

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

**In the Matter of the Accusation  
Against:**

**Michael A. Roth, M.D.**

**Physician's and Surgeon's  
Certificate No: C-30405**

**Respondent.**

**Case No: 16-2004-159043**

**OAH No: N2004110241**

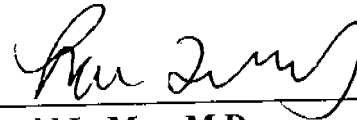
**DECISION**

The attached Proposed Decision of the Administrative Law Judge is hereby accepted and adopted by the Division of Medical Quality of the Medical Board of California, as its Decision in the above entitled matter.

This Decision shall become effective at 5:00 p.m. on April 14, 2005.

DATED March 15, 2005

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



**Ronald L. Moy, M.D.  
Panel B Chair  
Division of Medical Quality**

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

In the Matter of the Accusation Against:

MICHAEL A. ROTH, M.D.  
42450 West 12 Mile, #205  
Novi, MI 48377

Physician and Surgeon's Certificate  
No. C30405

Respondent.

Case No. 16-2004-159043

OAH No. N2004110241

**PROPOSED DECISION**

Administrative Law Judge Ruth S. Astle, State of California, Office of Administrative Hearings, heard this matter in Oakland, California, on February 3, 2005.

Jane Zack Simon, Deputy Attorney General, represented complainant.

Respondent was present and represented by Albert J. Garcia, Attorney at Law, 1995 University Avenue, Suite 265, Berkeley, California 94704.

The matter was submitted on February 3, 2005.

**FACTUAL FINDINGS**

1. David T. Thornton made this accusation in his official capacity as Interim Executive Director of the Medical Board of California and not otherwise.
2. On August 14, 1968, Physician and Surgeon's Certificate No. C30405 was issued by the Board to Michael A. Roth, M.D. (respondent). Respondent's certificate is renewed and current with an expiration date of February 28, 2006.
3. On May 19, 2004, the State of Michigan Board of Medicine (Michigan Board) issued a Consent Order and Stipulation (Consent Order) regarding respondent's license to practice medicine in Michigan. Under the terms of the Consent Order, respondent's Michigan license was placed on probation for six months, he was subjected to a records

review requirement, and he was required to have a monitor, to complete continuing education in the area of bariatrics and proper medical documentation, to submit a protocol for treatment of weight management, and to submit to random pharmacy inspections. The Consent Order resolved an Administrative Complaint in which it was alleged that respondent, an obstetrician and gynecologist, treated several patients without adequate medical evaluation and without creating an adequate medical record. It was also alleged that respondent performed ultrasounds without medical justification and prescribed without medical indication, that he placed a patient on a diet plan which included prescription medication without documentation, assessment or evaluation, and that he inappropriately maintained and labeled controlled substances in his office. The Consent Order is attached to the accusation as Exhibit A.

4. The action taken by the Michigan Board does constitute disciplinary action with the meaning of California law. Respondent's conduct and the action of the Michigan Board as set forth in Finding 3, above, constitute ground for disciplinary action for unprofessional conduct pursuant to Business and Professions Code sections 2305 and 141, subdivision (a).

5. The Michigan Board imposed a fine of \$15,000, which respondent paid in full. On January 24, 2005, respondent received a letter from the Michigan Board indicating that he complied with all the terms of the Consent Order and that he was discharged from probation.

6. Respondent presented a letter from his monitor indicating that respondent's office-based documentation was satisfactory and that respondent understands thoroughly the nature of the deficiencies that resulted in the action taken against him by the Michigan Board. Respondent also presented a letter from the Chairman and Program Director of the Department of Obstetrics and Gynecology at Providence Hospital. Respondent was reviewed by the hospital and remained an attending physician in good standing. He also presented four character letters.

7. Respondent has no prior disciplinary action and has been in practice for over 30 years. He has changed his practice in documentation and now spends more time with each patient. He also sees fewer patients so that he can document all the information.

8. Respondent's actions and cooperation with the Michigan Board show that respondent took these allegations seriously and made the necessary changes in his practice so that this will not happen in the future. A public reprimand and a course in recordkeeping and a course in prescribing practices (such as the courses offered by PACE) in addition to 20 additional CME hours in the area of bariatrics is appropriate.

9. Costs in the amount of \$868.75 are reasonable and respondent is responsible for this amount.

## LEGAL CONCLUSIONS

1. By reason of the matters set forth in Findings 3 and 4, cause for disciplinary action exists pursuant to Business and Professions Code sections 141 (out of state discipline) and 2305 (unprofessional conduct for out of state discipline).

2. The matters in mitigation, extenuation and rehabilitation set forth in Findings 5, 6, 7 and 8 have been considered in making the following order.

3. Cost recovery in the amount of \$868.75 is ordered pursuant to Business and Professions Code section 125.3.

## ORDER

Michael A. Roth, M.D., holder of Physician's and Surgeon's Certificate No. C30405 shall by way of letter from the President of the Division of Medical Quality of the Medical Board of California be publicly reprimanded; provided, however, that the public reprimand is conditional on respondent's full compliance with the following conditions precedent:

1. **Continuing Education Courses** - Within 90 calendar days of the effective date of this decision, respondent shall submit to the Division or its designee for its prior approval an educational program and/or courses which shall be aimed at correcting any areas of deficient practice or knowledge including, but not limited to, a prescribing course, a medical record keeping course (such as those offered by PACE) and 20 additional CME hours in bariatrics. Respondent shall pay all costs of the educational program. Respondent shall complete the educational courses, and shall within six months of the effective date of this decision, unless the Division or its designee agrees in writing, to a later time for completion. This program shall be in addition to the CME requirements for re-licensure. Following the completion of these courses, the Division or its designee may administer an examination to test respondent's knowledge of the material. Respondent shall provide documentary proof of attendance at the courses.

2. **Cost Recovery** - Within 90 calendar days from the effective date of the Decision or other period agreed to by the Division or its designee, respondent shall reimburse the Division the amount of \$868.75 for its investigative and prosecution costs. The filing of bankruptcy or period of non-practice by respondent shall not relieve the respondent of his obligation to reimburse the Division for its costs.

3. Upon full compliance with the conditions precedent set forth in this decision, respondent's physician's and surgeon's certificate shall be publicly reprimanded by way of a letter from the President of the Division.

DATED: February 24, 2005

*Maria C. Astle*  
for RUTH S. ASTLE  
Administrative Law Judge  
Office of Administrative Hearings