maria R. was
2 admitted to the hospital for induction of labor due to post dates. At 2:30 p.m. an IV was started.
3 At 8:20 p.m., an analgesia was given and contractions were every 1 ½ to 3 minutes apart.

4 20. On August 22, 2002, mild variable decelerations were noted at 2:00 a.m.
5 and oxygen was given. At 7:15 a.m., spontaneous rupture of the membranes occurred and light
6 meconium was noted. Maria R. was encouraged to continue pushing. At 8:00 a.m., the patient
7 was at 9cm/0 and was pushing with contractions.

8 21. At 9:35 a.m., Respondent advised Maria R. that he needed to use a
9 vacuum extractor. At 9:42 a.m., vacuum extraction was started and was unsuccessful. At 9:45
10 a.m., vacuum extraction was reapplied and was unsuccessful. At 9:50 a.m., vacuum extraction
11 was again reapplied but was unsuccessful.

12 22. At 9:52 a.m., the fetal heart rate was 150 and a consent for C-section was
13 sought by the doctor and signed by the patient. However, prior to obtaining the consent form,
14 both Maria R. and her mother had repeatedly asked Respondent to perform a C-section when the
15 vacuum extraction attempts proved unsuccessful.

16 23. At 9:55 a.m., the baby's head was noted as crowning and at 10:00 a.m.,
17 vacuum extraction was again attempted when Maria R. could no longer push. At 10:03 a.m., the
18 head was delivered but shoulder dystocia⁷ was pending. Respondent performed a fourth degree
19 midline episiotomy.⁸ Pubic and fundal pressure were applied and Wood's Maneuver (fetal cork
20 screwing) begun. There was still no effective maternal pushing. The Wood's Maneuver enabled
21 the posterior shoulder to be delivered and subsequently the entire fetus was delivered.

22 24. At 10:10 a.m, the baby was delivered and was limp with no heartbeat. The
23 baby weighed 11 pounds and 5 ounces. The baby was pronounced dead by the pediatrician.

25 7. Shoulder dystocia is a birth complication and obstetric emergency in which the shoulder
26 of the infant cannot pass through, or requires significant manipulation to pass through, the birth
canal (pubic symphysis). The condition can result in serious fetal injury, paralysis or death.

27 8. An episiotomy is a surgical incision through the perineum made to enlarge the vagina
28 and assist delivering the baby. It is performed under local anaesthetic and is sutured closed after
delivery.

1 25. An autopsy showed a large amount of subgaleal, subdural and
2 subarachnoid hemorrhage and indicated evidence of acute cranial/cerebral blunt force trauma.

3 **FIRST CAUSE FOR DISCIPLINE**

4 **(GROSS NEGLIGENCE - PATIENT M.R.)**

5 26. Respondent is subject to discipline under section 2234, subdivision (b) of
6 the Code in that his acts and/or omissions in his care and treatment of patient Maria R., and her
7 baby, constitute gross negligence. The circumstances are as follows:

8 27. Complainant incorporates by reference paragraphs 12 through 25 above, as
9 if fully set forth herein.

10 28. Respondent was grossly negligent in his acts or omissions, considered
11 singularly or collectively, as follows:

- 12 a. Respondent failed to gather sufficient data with respect to Maria R.'s
13 OB/GYN history especially since Maria R. informed Respondent that she
14 had previously delivered a baby that weighed 12 pounds and another that
15 weighed 14 pounds.
- 16 b. Respondent failed to adequately interpret the data available to him with
17 respect to Maria R.'s history of having delivered two large babies and her
18 prolonged labor of 30 hours when she delivered her second baby.
- 19 c. Respondent's screening of Maria R. to rule out diabetes mellitus was
20 insufficient and incomplete. Good screening for diabetes mellitus is
21 imperative in cases where there is a history of macrosomy as there was
22 here.
- 23 d. Respondent failed to rule out the possibility of macrosomy,
24 notwithstanding Maria R.'s history of previous large babies, ultrasound
25 measurements, and clinical findings. Here, the ultrasound performed on
26 August 14, 2002, put the estimated weight of the baby at 4,470 grams or
27 10 pounds. If macrosomy is diagnosed, primary Cesarean section should
28

be considered and the risk of shoulder dystocia addressed with the patient prior to delivery.

e. With respect to the visit of August 14, 2002 at 40 4/7 weeks gestation and subsequent hospitalization due to elevated blood pressure, Respondent should have given consideration to induction of labor at that time if, indeed, a vaginal birth was being considered. Since Maria R.'s blood pressure was going up, and waiting another week could make the baby even bigger, Respondent's failure to induce labor at that time increased the risk of complications to Maria R. and the baby unnecessarily.

f. Vacuum Extraction: Respondent departed from the standard of care or practice in many aspects on the vacuum application as follows:

(1) Delivery by this method relies on the mother's cooperation. If the patient is emotionally or physically exhausted, and cooperation is unobtainable, then delivery by vacuum application is doomed from the start. In this case, it was an ominous sign that Maria R. had a long period of pushing efforts. She had been pushing for more than 2 ½ hours prior to the first attempted delivery by vacuum application and became uncooperative.

(2) Station of the head is a factor in a vacuum extraction. The higher the head is in the birth canal, the more difficult the delivery. From the records, the station of the presenting part of the baby's head at the time of vacuum application could not be determined by Respondent at the time he attempted vacuum extraction which increased the risk of complication.

(3) Respondent increased the risk of complication by applying the vacuum extractor four times in a situation where the baby was large, the mother was uncooperative, and the course of labor had been long.

1 (4) Respondent increased the risk of complications, including intra
2 cerebral hemorrhages, in this case by taking twenty minutes from
3 the first application of the vacuum pump to the delivery of the
4 baby. Most vacuum deliveries take less than five minutes.

5 g. Respondent failed to appreciate the possibility of shoulder dystocia and
6 failed to coordinate the delivery efforts in this emergency situation.
7 Shoulder dystocia is commonly seen in instrument deliveries, macrosomic
8 babies, and post-term gestations which were all present here. The delivery
9 of an impacted shoulder is an emergency situation requiring coordinated
10 effort by the delivery team. Fundal pressure was used in this case which
11 was counter productive. Suprapubic pressure should be utilized.

12 **SECOND CAUSE FOR DISCIPLINE**

13 **(REPEATED NEGLIGENT ACTS - PATIENT M.R.)**

14 29. Respondent is subject to disciplinary action under section 2234,
15 subdivision (c) of the Code in that he committed repeated negligent acts in his care and treatment
16 of patient Maria R., and her baby. The circumstances are as follows:

17 30. Complainant incorporates by reference paragraphs 12 through 28 above, as
18 if fully set forth herein.

19 **THIRD CAUSE FOR DISCIPLINE**

20 **(INCOMPETENCE - PATIENT M.R.)**

21 31. Respondent is subject to disciplinary action under section 2234,
22 subdivision (d) of the Code in that he was incompetent in his care and treatment of patient Maria
23 R., and her baby. The circumstances are as follows:

24 32. Complainant incorporates by reference paragraphs 12 through 28 above, as
25 if fully set forth herein.

26 //

27 //

28 //

1 **FOURTH CAUSE FOR DISCIPLINE**

2 **(INADEQUATE AND INACCURATE RECORDS)**

3 33. Respondent is subject to discipline under section 2266 of the Code in that
4 he failed to maintain adequate and accurate records in his care and treatment of patient Maria R.,
5 and her baby. The circumstances are as follows:

6 34. Complainant incorporates by reference paragraphs 12 through 28 above, as
7 if fully set forth herein.

8 **FIFTH CAUSE FOR DISCIPLINE**

9 **(CONVICTION OF A CRIME)**

10 35. Respondent is subject to discipline under sections 2234 as well as 2236 of
11 the Code in that he was convicted for being an accessory to a felony crime, to wit: Medi-Cal
12 fraud, in violation of Penal Code section 32. The circumstances are as follows:

13 36. In March 2005, a Second Amended Felony Complaint in *People v.*
14 *Cansler, et al.*, Case no: 04F03386, was filed in Sacramento Superior Court against Respondent
15 charging him with conspiracy to commit Medi-Cal fraud. Specifically, Respondent was charged
16 with:

17 Count 1 - Conspiracy in violation of Penal Code section 182(a)(1),

18 Count 2 - Grand Theft in violation of Penal Code section 487 (a),

19 Counts 4, 7, 29, 30, 31, 32, 33, 34, 35 and 38 - Presenting False Medi-Cal Claims in
20 violation of Welfare and Institutions Code section 14107, and

21 Count 42 - Accessory after Commission of Felony in violation of Penal Code section 32.

22 37. On or about March 9, 2005, Respondent pleaded nolo contendere to Count
23 42, being an accessory after the commission of a felony in violation of Penal Code 32, a
24 misdemeanor, pursuant to a plea agreement. Respondent agreed that from January 1, 2002, to
25 October 31, 2003, Respondent facilitated others in presenting false claims to the Medi-Cal
26 program and received financial remuneration as a result thereof. Respondent also admitted that
27 as a result of his criminal conduct, the Medi-Cal program disbursed \$50,000. Respondent agreed
28 to pay restitution of that amount.

1 38. On or about March 9, 2005, Respondent was sentenced to a three-year
2 term of probation. Respondent may also be excluded from Medi-Cal and Medicare programs for
3 a period of five years.

4 **SIXTH CAUSE FOR DISCIPLINE**

5 **(MAKING FALSE STATEMENTS OR REPRESENTATIONS)**

6 39. Respondent is subject to discipline under section 2261 of the Code in that
7 he made false statements or representations in Medi-Cal claims. The circumstances are as
8 follows:

9 40. Complainant incorporates by reference paragraphs 35 through 38 above, as
10 if fully set forth herein.

11 **SEVENTH CAUSE FOR DISCIPLINE**

12 **(DISHONEST OR CORRUPT ACTS)**

13 41. Respondent is subject to discipline under section 2234, subdivision (e) of
14 the Code in that he engaged in dishonest or corrupt acts in his participation to defraud the Medi-
15 Cal program. The circumstances are as follows:

16 42. Complainant incorporates by reference paragraphs 35 through 38 above, as
17 if fully set forth herein.

18 **PRAYER**

19 **WHEREFORE**, Complainant requests that a hearing be held on the matters alleged
20 above and, that following the hearing, the Division of Medical Quality issue a decision:

21 1. Revoking or suspending Physician and Surgeon's Certificate Number A 47749
22 issued to Respondent;

23 2. Ordering Respondent to pay the Division the actual and reasonable costs of
24 the investigation and enforcement of this case;

25 3. If probation is included in any order issued herein, to order Respondent to pay
26 the costs as provided by section 2227(a)(3) of the Code;

27 //

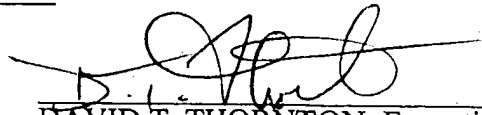
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- 4. Revoking Respondent's ability to supervise physician assistants; and,
- 5. Taking such other and further action as deemed necessary and

proper.

DATED: September 13, 2005.



DAVID T. THORNTON, Executive Director
Medical Board of California
Department of Consumer Affairs
State of California

Complainant

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

In the Matter of the Accusation)

Against:)

No. 11-2004-156292

GEORGE D. FLANIGAN, M.D.)

Certificate No. A47749)

Respondent.)

ORDER VACATING AND SETTING ASIDE DISCIPLINARY DECISION

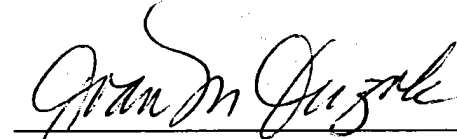
The Division of Medical Quality issued a Default Decision against the respondent dated, December 29, 2005, with an effective date of January 30, 2006.

GOOD CAUSE HAVING BEEN SHOWN, the Revocation Decision of December 29, 2005, is hereby ordered vacated and set aside.

Dated: January 5, 2006

**DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA**

By: _____



JOAN M. JERZAK

Chief of Enforcement

BILL LOCKYER, Attorney General
of the State of California
AMY FAN, State Bar No. 156211
Deputy Attorney General
California Department of Justice
300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
Telephone: (213) 897-0188
Facsimile: (213) 897-9395

Attorneys for Complainant

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

In the Matter of the Accusation Against:

Case No. 11-2004-156292

GEORGE D. FLANIGAN, M.D.

956 South Longwood Ave.
Los Angeles, California 90019

Physician's and Surgeon's Certificate
No. A47749

**DEFAULT DECISION
AND ORDER**

[Gov. Code, §11520]

Respondent.

FINDINGS OF FACT

1. On or about September 13, 2005, Complainant David T. Thornton, in his official capacity as the Executive Director of the Medical Board of California, Department of Consumer Affairs, filed Accusation No. 11-2004-156292 against George D. Flanigan, M.D. (Respondent) before the Division of Medical Quality.

2. On or about November 27, 1989, the Medical Board of California (Division) issued Physician's and Surgeon's Certificate No. A47749 to Respondent. The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought herein and will expire on May 31, 2007, unless renewed.

3. On or about September 13, 2005, Valarie Moore, an employee of the Complainant Agency, served by Certified Mail a copy of the Accusation No. 11-2004-156292, Statement to Respondent, Notice of Defense, Request for Discovery, and Government Code

1 sections 11507.5, 11507.6, and 11507.7 on Respondent's address of record with the Division,
2 which was and is 956 South Longwood Ave., Los Angeles, California 90019. A copy of the
3 Accusation, the related documents, and Declaration of Service are attached as exhibit A, and are
4 incorporated herein by reference.

5 4. Service of the Accusation was effective as a matter of law under the
6 provisions of Government Code section 11505, subdivision (c).

7 5. On or about September 16, 2005, the Accusation and related documents
8 were received at Respondent's address of record. A copy of the Certified Mail Domestic Return
9 Receipt is attached as exhibit B, and is incorporated herein by reference.

10 6. Government Code section 11506 states, in pertinent part:

11 "(c) The respondent shall be entitled to a hearing on the merits if the respondent
12 files a notice of defense, and the notice shall be deemed a specific denial of all parts of the
13 accusation not expressly admitted. Failure to file a notice of defense shall constitute a waiver of
14 respondent's right to a hearing, but the agency in its discretion may nevertheless grant a hearing."

15 7. Respondent failed to file a Notice of Defense within 15 days after service
16 upon him of the Accusation, and therefore waived his right to a hearing on the merits of
17 Accusation No. 11-2004-156292.

18 8. California Government Code section 11520 states, in pertinent part:

19 "(a) If the respondent either fails to file a notice of defense or to appear at the
20 hearing, the agency may take action based upon the respondent's express admissions or
21 upon other evidence and affidavits may be used as evidence without any notice to
22 respondent."

23 9. Pursuant to its authority under Government Code Section 11520, the
24 Division finds Respondent is in default. The Division will take action without further hearing
25 and, based on Respondent's express admissions by way of default and the evidence before it,
26 contained in Exhibits A and B attached and finds that the allegations in Accusation No.
27 11-2004-156292 are true.

28 //

1 **DETERMINATION OF ISSUES**

2 1. Based on the foregoing findings of fact, Respondent George D. Flanigan,
3 M.D. has subjected his Physician's and Surgeon's Certificate No. A47749 to discipline.

4 2. A copy of the Accusation and the related documents and Declaration of
5 Service are attached.

6 3. The agency has jurisdiction to adjudicate this case by default.

7 4. The Division of Medical Quality is authorized to revoke Respondent's
8 Physician's and Surgeon's Certificate based upon the following violations alleged in the
9 Accusation which facts and circumstances begin at paragraph 12:

10 a. Gross Negligence involving patient M.R. and her baby, in
11 violation of Business and Professions Code Section 2234, subdivision (b);

12 b. Repeated Negligent Acts involving patient M.R. and her baby, in
13 violation of Business and Professions Code Section 2234, subdivision (c);

14 c. Incompetence involving patient M.R. and her baby, in violation of
15 Business and Professions Code Section 2234, subdivision (d);

16 d. Inadequate and Inaccurate Records involving patient M.R., and her
17 baby, in violation of Business and Professions Code section 2266;

18 e. Conviction of a Crime, to wit: Accessory to a Felony for Medi-Cal
19 Fraud in violation of Penal Code Section 32, and in violation of Business and Professions
20 Code Sections 2234 and 2236;

21 f. Making False Statements or Representations involving Medi-Cal
22 claims, in violation of Business and Professions Code Section 2261;

23 g. Dishonest or Corrupt Acts involving Medi-Cal claims, in violation
24 of Business and Professions Code Section 2234, subdivision (e).

25 **ORDER**

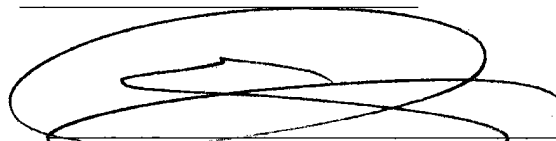
26 **IT IS SO ORDERED** that Physician and Surgeon's Certificate No. A47749,
27 heretofore issued to Respondent George D. Flanigan, M.D., is revoked.

28 //

1 Pursuant to Government Code section 11520, subdivision (c), Respondent may
2 serve a written motion requesting that the Decision be vacated and stating the grounds relied on
3 within seven (7) days after service of the Decision on Respondent. The agency in its discretion
4 may vacate the Decision and grant a hearing on a showing of good cause, as defined in the
5 statute.

6 This Decision shall become effective on January 30, 2006.

7 It is so ORDERED December 29, 2005

8 

9 ~~FOR THE DIVISION OF MEDICAL QUALITY~~
10 MEDICAL BOARD OF CALIFORNIA
11 DEPARTMENT OF CONSUMER AFFAIRS
STEVEN ALEXANDER, CHAIR, PANEL A

12
13 60112605.wpd
14 DOJ docket number: LA2005600315

15 Attachments:

16 Exhibit A: Accusation No.11-2004-156292, Related Documents, and Declaration of Service
17 Exhibit B: Certified Mail Domestic Return Receipt
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Exhibit A

Accusation No. 11-2004-156292,
Related Documents and Declaration of Service

1 BILL LOCKYER, Attorney General
of the State of California

2 AMY FAN, State Bar No. 156211
Deputy Attorney General

3 California Department of Justice
300 So. Spring Street, Suite 1702

4 Los Angeles, CA 90013
Telephone: (213) 897-0188

5 Facsimile: (213) 897-9395

6 Attorneys for Complainant

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

12 In the Matter of the Accusation Against:

13 GEORGE D. FLANIGAN, M.D.
14 956 South Longwood Avenue
15 Los Angeles, California 90019

16 Physician's and Surgeon's Certificate
No. A 47749,

Respondent.

Case No. 11-2004-156292

STATEMENT TO RESPONDENT

[Gov. Code §§ 11504, 11505(b)]

17 **TO RESPONDENT:**

18 Enclosed is a copy of the Accusation that has been filed with the Division of
19 Medical Quality, Medical Board of California of the Department of Consumer Affairs (Division),
20 and which is hereby served on you.

21 Unless a written request for a hearing signed by you or on your behalf is delivered
22 or mailed to the Division, represented by Deputy Attorney General Amy Fan, within fifteen (15)
23 days after a copy of the Accusation was personally served on you or mailed to you, you will be
24 deemed to have waived your right to a hearing in this matter and the Division may proceed upon
25 the Accusation without a hearing and may take action thereon as provided by law.

26 The request for hearing may be made by delivering or mailing one of the enclosed
27 forms entitled "Notice of Defense," or by delivering or mailing a Notice of Defense as provided
28 in section 11506 of the Government Code, to:

1 Amy Fan
2 Deputy Attorney General
3 Ronald Reagan Building
4 300 South Spring Street, Suite 1702
5 Los Angeles, CA 90013.

6 You may, but need not, be represented by counsel at any or all stages of these
7 proceedings.

8 The enclosed Notice of Defense, if signed and filed with the Division, shall be
9 deemed a specific denial of all parts of the Accusation, but you will not be permitted to raise any
10 objection to the form of the Accusation unless you file a further Notice of Defense as provided in
11 section 11506 of the Government Code within fifteen (15) days after service of the Accusation
12 on you.

13 If you file any Notice of Defense within the time permitted, a hearing will be held
14 on the charges made in the Accusation.

15 The hearing may be postponed for good cause. If you have good cause, you are
16 obliged to notify the Office of Administrative Hearings, 320 West Fourth Street, Suite 630, Los
17 Angeles, California 90013, within ten (10) working days after you discover the good cause.
18 Failure to notify the Office of Administrative Hearings within ten (10) days will deprive you of a
19 postponement.

20 Copies of sections 11507.5, 11507.6, and 11507.7 of the Government Code are
21 enclosed.

22 If you desire the names and addresses of witnesses or an opportunity to inspect
23 and copy the items mentioned in section 11507.6 of the Government Code in the possession,
24 custody or control of the Division you may send a Request for Discovery to the above designated
25 Deputy Attorney General.

26 **NOTICE REGARDING STIPULATED SETTLEMENTS**

27 It may be possible to avoid the time, expense and uncertainties involved in an
28 administrative hearing by disposing of this matter through a stipulated settlement. A stipulated
 settlement is a binding written agreement between you and the government regarding the matters

1 charged and the discipline to be imposed. Such a stipulation would have to be approved by the
2 Division of Medical Quality, Medical Board of California but, once approved, it would be
3 incorporated into a final order.

4 Any stipulation must be consistent with the Division's established disciplinary
5 guidelines; however, all matters in mitigation or aggravation will be considered. A copy of the
6 Division's Disciplinary Guidelines will be provided to you on your written request to the state
7 agency bringing this action.

8 If you are interested in pursuing this alternative to a formal administrative hearing,
9 or if you have any questions, you or your attorney should contact Deputy Attorney General Amy
10 Fan at the earliest opportunity.

11 *****

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FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO September 13, 20 05
BY L. Allen MOA ANALYST

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

13 In the Matter of the Accusation Against:

Case No. 11-2004-156292

14 GEORGE DALTON FLANIGAN, III, M.D.
15 956 South Longwood Avenue
Los Angeles, California 90019

ACCUSATION

16 Physician's and Surgeon's Certificate
No. A 47749,

Respondent.

17
18 Complainant David T. Thornton, alleges:

19 **PARTIES**

20 1. He is the Executive Director of the Medical Board of California ("Board")
21 and brings these charges solely in his official capacity.

22 2. At all times material to this action, Respondent George Dalton Flanigan,
23 III, M.D., ("Respondent") has held physician's and surgeon's certificate No. A 47749, which
24 was issued to him on November 27, 1989 by the Board. Unless renewed, the certificate will
25 expire on May 31, 2007.

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1 functions, or duties of a physician and surgeon constitutes unprofessional conduct within
2 the meaning of this chapter [Chapter 5, the Medical Practice Act]. The record of
3 conviction shall be conclusive evidence only of the fact that the conviction occurred.

4 “...

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

9 7. Section 2261 of the Code states:

10 “Knowingly making or signing any certificate or other document directly or
11 indirectly related to the practice of medicine or podiatry which falsely represents the
12 existence or nonexistence of a state of facts, constitutes unprofessional conduct.”

13 8. Penal Code section 32, states:

14 “Every person who, after a felony has been committed, harbors, conceals or aids a
15 principal in such felony, with the intent that said principal may avoid or escape from
16 arrest, trial, conviction or punishment, having knowledge that said principal has
17 committed such felony or has been charged with such felony or conviction thereof, is an
18 accessory to such felony.

19 9. California Code of Regulations, title 16, section 1360, states:

20 “For the purposes of denial, suspension or revocation of a license, certificate or
21 permit pursuant to Division 1.5 (commencing with Section 475) of the code, a crime or
22 act shall be considered to be substantially related to the qualifications, functions or duties
23 of a person holding a license, certificate or permit under the Medical Practice Act if to a
24 substantial degree it evidences present or potential unfitness of a person holding a license,
25 certificate or permit to perform the functions authorized by the license, certificate or
26 permit in a manner consistent with the public health, safety or welfare. Such crimes or
27 acts shall include but not be limited to the following: Violating or attempting to violate,
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1 directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate
2 any provision of the Medical Practice Act.”

3 10. Section 2266 of the Code states:

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

6 **COST RECOVERY**

7 11. Section 125.3 of the Code provides, in part, that the board may request the
8 administrative law judge to direct any licensee found to have committed a violation or
9 violations of the licensing act, to pay the Board a sum not to exceed the reasonable costs
10 of the investigation and enforcement of the case.

11 **RESPONDENT'S PRACTICE**

12 12. At all times relevant to this matter, Respondent practiced as an
13 obstetrician / gynecologist in Los Angeles, California.

14 **PATIENT MARIA R.²**

15 13. Patient, Maria R. was a 26-year-old female patient, gravida 3, para 2³ who
16 was attended by Respondent during her pregnancy from on or about December of 2001 through
17 and until August of 2002. Respondent's medical records indicate that the patient's last menstrual
18 period was on November 3, 2001, and that her estimated due date was August 10, 2002.⁴

19 14. On her first prenatal visit, Maria R. advised Respondent that her two
20 previous babies, who were born in Honduras, weighed 12 and 14.5 pounds, respectively. She
21 further indicated that her first child was delivered after 10 hours of labor and the second child
22

23 2. The full name of the patient may be disclosed through the discovery process. The
24 patient may also be referred to as “Maira R.”

25 3. Gravida refers to the number of times a woman has been pregnant. For example, a
26 woman who has never been pregnant is referred to as Gravida 0; a woman who is pregnant for
27 the first time is known as a primigravida or Gravida 1. Parity (para) refers to the number of live
28 births. Hence, this patient had been pregnant three times and had delivered twice.

4. Human pregnancy lasts approximately 40 weeks between the time of the last menstrual
cycle and birth (38 weeks from fertilization).

1 was delivered after 30 hours of labor. The patient was 5 feet one inch tall. In August of 2002, at
2 pregnancy term, she weighed 231 pounds after having gained 50 pounds during her pregnancy.

3 15. On May 16, 2002, Maria R. underwent a one-hour glucose tolerance test
4 which was abnormal. On May 25, 2002, the patient underwent a three-hour glucose tolerance
5 test which was incomplete because the amount of blood obtained was insufficient.
6 Notwithstanding this incomplete test finding, no further testing was ordered by Respondent or
7 performed and the result was assumed to be normal.

8 16. On June 10, 2002, an ultrasound was performed to rule out macrosomia⁵
9 which reported the size of the baby to be 32 weeks with an estimated weight of 5 pounds.

10 17. On July 15, 2002, another ultrasound was performed which reported the
11 size of the baby at 39 weeks with an estimated weight of 8 pounds, eleven ounces or 3,777
12 grams.

13 18. During an office visit on August 14, 2002, with gestation at 40 4/7 weeks,
14 Maria R. was sent to the hospital for evaluation because of elevated blood pressure and possible
15 pre-eclampsia.⁶ An ultrasound performed on that date put the estimated weight of the baby at
16 4,470 grams or 10 pounds.

17
18 5. Babies are considered large for their gestational age (LGA) if their weights fall above
19 the 90th percentile for that gestational age. Macrosomia, also known as big baby syndrome, is
20 sometimes used synonymously with LGA, or is otherwise defined as a fetus that weighs above
21 4,000 grams (8 pounds, 13 ounces) or 4,500 grams (9 pounds, 15 ounces) regardless of
22 gestational age. One of the primary risk factors for macrosomia is diabetes which increases
23 maternal plasma glucose levels as well as insulin, stimulating fetal growth. Other indicating
24 factors include gestational age (pregnancies that go beyond 40 weeks increase incidence); fetal
25 sex (male infants tend to weigh more than female infants); genetic factors (taller, heavier
26 parents tend to have larger babies, with an obese mother greatly increasing the chances); and
27 excessive maternal weight gain. Macrosomia has been observed to be most common in
28 mothers of Hispanic origin, partly due to the higher incidence of diabetes in that classification.

25 6. Pre-eclampsia is a hypertensive disorder of pregnancy. It is defined to exist when a
26 pregnant woman with gestational hypertension develops proteinuria. Pre-eclampsia is thought
27 to be caused by inflammatory mediators secreted by the placenta and acting on the vascular
28 endothelium. If severe, it can progress to life-threatening conditions, not only for the
developing fetus but for the mother as well. The only treatment for eclampsia, or advancing
pre-eclampsia is delivery, either by induction or Caesarean section. In some cases, women can
be stabilized temporarily with magnesium sulphate.

1 19. On August 21, 2002, with gestation at 41 4/7 weeks, Maria R. was
2 admitted to the hospital for induction of labor due to post dates. At 2:30 p.m. an IV was started.
3 At 8:20 p.m., an analgesia was given and contractions were every 1 ½ to 3 minutes apart.

4 20. On August 22, 2002, mild variable decelerations were noted at 2:00 a.m.
5 and oxygen was given. At 7:15 a.m., spontaneous rupture of the membranes occurred and light
6 meconium was noted. Maria R. was encouraged to continue pushing. At 8:00 a.m., the patient
7 was at 9cm/0 and was pushing with contractions.

8 21. At 9:35 a.m., Respondent advised Maria R. that he needed to use a
9 vacuum extractor. At 9:42 a.m., vacuum extraction was started and was unsuccessful. At 9:45
10 a.m., vacuum extraction was reapplied and was unsuccessful. At 9:50 a.m., vacuum extraction
11 was again reapplied but was unsuccessful.

12 22. At 9:52 a.m., the fetal heart rate was 150 and a consent for C-section was
13 sought by the doctor and signed by the patient. However, prior to obtaining the consent form,
14 both Maria R. and her mother had repeatedly asked Respondent to perform a C-section when the
15 vacuum extraction attempts proved unsuccessful.

16 23. At 9:55 a.m., the baby's head was noted as crowning and at 10:00 a.m.,
17 vacuum extraction was again attempted when Maria R. could no longer push. At 10:03 a.m., the
18 head was delivered but shoulder dystocia⁷ was pending. Respondent performed a fourth degree
19 midline episiotomy.⁸ Pubic and fundal pressure were applied and Wood's Maneuver (fetal cork
20 screwing) begun. There was still no effective maternal pushing. The Wood's Maneuver enabled
21 the posterior shoulder to be delivered and subsequently the entire fetus was delivered.

22 24. At 10:10 a.m, the baby was delivered and was limp with no heartbeat. The
23 baby weighed 11 pounds and 5 ounces. The baby was pronounced dead by the pediatrician.

24
25 7. Shoulder dystocia is a birth complication and obstetric emergency in which the shoulder
26 of the infant cannot pass through, or requires significant manipulation to pass through, the birth
canal (pubic symphysis). The condition can result in serious fetal injury, paralysis or death.

27 8. An episiotomy is a surgical incision through the perineum made to enlarge the vagina
28 and assist delivering the baby. It is performed under local anaesthetic and is sutured closed after
delivery.

1 25. An autopsy showed a large amount of subgaleal, subdural and
2 subarachnoid hemorrhage and indicated evidence of acute cranial/cerebral blunt force trauma.

3 **FIRST CAUSE FOR DISCIPLINE**

4 **(GROSS NEGLIGENCE - PATIENT M.R.)**

5 26. Respondent is subject to discipline under section 2234, subdivision (b) of
6 the Code in that his acts and/or omissions in his care and treatment of patient Maria R., and her
7 baby, constitute gross negligence. The circumstances are as follows:

8 27. Complainant incorporates by reference paragraphs 12 through 25 above, as
9 if fully set forth herein.

10 28. Respondent was grossly negligent in his acts or omissions, considered
11 singularly or collectively, as follows:

- 12 a. Respondent failed to gather sufficient data with respect to Maria R.'s
13 OB/GYN history especially since Maria R. informed Respondent that she
14 had previously delivered a baby that weighed 12 pounds and another that
15 weighed 14 pounds.
- 16 b. Respondent failed to adequately interpret the data available to him with
17 respect to Maria R.'s history of having delivered two large babies and her
18 prolonged labor of 30 hours when she delivered her second baby.
- 19 c. Respondent's screening of Maria R. to rule out diabetes mellitus was
20 insufficient and incomplete. Good screening for diabetes mellitus is
21 imperative in cases where there is a history of macrosomy as there was
22 here.
- 23 d. Respondent failed to rule out the possibility of macrosomy,
24 notwithstanding Maria R.'s history of previous large babies, ultrasound
25 measurements, and clinical findings. Here, the ultrasound performed on
26 August 14, 2002, put the estimated weight of the baby at 4,470 grams or
27 10 pounds. If macrosomy is diagnosed, primary Cesarean section should
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1 be considered and the risk of shoulder dystocia addressed with the patient
2 prior to delivery.

3 e. With respect to the visit of August 14, 2002 at 40 4/7 weeks gestation and
4 subsequent hospitalization due to elevated blood pressure, Respondent
5 should have given consideration to induction of labor at that time if,
6 indeed, a vaginal birth was being considered. Since Maria R.'s blood
7 pressure was going up, and waiting another week could make the baby
8 even bigger, Respondent's failure to induce labor at that time increased the
9 risk of complications to Maria R. and the baby unnecessarily.

10 f. Vacuum Extraction: Respondent departed from the standard of care or
11 practice in many aspects on the vacuum application as follows:

12 (1) Delivery by this method relies on the mother's cooperation. If the
13 patient is emotionally or physically exhausted, and cooperation is
14 unobtainable, then delivery by vacuum application is doomed from
15 the start. In this case, it was an ominous sign that Maria R. had a
16 long period of pushing efforts. She had been pushing for more
17 than 2 ½ hours prior to the first attempted delivery by vacuum
18 application and became uncooperative.

19 (2) Station of the head is a factor in a vacuum extraction. The higher
20 the head is in the birth canal, the more difficult the delivery. From
21 the records, the station of the presenting part of the baby's head at
22 the time of vacuum application could not be determined by
23 Respondent at the time he attempted vacuum extraction which
24 increased the risk of complication.

25 (3) Respondent increased the risk of complication by applying the
26 vacuum extractor four times in a situation where the baby was
27 large, the mother was uncooperative, and the course of labor had
28 been long.

(4) Respondent increased the risk of complications, including intra cerebral hemorrhages, in this case by taking twenty minutes from the first application of the vacuum pump to the delivery of the baby. Most vacuum deliveries take less than five minutes.

g. Respondent failed to appreciate the possibility of shoulder dystocia and failed to coordinate the delivery efforts in this emergency situation. Shoulder dystocia is commonly seen in instrument deliveries, macrosomic babies, and post-term gestations which were all present here. The delivery of an impacted shoulder is an emergency situation requiring coordinated effort by the delivery team. Fundal pressure was used in this case which was counter productive. Suprapubic pressure should be utilized.

SECOND CAUSE FOR DISCIPLINE

(REPEATED NEGLIGENT ACTS - PATIENT M.R.)

29. Respondent is subject to disciplinary action under section 2234, subdivision (c) of the Code in that he committed repeated negligent acts in his care and treatment of patient Maria R., and her baby. The circumstances are as follows:

30. Complainant incorporates by reference paragraphs 12 through 28 above, as if fully set forth herein.

THIRD CAUSE FOR DISCIPLINE

(INCOMPETENCE - PATIENT M.R.)

31. Respondent is subject to disciplinary action under section 2234, subdivision (d) of the Code in that he was incompetent in his care and treatment of patient Maria R., and her baby. The circumstances are as follows:

32. Complainant incorporates by reference paragraphs 12 through 28 above, as if fully set forth herein.

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FOURTH CAUSE FOR DISCIPLINE
(INADEQUATE AND INACCURATE RECORDS)

33. Respondent is subject to discipline under section 2266 of the Code in that he failed to maintain adequate and accurate records in his care and treatment of patient Maria R., and her baby. The circumstances are as follows:

34. Complainant incorporates by reference paragraphs 12 through 28 above, as if fully set forth herein.

FIFTH CAUSE FOR DISCIPLINE
(CONVICTION OF A CRIME)

35. Respondent is subject to discipline under sections 2234 as well as 2236 of the Code in that he was convicted for being an accessory to a felony crime, to wit: Medi-Cal fraud, in violation of Penal Code section 32. The circumstances are as follows:

36. In March 2005, a Second Amended Felony Complaint in *People v. Cansler, et al.*, Case no: 04F03386, was filed in Sacramento Superior Court against Respondent charging him with conspiracy to commit Medi-Cal fraud. Specifically, Respondent was charged with:

Count 1 - Conspiracy in violation of Penal Code section 182(a)(1),

Count 2 - Grand Theft in violation of Penal Code section 487 (a),

Counts 4, 7, 29, 30, 31, 32, 33, 34, 35 and 38 - Presenting False Medi-Cal Claims in violation of Welfare and Institutions Code section 14107, and

Count 42 - Accessory after Commission of Felony in violation of Penal Code section 32.

37. On or about March 9, 2005, Respondent pleaded nolo contendere to Count 42, being an accessory after the commission of a felony in violation of Penal Code 32, a misdemeanor, pursuant to a plea agreement. Respondent agreed that from January 1, 2002, to October 31, 2003, Respondent facilitated others in presenting false claims to the Medi-Cal program and received financial remuneration as a result thereof. Respondent also admitted that as a result of his criminal conduct, the Medi-Cal program disbursed \$50,000. Respondent agreed to pay restitution of that amount.

1 38. On or about March 9, 2005, Respondent was sentenced to a three-year
2 term of probation. Respondent may also be excluded from Medi-Cal and Medicare programs for
3 a period of five years.

4 **SIXTH CAUSE FOR DISCIPLINE**

5 **(MAKING FALSE STATEMENTS OR REPRESENTATIONS)**

6 39. Respondent is subject to discipline under section 2261 of the Code in that
7 he made false statements or representations in Medi-Cal claims. The circumstances are as
8 follows:

9 40. Complainant incorporates by reference paragraphs 35 through 38 above, as
10 if fully set forth herein.

11 **SEVENTH CAUSE FOR DISCIPLINE**

12 **(DISHONEST OR CORRUPT ACTS)**

13 41. Respondent is subject to discipline under section 2234, subdivision (e) of
14 the Code in that he engaged in dishonest or corrupt acts in his participation to defraud the Medi-
15 Cal program. The circumstances are as follows:

16 42. Complainant incorporates by reference paragraphs 35 through 38 above, as
17 if fully set forth herein.

18 **PRAYER**

19 **WHEREFORE**, Complainant requests that a hearing be held on the matters alleged
20 above and, that following the hearing, the Division of Medical Quality issue a decision:

- 21 1. Revoking or suspending Physician and Surgeon's Certificate Number A 47749
22 issued to Respondent;
- 23 2. Ordering Respondent to pay the Division the actual and reasonable costs of
24 the investigation and enforcement of this case;
- 25 3. If probation is included in any order issued herein, to order Respondent to pay
26 the costs as provided by section 2227(a)(3) of the Code;

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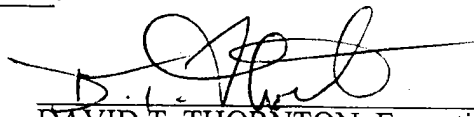
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- 4. Revoking Respondent's ability to supervise physician assistants; and,
- 5. Taking such other and further action as deemed necessary and

proper.

DATED: September 13, 2005.



DAVID T. THORNTON, Executive Director
Medical Board of California
Department of Consumer Affairs
State of California

Complainant

1 BILL LOCKYER, Attorney General
of the State of California
2 AMY FAN, State Bar No. 156211
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3 California Department of Justice
300 So. Spring Street, Suite 1702
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5 Facsimile: (213) 897-9395

6 Attorneys for Complainant

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

12 In the Matter of the Accusation Against:

Case No. 11-2004-156292

13 GEORGE D. FLANIGAN, M.D.
14 956 South Longwood Avenue
Los Angeles, California 90019

REQUEST FOR DISCOVERY

[Gov. Code § 11507.6]

15 Physician's and Surgeon's Certificate
16 No. A 47749,

Respondent.

17
18 **TO RESPONDENT:**

19 Under section 11507.6 of the Government Code of the State of California, parties
20 to an administrative hearing, including the Complainant, are entitled to certain information
21 concerning the opposing party's case. A copy of the provisions of section 11507.6 of the
22 Government Code concerning such rights is included among the papers served.

23
24 **PURSUANT TO SECTION 11507.6 OF THE GOVERNMENT CODE, YOU**
25 **ARE HEREBY REQUESTED TO:**

- 26 1. Provide the names and addresses of witnesses to the extent known to the
27 Respondent, including, but not limited to, those intended to be called to testify at the hearing, and
28 2. Provide an opportunity for the Complainant to inspect and make a copy of any of

1 the following in the possession or custody or under control of the Respondent:

2 a. A statement of a person, other than the Respondent, named in the initial
3 administrative pleading, or in any additional pleading, when it is claimed that the act or
4 omission of the Respondent as to this person is the basis for the administrative
5 proceeding;

6 b. A statement pertaining to the subject matter of the proceeding made by any
7 party to another party or persons;

8 c. Statements of witnesses then proposed to be called by the Respondent and
9 of other persons having personal knowledge of the acts, omissions or events which are the
10 basis for the proceeding, not included in (a) or (b) above;

11 d. All writings, including but not limited to reports of mental, physical and
12 blood examinations and things which the Respondent now proposes to offer in evidence;

13 e. Any other writing or thing which is relevant and which would be
14 admissible in evidence, including but not limited to, any patient or hospital records
15 pertaining to the persons named in the pleading;

16 f. Investigative reports made by or on behalf of the Respondent pertaining to
17 the subject matter of the proceeding, to the extent that these reports (1) contain the names
18 and addresses of witnesses or of persons having personal knowledge of the acts,
19 omissions or events which are the basis for the proceeding, or (2) reflect matters
20 perceived by the investigator in the course of his or her investigation, or (3) contain or
21 include by attachment any statement or writing described in (a) to (e), inclusive, or
22 summary thereof.

23
24 For the purpose of this Request for Discovery, "statements" include written
25 statements by the person, signed, or otherwise authenticated by him or her, stenographic,
26 mechanical, electrical or other recordings, or transcripts thereof, of oral statements by the person,
27 and written reports or summaries of these oral statements.
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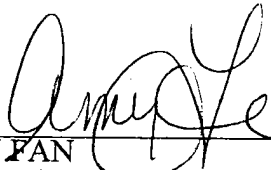
YOU ARE HEREBY FURTHER NOTIFIED that nothing in this Request for Discovery should be deemed to authorize the inspection or copying of any writing or thing which is privileged from disclosure by law or otherwise made confidential or protected as attorney's work product.

Your response to this Request for Discovery should be directed to the undersigned attorney for the Complainant at the address on the first page of this Request for Discovery **within 30 days after service** of the Accusation.

Failure without substantial justification to comply with this Request for Discovery may subject the Respondent to sanctions pursuant to sections 11507.7 and 11455.10 to 11455.30 of the Government Code.

DATED: 9/8/05

BILL LOCKYER, Attorney General
of the State of California



AMY FAN
Deputy Attorney General

Attorneys for Complainant

50059174.wpd

COPY OF GOVERNMENT CODE SECTIONS 11507.5, 11507.6 AND 11507.7
PROVIDED PURSUANT TO GOVERNMENT CODE SECTIONS 11504 AND 11505

SECTION 11507.5: Exclusivity of discovery provisions

The provisions of Section 11507.6 provide the exclusive right to and method of discovery as to any proceeding governed by this chapter.

SECTION 11507.6: Request for discovery

After initiation of a proceeding in which a respondent or other party is entitled to a hearing on the merits, a party, upon written request made to another party, prior to the hearing and within 30 days after service by the agency of the initial pleading or within 15 days after the service of an additional pleading, is entitled to (1) obtain the names and addresses of witnesses to the extent known to the other party, including, but not limited to, those intended to be called to testify at the hearing, and (2) inspect and make a copy of any of the following in the possession or custody or under the control of the other party:

(a) A statement of a person, other than the respondent, named in the initial administrative pleading, or in any additional pleading, when it is claimed that the act or omission of the respondent as to this person is the basis for the administrative proceeding;

(b) A statement pertaining to the subject matter of the proceeding made by any party to another party or person;

(c) Statements of witnesses then proposed to be called by the party and of other persons having personal knowledge of the acts, omissions or events which are the basis for the proceeding, not included in (a) or (b) above;

(d) All writings, including, but not limited to, reports of mental, physical and blood examinations and things which the party then proposes to offer in evidence;

(e) Any other writing or thing which is relevant and which would be admissible in evidence;

(f) Investigative reports made by or on behalf of the agency or other party pertaining to the subject matter of the proceeding, to the extent that these reports (1) contain the names and addresses of witnesses or of persons having personal knowledge of the acts, omissions or events which are the basis for the proceeding, or (2) reflect matters perceived by the investigator in the course of his or her investigation, or (3) contain or include by attachment any statement or writing described in (a) to (e), inclusive, or summary thereof.

For the purpose of this section, "statements" include written statements by the person signed or otherwise authenticated by him or her, stenographic, mechanical, electrical or other recordings, or transcripts thereof, of oral statements by the person, and written reports or summaries of these oral statements.

Nothing in this section shall authorize the inspection or copying of any writing or thing which is privileged from disclosure by law or otherwise made confidential or protected as the attorney's work product.

SECTION 11507.7: Petition to compel discovery; Order; Sanctions

(a) Any party claiming the party's request for discovery pursuant to Section 11507.6 has not been complied with may serve and file with the administrative law judge a motion to compel discovery, naming as respondent the party refusing or failing to comply with Section 11507.6. The motion shall state facts showing the respondent party failed or refused to comply with Section 11507.6, a description of the matters sought to be discovered, the reason or reasons why the matter is discoverable under that section, that a reasonable and good faith attempt to contact the respondent for an informal resolution of the issue has been made, and the ground or grounds of respondent's refusal so far as known to the moving party.

(b) The motion shall be served upon respondent party and filed within 15 days after the respondent party first evidenced failure or refusal to comply with Section 11507.6 or within 30 days after request was made and the party has failed to reply to the request, or within another time provided by stipulation, whichever period is longer.

(c) The hearing on the motion to compel discovery shall be held within 15 days after the motion is made, or a later time that the administrative law judge may on the judge's own motion for good cause determine. The respondent party shall have the right to serve and file a written answer or other response to the motion before or at the time of the hearing.

(d) Where the matter sought to be discovered is under the custody or control of the respondent party and the respondent party asserts that the matter is not a discoverable matter under the provisions of Section 11507.6, or is privileged against disclosure under those provisions, the administrative law judge may order lodged with it matters provided in subdivision (b) of Section 915 of the Evidence Code and examine the matters in accordance with its provisions.

(e) The administrative law judge shall decide the case on the matters examined in camera, the papers filed by the parties, and such oral argument and additional evidence as the administrative law judge may allow.

(f) Unless otherwise stipulated by the parties, the administrative law judge shall no later than 15 days after the hearing make its order denying or granting the motion. The order shall be in writing setting forth the matters the moving party is entitled to discover under Section 11507.6. A copy of the order shall forthwith be served by mail by the administrative law judge upon the parties. Where the order grants the motion in whole or in part, the order shall not become effective until 10 days after the date the order is served. Where the order denies relief to the moving party, the order shall be effective on the date it is served.

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

In the Matter of the Accusation Against:

GEORGE D. FLANIGAN, M.D.

Respondent.

Case No. 11-2004-156292

NOTICE OF DEFENSE

[Gov. Code §§ 11505 and 11506]

I, the undersigned Respondent in the above-entitled proceeding, hereby acknowledge receipt of a copy of the Accusation; Statement to Respondent; Government Code sections 11507.5, 11507.6 and 11507.7, Complainant's Request for Discovery; and two copies of a Notice of Defense.

I hereby request a hearing to permit me to present my defense to the charges contained in the Accusation.

DATED: _____

Respondent's Name

Respondent's Signature

Respondent's Mailing Address

City, State and Zip Code

Respondent's Telephone Number

Check appropriate box:

- ☐ I am represented by counsel, whose name, address and telephone number appear below:

Counsel's Name

Counsel's Mailing Address

City, State and Zip Code

Counsel's Telephone Number

- ☐ I am not now represented by counsel. If and when counsel is retained, immediate notification of the attorney's name, address and telephone number will be filed with the Office of Administrative Hearing and a copy sent to counsel for Complainant so that counsel will be on record to receive legal notices, pleadings and other papers.

The agency taking the action described in the Accusation may have formulated guidelines to assist the administrative law judge in reaching an appropriate penalty. You may obtain a copy of the guidelines by requesting them from the agency in writing.

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

In the Matter of the Accusation Against:

GEORGE D. FLANIGAN, M.D.

Respondent.

Case No. 11-2004-156292

NOTICE OF DEFENSE

[Gov. Code §§ 11505 and 11506]

I, the undersigned Respondent in the above-entitled proceeding, hereby acknowledge receipt of a copy of the Accusation; Statement to Respondent; Government Code sections 11507.5, 11507.6 and 11507.7, Complainant's Request for Discovery; and two copies of a Notice of Defense.

I hereby request a hearing to permit me to present my defense to the charges contained in the Accusation.

DATED: _____

Respondent's Name

Respondent's Signature

Respondent's Mailing Address

City, State and Zip Code

Respondent's Telephone Number

Check appropriate box:

- ☐ I am represented by counsel, whose name, address and telephone number appear below:

Counsel's Name

Counsel's Mailing Address

City, State and Zip Code

Counsel's Telephone Number

- ☐ I am not now represented by counsel. If and when counsel is retained, immediate notification of the attorney's name, address and telephone number will be filed with the Office of Administrative Hearing and a copy sent to counsel for Complainant so that counsel will be on record to receive legal notices, pleadings and other papers.

The agency taking the action described in the Accusation may have formulated guidelines to assist the administrative law judge in reaching an appropriate penalty. You may obtain a copy of the guidelines by requesting them from the agency in writing.

Section 14124.12 is added to the Welfare and Institutions Code, to read:

14124.12. (a) Upon receipt of written notice from the Medical Board of California, the Osteopathic Medical Board of California, or the Board of Dental Examiners of California, that a licensee's license has been placed on probation as a result of a disciplinary action, the department may not reimburse any Medi-Cal claim for the type of surgical service or invasive procedure that gave rise to the probation, including any dental surgery or invasive procedure, that was performed by the licensee on or after the effective date of probation, and until the termination of all probationary terms and conditions or until the probationary period has ended, whichever occurs first. This section shall apply except in any case in which the relevant licensing board determines that compelling circumstances warrant the continued reimbursement during the probationary period of any Medi-Cal claim, including any claim for dental services, as so described. In such a case, the department shall continue to reimburse the licensee for all procedures, except for those invasive or surgical procedures for which the licensee was placed on probation.

(b) The Medical Board of California, the Osteopathic Medical Board of California, and the Board of Dental Examiners of California, shall work in conjunction with the State Department of Health Services to provide all information that is necessary to implement this section. These boards and the department shall annually report to the Legislature by no later than March 1 that number of licensees of these boards, placed on probation during the immediately preceding calendar year, who are:

- (1) Not receiving Medi-Cal reimbursement for certain surgical services or invasive procedures, including dental surgeries or invasive procedures, as a result of subdivision (a).
- (2) Continuing to receive Medi-Cal reimbursement for certain surgical or invasive procedures, including dental surgeries or invasive procedures, as a result of a determination of compelling circumstances made in accordance with subdivision (a).

(c) This section shall become inoperative on July 1, 2005, and, as of January 1, 2006, is repealed, unless a later enacted statute that is enacted before January 1, 2006, deletes or extends the dates on which it becomes inoperative and is repealed.

COST ASSOCIATED WITH SPECIFIC COURSES OR PROGRAMS

The Medical Board of California Enforcement Program provides this form to ensure that you are aware of the costs associated with potential courses or programs as a result of a Citation and Fine, Public Letter of Reprimand, Stipulated Settlement or Decision. The costs provided are a guide and reflect known current prices. Course providers may increase rates, without notification to the Board. Contact course providers for the most current rate.

PROBATION UNIT MONITORING

The cost of probation unit monitoring is \$3,173.00 annually (for calendar year 2005) and subject to increase each fiscal year.

COURSES OR PROGRAMS

The cost of certain training courses/programs currently approved by the Board are specified below:

Clinical Training Program

Approximate Cost

- 1) University of California, San Diego (UCSD)
Physician Assessment and Clinical Education (PACE):
Phase I (assessment) \$6,900
Phase II (training) - minimum \$4,000 (varies by specialty and length of training) \$4,000+
www.paceprogram.ucsd.edu
- 2) Rush University (Chicago, Illinois)
Clinical Competency Assessment and Training Program (CCAT):
Assessment Phase \$4,850
Training Phase - minimum \$3,500 (varies by specialty and length of training) \$3,500+
www.rush.edu

Physician Prescribing Course (PACE) \$1,800

Professional Boundaries Program (PACE) \$4,000

Ethics/Professionalism Course

- 1) California Medical Association (to be determined)
www.cmanet.org
- 2) Case Western Reserve University (Cleveland, Ohio) \$700
<http://cme.cwru.edu> (click on Activity Brochures)

Medical Record Keeping Course

- 1) Medical Record Keeping Course (PACE) \$1,250
- 2) Case Western Reserve University (Cleveland, Ohio) \$700

New 07/04

7003 2510 0007 7494 6478

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

OFFICIAL USE

Postage	\$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$

Postmark
Here

Sent To
 Street, / George Dalton Flanigan, III, M.D.
 or PO E 956 South Longwood Avenue
 City, St Los Angeles, CA 90019

PS Form 3800, January 2001

See Reverse for Instructions

DECLARATION OF SERVICE BY UNITED STATES CERTIFIED MAIL

In the Matter of the Accusation Against:

GEORGE DALTON FLANIGAN, III, M.D.

FILE NO. 11-2004-156292

I, the undersigned, declare that I am over 18 years of age and not a party to the within cause; my business address is 1430 Howe Avenue, Sacramento, California 95825. I served a true copy of the attached:

STATEMENT TO RESPONDENT; ACCUSATION; REQUEST FOR DISCOVERY;
GOVERNMENT CODE SECTIONS 11507.5, 11507.6, 11507.7 and 11455.10; NOTICE
OF DEFENSE FORM (2 COPIES); NOTIFICATION REGARDING SECTION 14124.12
OF THE WELFARE & INSTITUTION CODE; A MANUAL OF MODEL
DISCIPLINARY ORDERS AND MODEL DISCIPLINARY GUIDELINES;
NOTIFICATION REGARDING COST ASSOCIATED WITH SPECIFIC COURSES OR
PROGRAMS

by U.S. Certified mail on each of the following, by placing same in an envelope (or envelopes) addressed (respectively) as follows:

NAME AND ADDRESS

CERTIFICATION #

George Dalton Flanigan, III, M.D.
956 South Longwood Avenue
Los Angeles, CA 90019

7001 2510 0007 7494 6478

Amy Fan
Deputy Attorney General
California Department of Justice
300 South Spring Street, Suite 1702
Los Angeles, CA 90013

U.S. MAIL SERVICE

Each said envelope was then, on **September 13, 2005**, sealed and deposited in the United States mail at Sacramento, California, the county in which I am employed, as certified mail, with the postage thereon fully prepaid, and return receipt requested.

Executed on **September 13, 2005**, at Sacramento, California.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

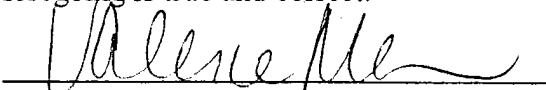

Valerie Moore, Declarant

Exhibit B
Certified Mail Domestic Return Receipt

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

George Dalton Flanigan, III, M.D.
956 South Longwood Avenue
Los Angeles, CA 90019

COMPLETE THIS SECTION ON DELIVERY

A. Signature

George Dalton Flanigan, III

☐ Agent

☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

9/16/13

D. Is delivery address different from item 1? ☐ Yes

If YES, enter delivery address below: ☐ No

3. Service Type

☒ Certified Mail

☐ Express Mail

☒ Registered

☐ Return Receipt for Merchandise

☐ Insured Mail

☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes

2. Article Number
(Transfer from)

7001 2510 0007 7494 6478

PS Form 3811, February 2004

Domestic Return Receipt

11-2004-156292 102595-02-M-1540

ACC