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FILED  
STATE OF CALIFORNIA  
MEDICAL BOARD OF CALIFORNIA  
SACRAMENTO July 26 2007  
BY Allie Moran ANALYST

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

11 In the Matter of the Accusation Against:

12 MOHAMMAD BARARSANI, M.D.  
13 1035 First Street  
Manhattan Beach, California 90266

14 Physician & Surgeon's Certificate No. A35392,

15 Respondent.

Case No. 06-2004-161688

OAH Case No.

**A C C U S A T I O N**

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17 Complainant alleges:

18 **PARTIES**

19 1. David T. Thornton (Complainant) brings this Accusation solely in  
20 his official capacity as the Executive Director of the Medical Board of California.

21 2. On or about June 23, 1980, the Board issued Physician and  
22 Surgeon's Certificate number A35392 to Mohammad Bararsani, M.D. (Respondent). This  
23 license was in full force and effect at all times relevant to the charges brought herein and  
24 will expire on June 30, 2008, unless renewed.

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26 **JURISDICTION**

27 3. This Accusation is brought before Board's Division of Medical  
28 Quality, under the authority of the following laws. All section references are to the

1 Business and Professions Code unless otherwise indicated.

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3 **STATUTORY PROVISIONS**

4 4. Section 2227 of the Code states:

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

10 “(1) Have his or her license revoked upon order of the division.

11 “(2) Have his or her right to practice suspended for a period not to  
12 exceed one year upon order of the division.

13 “(3) Be placed on probation and be required to pay the costs of  
14 probation monitoring upon order of the division.

15 “(4) Be publicly reprimanded by the division.

16 “(5) Have any other action taken in relation to discipline as part of  
17 an order of probation, as the division or an administrative law judge may deem  
18 proper.

19 “(b) Any matter heard pursuant to subdivision (a), except for warning  
20 letters, medical review or advisory conferences, professional competency  
21 examinations, continuing education activities, and cost reimbursement associated  
22 therewith that are agreed to with the division and successfully completed by the  
23 licensee, or other matters made confidential or privileged by existing law, is deemed  
24 public, and shall be made available to the public by the board pursuant to Section  
25 803.1.”

26 5. Section 2228 of the Code states:

27 “The authority of the board or a division of the board or the California Board  
28 of Podiatric Medicine to discipline a licensee by placing him or her on probation

1 includes, but is not limited to, the following:

2           “(a) Requiring the licensee to obtain additional professional training and  
3 to pass an examination upon the completion of the training. The examination may  
4 be written or oral, or both, and may be a practical or clinical examination, or both, at  
5 the option of the board or division or the administrative law judge.

6           “(b) Requiring the licensee to submit to a complete diagnostic  
7 examination by one or more physicians and surgeons appointed by the division. If  
8 an examination is ordered, the board or division shall receive and consider any other  
9 report of a complete diagnostic examination given by one or more physicians and  
10 surgeons of the licensee's choice.

11           “(c) Restricting or limiting the extent, scope, or type of practice of the  
12 licensee, including requiring notice to applicable patients that the licensee is unable  
13 to perform the indicated treatment, where appropriate.

14           “(d) Providing the option of alternative community service in cases other  
15 than violations relating to quality of care, as defined by the Division of Medical  
16 Quality.

17           6. Section 2234 of the Code states:

18           “The Division of Medical Quality shall take action against any licensee who  
19 is charged with unprofessional conduct. In addition to other provisions of this  
20 article, unprofessional conduct includes, but is not limited to, the following:

21           “(a) Violating or attempting to violate, directly or indirectly, assisting in  
22 or abetting the violation of, or conspiring to violate any provision of this chapter  
23 [Chapter 5, the Medical Practice Act].

24           “(b) Gross negligence.

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

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

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

9                   “(d) Incompetence.

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

13                  “(f) Any action or conduct which would have warranted the denial of a  
14 certificate.”

15                  7. Section 2261 of the Code provides that:

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

20                  8. Section 2263 provides that:

21                  “The willful, unauthorized violation of professional confidence  
22 constitutes unprofessional conduct.”

23                  9. Section 2264 provides that:

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

1           10.    Section 2273 provides in pertinent part that:

2           “... ”

3           “(a)   Except as otherwise allowed by law, the employment of  
4           runners, cappers, steerers, or other persons to procure patients constitutes  
5           unprofessional conduct.

6           “(b)   A licensee shall have his or her license revoked for a period  
7           of 10 years upon a second conviction for violating any of the following  
8           provisions or upon being convicted of more than one count of violating any  
9           of the following provisions in a single case: Section 650 of this code,  
10          Section 750 or 1871.4 of the Insurance Code, or Section 549 or 550 of the  
11          Penal Code. After the expiration of this 10-year period, an application for  
12          license reinstatement may be made pursuant to Section 2307.”

13          11.    Section 2285 provides that:

14          “The use of any fictitious, false, or assumed name, or any name other  
15          than his or her own by a licensee either alone, in conjunction with a  
16          partnership or group, or as the name of a professional corporation, in any  
17          public communication, advertisement, sign, or announcement of his or her  
18          practice without a fictitious-name permit obtained pursuant to Section 2415  
19          constitutes unprofessional conduct. This section shall not apply to the  
20          following:

21                 “(a)   Licensees who are employed by a partnership, a  
22                 group, or a professional corporation that holds a fictitious name permit.

23                 “(b)   Licensees who contract with, are employed by, or are  
24                 on the staff of, any clinic licensed by the State Department of Health  
25                 Services under Chapter 1 (commencing with Section 1200) of Division 2 of  
26                 the Health and Safety Code.

27                 “(c)   An outpatient surgery setting granted a certificate of  
28                 accreditation from an accreditation agency approved by the medical board.

1                   “(d) Any medical school approved by the division or a  
2 faculty practice plan connected with the medical school.”

3           12. Section 2286 provides that:

4                   “‘It shall constitute unprofessional conduct for any licensee to violate,  
5 to attempt to violate, directly or indirectly, to assist in or abet the violation  
6 of, or to conspire to violate any provision or term of Article 18 (commencing  
7 with Section 2400), of the Moscone-Knox Professional Corporation Act  
8 (Part 4 (commencing with Section 13400) of Division 3 of Title 1 of the  
9 Corporations Code), or of any rules and regulations duly adopted under  
10 those laws.’”

11           13. Section 2415, subdivision (a), of the Code provides that:

12                   “(a) Any physician and surgeon or any doctor of podiatric  
13 medicine, as the case may be, who as a sole proprietor, or in a partnership,  
14 group, or professional corporation, desires to practice under any name that  
15 would otherwise be a violation of Section 2285 may practice under that  
16 name if the proprietor, partnership, group, or corporation obtains and  
17 maintains in current status a fictitious-name permit issued by the Division of  
18 Licensing, or, in the case of doctors of podiatric medicine, the California  
19 Board of Podiatric Medicine, under the provisions of this section.”

20 Section 2415, subdivision (b)(2) provides that:

21                   “(b)(2) The professional practice of the applicant or applicants is  
22 wholly owned and entirely controlled by the applicant or applicants.”

23           14. Section 17910 of the Code states that:

24                   “Every person who regularly transacts business in this state for profit  
25 under a fictitious business name shall:

26                   “(a) File a fictitious business name statement in accordance with this  
27 chapter not later than 40 days from the time he commences to transact such  
28 business; and

1           “(b) File a new statement in accordance with this chapter on or  
2 before the date of expiration of the statement on file.”

3           15. California Penal Code section 182(a)(5) provides that it is a crime:

4           “(a) If two or more persons conspire:

5           “... ”

6                   “(5) To commit any act injurious to the public health, to  
7 public morals, or to pervert or obstruct justice, or the due administration of  
8 the laws.”

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10                                   **FIRST CAUSE FOR DISCIPLINE**

11                   (Aiding and Abetting the Unlicensed Corporate Practice of Medicine)

12           16. Respondent is subject to disciplinary action under Business and  
13 Professions Code section 2264 for the aiding or abetting the corporate unlicensed practice  
14 of medicine. The facts and circumstances are as follows:

15           A.    West Covina Clinic. On or about August 2005, Respondent  
16 performed medical services for compensation at a medical clinic known as the  
17 Family Planning Clinic located at 1535 West Merced Avenue, #104, West Covina,  
18 California. Respondent was the only physician working at the facility. He  
19 performed such services knowing that the clinic was owned by an unlicensed  
20 person, Eva Winchell.

21           B.    Los Angeles Clinic. On or about August 2005, Respondent  
22 performed medical services for compensation at a medical clinic known as the  
23 “Centro Medico Para La Mujer” located at 5300 Santa Monica Boulevard, Los  
24 Angeles, California. Respondent was the only physician working at the Los  
25 Angeles Clinic facility. He performed such services knowing that the Los Angeles  
26 Clinic was owned by an unlicensed person, one Edgar Ruiz.

27           C.    As to all of these facilities, Respondent acted in disregard of the legal  
28 requirements for the practice of medicine. Such conduct is unprofessional conduct.

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**SECOND CAUSE FOR DISCIPLINE**

(Working without a Fictitious-Name Permit)

17. By reason of the matters set forth below, Respondent is guilty of disciplinary action for unprofessional conduct under Business and Professions section 2285 in conjunction with section 2415 of the Business and Professions Code in that he used fictitious, false, or assumed names, or names other than his own without a fictitious-name permit obtained pursuant to Section 2415.

A. Santa Ana Clinic. On or about August 2005, Respondent performed medical services for compensation at a medical clinic known as the "Clinica Latina Femina," located at 117 West 4th Street, Santa Ana, California. Respondent was the only physician working at the facility. He was also the owner. He performed such services knowing that the clinic did not have Fictitious Business Name Permits in his name required by sections 2415 and 17910 of the Business and Professions Code.

B. Respondent performed services at West Covina Clinic at 1535 West Merced Avenue, #104, West Covina, California knowing that the West Covina clinic did not file for or have a Fictitious Business Name Permit in his name as required by sections 2415 and 17910 of the Business and Professions Code.

C. He also performed services at "Centro Medico Para La Mujer" located at 5300 Santa Monica Boulevard, Los Angeles, California knowing that the Los Angeles Clinic did not file for or have a Fictitious Business Name Permit in his name as required by sections 2415 and 17910 of the Business and Professions Code.

**THIRD CAUSE FOR DISCIPLINE**

(Commission of Dishonest or Corrupt Acts)

18. By reason of the matters set forth in the First and Second Causes for Discipline, Respondent is subject to disciplinary action under Business and Professions Code section 2234, subdivision (e) for the commission of dishonest and corrupt acts



1 substantially related to the qualifications, functions or duties of a physician and surgeon.

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3 **FOURTH CAUSE FOR DISCIPLINE**

4 (Gross Negligence as to Patient Gennifer W.)

5 19. Respondent is subject to disciplinary action for gross negligence  
6 under Business and Professions Code section 2234, subdivision (b), based on his treatment  
7 of Gennifer W. The facts and circumstances are as follows:

8 A. On or about January 9, 2002, Patient Gennifer W. was examined by  
9 Edgar Ruiz, a person not licensed as a physician, who performed an ultrasound test  
10 on her at the Clinic. Mr. Ruiz told her she was pregnant, notwithstanding the fact  
11 that Patient Gennifer W. had tested negative on two previous home tests she had  
12 conducted herself.

13 B. She returned two weeks later and Respondent performed an abortion  
14 on her. Edgar Ruiz, a person not licensed as required by law, assisted him.

15 C. In the course thereof, Respondent committed acts constituting gross  
16 negligence and an extreme departure from the standard of care within the meaning  
17 of Code section 2234, subdivision (b).

18 D. Specifically, Respondent failed to do all of the following, which are  
19 required by the applicable standard of care:

- 20 (i) perform a thorough physical examination before the procedure;  
21 (ii) confirm pregnancy either through an ultrasound or other appropriate  
22 test administered by a physician or to perform same himself;  
23 (iii) provide counseling regarding the procedure;  
24 (iv) perform blood and urine tests before the procedure, including but not  
25 limited to one determining the Rh status of Patient Gennifer W.;  
26 (v) monitor her vital signs during the procedure;  
27 (vi) give Patient Gennifer W. medication for pain or infections until after  
28 the procedure;

- 1 (vii) adequately monitor Patient Gennifer W. postoperatively and to have  
2 her problems addressed by a physician; and  
3 (viii) verify that persons assisting him are properly licensed.  
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5 **FIFTH CAUSE OF DISCIPLINE**

6 (Repeated Acts of Negligence as to Gennifer W.)

7 20. The acts set forth above with respect to Patient Gennifer W.  
8 constitute repeated acts of negligence under Section 2234, subdivision (c) of the Code,  
9 subjecting Respondent to discipline under said provision.  
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11 **SIXTH CAUSE FOR DISCIPLINE**

12 (Gross Negligence as to Patient Khalila S.)

13 21. Respondent is subject to disciplinary action for gross negligent under  
14 Business and Professions Code section 2234, subdivision (b), based on his treatment of  
15 Khalila S. The facts and circumstances are as follows:

16 A. In 2001, Patient Khalila S. was examined by Edgar Ruiz, a person  
17 not licensed as a physician, who performed an ultrasound examination on her at the  
18 Clinic. Mr. Ruiz told her she was four to six weeks pregnant.

19 B. When she returned a week later, Mr. Ruiz told her she was eight to  
20 ten weeks pregnant. Mr. Ruiz interpreted the ultrasounds and scheduled her for an  
21 abortion to be performed by Dr. Bararsani.

22 C. Respondent performed the abortion without examining Patient  
23 Khalila S. or giving her pain medication, despite the fact that she was in great pain  
24 during the ten minute procedure. Respondent also did not counsel Khalila S. after  
25 the procedure with respect to any post-care instruction as to the procedure.

26 D. In the course of the above, Respondent committed acts constituting  
27 gross negligence and an extreme departure from the standard of care within the  
28 meaning of Code section 2234, subdivision (b). Specifically, Respondent failed to

1 do all of the following, which are required by the applicable standard of care:

2 (i) He failed to perform a thorough physical examination before  
3 the procedure;

4 (ii) He failed to confirm pregnancy either through an ultrasound  
5 or other appropriate test administered by a physician, or alternatively to  
6 perform same himself;

7 (iii) He failed to provide counseling regarding the procedure;

8 (iv) He failed to perform blood and urine tests before the  
9 procedure, including but not limited to one determining the Rh status of  
10 Patient Khalila S.;

11 (v) He failed to monitor her vital signs during the procedure;

12 (vi) He failed to give Patient Khalila S. medication for pain or  
13 infections until after the procedure;

14 (vii) He failed to adequately monitor Patient Khalila S.  
15 postoperatively and to have her problems addressed by a physician; and

16 (viii) He failed to verify that persons assisting him were properly  
17 licensed and behaving in accordance with their duties under law.

18  
19 **SEVENTH CAUSE OF ACTION**

20 (Repeated Acts of Negligence as to Khalila S.)

21 22. The acts set forth above with respect to Patient Khalila S. constitute  
22 repeated acts of negligence under Section 2234, subdivision (c) of the Code, subjecting  
23 Respondent to discipline under said provision.

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25 **EIGHTH CAUSE OF ACTION**

26 (Aiding and Abetting the Unlicensed Practice of Medicine)

27 23. By reason of the acts set forth in paragraphs 19 and 21 above,  
28 Respondent is subject to disciplinary action under section 2052(b) and 2264 of the code in

1 that he allowed Edgar Ruiz, an individual who is not a licensed medical doctor to practice  
2 medicine on patients Gennifer W. and Khalila S. In so doing, Respondent aided and  
3 abetted the the unlicensed practice of medicine.

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5 **DISCIPLINE CONSIDERATIONS**

6 24. To determine the degree of discipline, if any, to be imposed on  
7 Respondent, Complainant alleges that Respondent's conduct affected multiple patients, and  
8 demonstrated a conscious disregard for the law and ethical requirements inherent in the  
9 practice of medicine.

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11 **PRAYER**

12 **WHEREFORE**, Complainant requests that a hearing be held on the matters  
13 herein alleged, and that following the hearing, the Medical Board of California, Division of  
14 Medical Quality, issue a decision:

- 15 1. Revoking or suspending Physician & Surgeon's Certificate number  
16 A35392, issued to Mohammad Bararsani, M.D.;
- 17 2. Revoking, suspending or denying approval of his authority to supervise  
18 physicians' assistants, pursuant to Section 3527 of the Code;
- 19 3. If placed on probation, ordering him to pay the costs of probation  
20 monitoring; and
- 21 4. Taking such other and further action as deemed necessary and proper.

22 DATED: July 26, 2007.

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24 

25 DAVID T. THORNTON  
26 Executive Director  
27 Medical Board of California  
28 Department of Consumer Affairs  
State of California  
Complainant