

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

In the Matter of the Accusation Against:)

MOHAMMAD BARARSANI, M.D.)

File No. 06-2004-161688

Physician's and Surgeon's)
Certificate No. A 35392)

Respondent.)
_____)

DECISION

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

This Decision shall become effective at 5:00 p.m. on August 21, 2008.

IT IS SO ORDERED July 22, 2008.

MEDICAL BOARD OF CALIFORNIA

By: Cesar A. Aristeiguieta, M.D.
Cesar A. Aristeiguieta, M.D., F.A.C.E.P.
Chair
Panel A

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 KLINT JAMES MCKAY, State Bar No. 120881
Deputy Attorney General
3 300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
4 Telephone: (213) 576-1327
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6 Attorneys for Complainant

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

10 In the Matter of the Accusation Against:
11 MOHAMMAD BARARSANI, M.D.
5300 W. Santa Monica Blvd., Ste. 203
12 Los Angeles, Calif. 90029
Physician and Surgeon's Certificate No. A 35392
13
14 Respondent.

Case No. 06-2004-161688

OAH No. 2008010330

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

15
16 In the interest of a prompt and speedy settlement of this matter, consistent with the public
17 interest and the responsibility of the Medical Board of California of the Department of Consumer
18 Affairs, the parties hereby agree to the following Stipulated Settlement and Disciplinary Order
19 which will be submitted to the Board for approval and adoption as the final disposition of the
20 Accusation.

21 PARTIES

22 1. Barbara Johnston (Complainant) is the Executive Director of the Medical
23 Board of California. She brought this action solely in her official capacity and is represented in
24 this matter by Edmund G. Brown Jr., Attorney General of the State of California, by Klint James
25 McKay, Deputy Attorney General.

26 2. Respondent Mohammad Bararsani, M.D. (Respondent) is represented in

27 ///
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1 this proceeding by attorney Ronald S. Marks, whose address is 21900 Burbank Boulevard, Suite
2 300, Woodland Hills, CA 91367.

3 3. On or about June 23, 1980, the Medical Board of California issued
4 Physician and Surgeon's Certificate No. A 35392 to Mohammad Bararsani, M.D. (Respondent).
5 This Certificate is in full force and effect and will expire, unless renewed, on June 30, 2010.

6 JURISDICTION

7 4. Accusation No. 06-2004-161688 was filed before the Medical Board of
8 California (Board), Department of Consumer Affairs, and is currently pending against
9 Respondent. The Accusation and all other statutorily required documents were properly served
10 on Respondent on July 26, 2007. Respondent timely filed his Notice of Defense contesting the
11 Accusation. A copy of Accusation No. 06-2004-161688 is attached as exhibit A and
12 incorporated herein by reference.

13 ADVISEMENT AND WAIVERS

14 5. Respondent has carefully read, fully discussed with counsel, and
15 understands the charges and allegations in Accusation No. 06-2004-161688. Respondent has
16 also carefully read, fully discussed with counsel, and understands the effects of this Stipulated
17 Settlement and Disciplinary Order.

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

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

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CULPABILITY

- 1
- 2 8. a) For the purposes of settlement only, Respondent admits
- 3 i) the allegations in the First, Second and Third Causes
- 4 for Discipline; and
- 5 ii) that Complainant could establish a *prima facie* case for the
- 6 allegations in the Fifth and Seventh Causes for Discipline.
- 7 Respondent further agrees that if he ever petitions for early
- 8 termination or modification of probation, or if the Medical Board
- 9 ever petitions for revocation of probation, all of the charges and
- 10 allegations contained in the Fifth and Seventh Causes for
- 11 Discipline shall be deemed true, correct and fully admitted by
- 12 Respondent for purposes of that proceeding or any other licensing
- 13 proceeding involving respondent in the State of California.
- 14
- 15 b) Respondent disputes the remaining allegations, and agrees not
- 16 to contest them at a hearing solely for the purpose of resolving this dispute.
- 17 c) Notwithstanding the above, the parties agree that the first line
- 18 of Paragraph 16(B) in the Accusation is in error and should read "On
- 19 or about August, 2001 . . ."

20 9. Respondent agrees that his Physician and Surgeon's Certificate is subject

21 to discipline and he agrees to be bound by the Medical Board of California's imposition of

22 discipline as set forth in the Disciplinary Order below.

CIRCUMSTANCES IN MITIGATION

23

24 10. Respondent Mohammad Bararsani, M.D. has never been the subject of any

25 disciplinary action. He is admitting responsibility at an early stage in the proceedings.

26

CONTINGENCY

27

28 11. This stipulation shall be subject to approval by the Medical Board of

1 (CME) requirements for renewal of licensure. Following the completion of each course, the
2 Division or its designee may administer an examination to test respondent's knowledge of the
3 course. Respondent shall provide proof of attendance for 65 hours of continuing medical
4 education of which 40 hours were in satisfaction of this condition.

5 2. MEDICAL RECORD KEEPING COURSE Within 60 calendar days of
6 the effective date of this decision, respondent shall enroll in a course in medical record keeping,
7 at respondent's expense, approved in advance by the Division or its designee. Failure to
8 successfully complete the course during the first 6 months of probation is a violation of
9 probation.

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

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

18 3. NOTIFICATION Prior to engaging in the practice of medicine, the
19 respondent shall provide a true copy of the Decision(s) and Accusation(s) to the Chief of Staff or
20 the Chief Executive Officer at every hospital where privileges or membership are extended to
21 respondent, at any other facility where respondent engages in the practice of medicine, including
22 all physician and locum tenens registries or other similar agencies, and to the Chief Executive
23 Officer at every insurance carrier which extends malpractice insurance coverage to respondent.
24 Respondent shall submit proof of compliance to the Division or its designee within 15 calendar
25 days.
26

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

1 4. SUPERVISION OF PHYSICIAN ASSISTANTS During probation,
2 respondent is prohibited from supervising physician assistants.

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

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

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

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

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

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

26 9. RESIDING OR PRACTICING OUT-OF-STATE In the event respondent
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1 should leave the State of California to reside or to practice, respondent shall notify the Division
2 or its designee in writing 30 calendar days prior to the dates of departure and return. Non-
3 practice is defined as any period of time exceeding 30 calendar days in which respondent is not
4 engaging in any activities defined in Sections 2051 and 2052 of the Business and Professions
5 Code.

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

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

21 10. FAILURE TO PRACTICE MEDICINE - CALIFORNIA RESIDENT

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

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

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

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

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

22 13. LICENSE SURRENDER Following the effective date of this Decision, if
23 respondent ceases practicing due to retirement, health reasons or is otherwise unable to satisfy
24 the terms and conditions of probation, respondent may request the voluntary surrender of
25 respondent's license. The Division reserves the right to evaluate respondent's request and to
26 exercise its discretion whether or not to grant the request, or to take any other action deemed
27 appropriate and reasonable under the circumstances. Upon formal acceptance of the surrender,
28 respondent shall within 15 calendar days deliver respondent's wallet and wall certificate to the

1 Division or its designee and respondent shall no longer practice medicine. Respondent will no
 2 longer be subject to the terms and conditions of probation and the surrender of respondent's
 3 license shall be deemed disciplinary action. If respondent re-applies for a medical license, the
 4 application shall be treated as a petition for reinstatement of a revoked certificate.

5 **14. PROBATION MONITORING COSTS** Respondent shall pay the costs
 6 associated with probation monitoring each and every year of probation, as designated by the
 7 Division, and which may be adjusted on an annual basis. Such costs shall be payable to the
 8 Medical Board of California and delivered to the Division or its designee no later than January
 9 31 of each calendar year. Failure to pay costs within 30 calendar days of the due date is a
 10 violation of probation.

11 **ACCEPTANCE**

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

17
 18
 19 DATED: 5-30-08

20
 21
 22 M. Bararsani M
 23 MOHAMMAD BARARSANI, M.D. (Respondent)

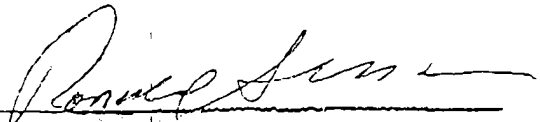
24 Respondent voluntarily, knowingly, and intelligently, has agreed to be

25 bound by the Decision and Order of the Medical Board of California.

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I have read and fully discussed with Respondent Mohammad Bararsani, 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: 5/30/08


RONALD S. MARKS
Attorney for Respondent

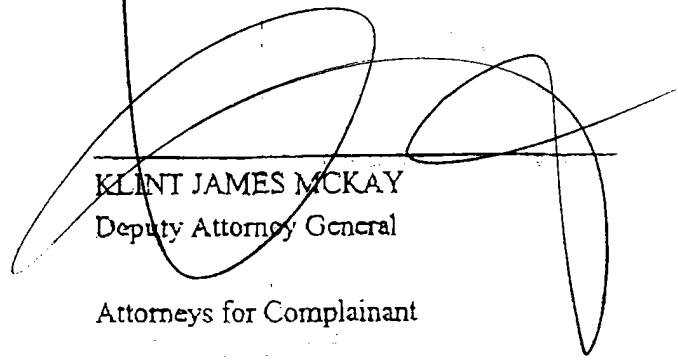
ENDORSEMENT

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

DATED: 30 May, 2008

EDMUND G. BROWN JR., Attorney General
of the State of California

ROBERT MCKIM BELL
Supervising Deputy Attorney General


CLINT JAMES MCKAY
Deputy Attorney General

Attorneys for Complainant

DOJ Matter ID: LA2006503748
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Exhibit A
Accusation No. 06-2004-161688

1 EDMUND G. BROWN JR.,
Attorney General of the State of California
2 KLINT JAMES McKAY, State Bar No. 120881
Deputy Attorney General
3 California Department of Justice
300 South Spring Street, Suite 1702
4 Los Angeles, California 90013
Telephone: (213) 576-1327
5 Facsimile: (213) 897-9395

6 Attorneys for Complainant

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.
1035 First Street
13 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

16
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.

25
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.

2
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.”

9
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.

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

2
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.
4

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.
10

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.

24
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.

4
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.

10
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.

23
24 

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