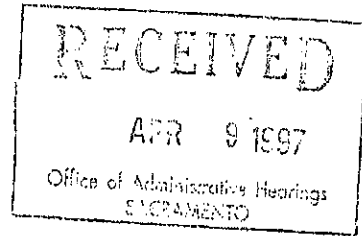


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N 9702 006



7 Attorneys for Complainant

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

13

In the Matter of the Accusation  
Against:

) Case No.: 5614

14

GORLI HARISH, M.D.  
412 McKinley Avenue  
Charleston, WV 25314

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FIRST AMENDED ACCUSATION

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Physician's and Surgeon's  
Certificate No. A-41095,

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Respondent.

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Ronald Joseph, for causes for discipline, alleges:

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1. Complainant Ronald Joseph makes and files this First Amended Accusation solely in his official capacity as Executive Director of the Medical Board of California (hereinafter "Board") and not otherwise.

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2. On August 13, 1984, the Medical Board of California issued Physician's and Surgeon's Certificate number A-41095 to respondent Gorli Harish, M.D. (hereinafter "respondent"). Said certificate

1 expired on October 30, 1993, and is in delinquent status.

2 3. Business and Professions Code (hereinafter "Code") section  
3 2234 provides that the Division of Medical Quality shall take  
4 action against any licensee who is charged with unprofessional  
5 conduct.

6 4. Code section 2305 provides that the revocation, suspension  
7 or other discipline by another state of a licensee or certificate  
8 to practice medicine issued by that state shall constitute  
9 unprofessional conduct against such licensee in this state.

10 5. Code section 125.3 provides that the Board may request an  
11 administrative law judge to direct that a respondent found to have  
12 committed a violation of the Medical Practice Act pay a sum not to  
13 exceed the reasonable costs of the investigation and enforcement of  
14 the proceeding.

15 6. Respondent has subjected his physician's and surgeon's  
16 certificate to discipline pursuant to Code sections 2234 and 2305  
17 in that on or about June 4, 1993, respondent and the West Virginia  
18 Board of Medicine entered into a stipulated agreement placing  
19 restrictions and conditions on respondent's medical license based  
20 on three civil malpractice claims which had been filed against  
21 respondent.<sup>1/</sup>

22 7. Respondent has further subjected his physician's and  
23 surgeon's certificate to discipline pursuant to Code sections 2234  
24 and 2305 in that on or about May 23, 1994, respondent and the West  
25

---

26 1. The order of the West Virginia Board of Medicine of June  
27 4, 1993, was attached to the original Accusation on file herein as  
Exhibit A, but will not be attached to the present First Amended  
Accusation.

1 Virginia Board of Medicine entered into a second stipulated  
2 agreement placing restrictions, conditions or limitations on  
3 respondent's medical license based on respondent's admission of  
4 alcohol dependence and need for and participation in treatment for  
5 said dependence. (See May 23, 1994 Order attached hereto as Exhibit  
6 "A".)

7 8. Respondent has further subjected his physician's and  
8 surgeon's certificate to discipline pursuant to Code sections 2234  
9 and 2305 in that in or about February, 1996, respondent surrendered  
10 his West Virginia medical license in order to receive treatment for  
11 alcohol dependence and said West Virginia medical license was  
12 reinstated pursuant to order of the West Virginia Board of Medicine  
13 on or about July 25, 1996 subject to additional restrictions,  
14 conditions or limitations. (See July 25, 1996 Order attached hereto  
15 as Exhibit "B".)

16 WHEREFORE complainant prays that a hearing be held and that  
17 the Medical Board of California make its order:

18 1. Revoking or suspending physician's and surgeon's  
19 certificate number A-41095, issued to Gorli Harish, M.D.;

20 2. Prohibiting Gorli Harish, M.D. from supervising physician  
21 assistants;

22 3. Directing Gorli Harish, M.D. to pay to the Board the  
23 reasonable costs of the investigation and enforcement of this  
24 proceeding according to proof; and


25 ///

26 ///

27 ///

1           4. Taking such other and further action as may be deemed  
2 necessary and proper.

3 DATED: 4-8-97

4   
5 RONALD JOSEPH  
6 Executive Director  
7 Medical Board of California  
8 Department of Consumer Affairs  
9 State of California

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EXHIBIT A

BEFORE THE WEST VIRGINIA BOARD OF MEDICINE

IN RE:

GORLI HARISH, M.D.

AGREEMENT

The West Virginia Board of Medicine ("Board") and Gorli Harish, M.D., ("Dr. Harish") freely and voluntarily enter into the following Agreement pursuant to the West Virginia Code §30-3-9.

FINDINGS OF FACT

1. Dr. Harish currently holds a license to practice medicine in the State of West Virginia, License No. 10453, and the address of record with the Board of Dr. Harish is in Charleston, West Virginia.

2. In April, 1994, Dr. Harish reported to the Board that he is suffering from alcohol dependence and that he wished to seek treatment for such alcohol dependence.

3. Information regarding Dr. Harish's out-patient treatment by Dr. Ralph Smith was obtained and was reviewed by the Licensure Committee of the Board.

4. No written complaint has been received or filed at the Board regarding Dr. Harish relating to an alcohol or chemical dependency impairment affecting the care and treatment of patients, nor have any reports been received at the Board pursuant to West Virginia Code §30-3-14(b), relating to an alcohol or chemical dependency impairment.

5. The Board believes that Dr. Harish is committed to remaining free of chemical impairment, and that such a commitment is a necessary condition to his continuing to practice medicine in the State of West Virginia.

6. Based on all the information received and reviewed, it is in the public interest for Dr. Harish to continue to practice medicine in the State of West Virginia, though practicing medicine without appropriate conditions and limitations upon the medical license of Dr. Harish could adversely affect the health and welfare of a patient.

7. The conditions and limitations imposed upon the medical license of Dr. Harish in this Agreement are reasonable under the circumstances and consistent with the need to protect the public interest, health, safety and welfare.

#### CONCLUSIONS OF LAW

1. Dr. Harish is eligible to enter into an agreement with the Board pursuant to the provisions of West Virginia Code

§30-3-9(h), which agreement shall impose limitations on the practice of Dr. Harish, but which agreement shall not be considered of a disciplinary nature and shall not be available to the public at large. Further, this Agreement shall be confidential and not available for public information, discovery, or court subpoena, nor for introduction into evidence in any medical professional liability action or other action for damages arising out of the provision of or failure to provide health care services.

2. The Board has a mandate pursuant to West Virginia Code §30-3-1 to protect the public interest and it is in the public interest to impose limitations and conditions on the practice of Dr. Harish based upon the Findings of Fact in this Agreement.

#### CONSENT

Gorli Harish, M.D., by affixing his signature hereon, agrees solely and exclusively for purposes of this Agreement and the entry of the action and order provided for and stated herein, to the following:

1. Dr. Harish consents to this action and order relative to his practice of medicine in the State of West Virginia.

2. Dr. Harish understands that if he fails to comply with or fulfill the terms of this Agreement and Order, the Board is required to initiate disciplinary proceedings pursuant to West



Virginia Code §30-3-14, all of which disciplinary proceedings and orders entered into pursuant thereto will be public information, as required by law, and Dr. Harish further understands that if he fails to comply with the terms of this Agreement and Order, as determined by the Board, the Board may order that his medical license be suspended automatically, notwithstanding the provisions of West Virginia Code §30-3-14(j) and West Virginia Code §30-1-8, without hearing, without delay, until such time as the Board may be satisfied that his medical license be reinstated, in any form, and Dr. Harish expressly waives any objection to the same.

3. Dr. Harish understands that the Board may cooperate with and provide documentation of this Agreement and Order to licensing boards in other jurisdictions, as may be appropriate in the opinion of the Board.

4. Dr. Harish understands that this signed Agreement and Order is an action of the Board limiting his license and will accordingly be reported to the National Practitioner Data Bank, as required by law.

5. Dr. Harish understands that all information hereafter provided to or submitted to the Board in connection with this Agreement and Order, including but not limited to this Agreement and Order, any medical charts, records, logs, recommendations, test results, reports and summaries, may be utilized by the Board in any

disciplinary proceeding of the Board, should such be instituted, and Dr. Harish hereby waives any objection he may have to the lawful use by the Board of such information.

ORDER

WHEREFORE, on the basis of the foregoing Findings of Fact and Conclusions of Law of the Board and the foregoing consent of Dr. Harish, the Board hereby takes the following action and orders:

1. For a period of three (3) years, commencing June 1, 1994, and terminating June 1, 1997, the license of Dr. Harish to practice medicine and surgery in the State of West Virginia, License No. 10453, is subject to the following conditions and limitations:

A. Dr. Harish shall refrain from the use of any alcohol.

B. Dr. Harish is to participate fully in an out-patient alcohol/substance addiction program designed for him by Ralph Smith, M.D., a copy of which program designed for Dr. Harish shall be provided to the Board in writing on or before May 27, 1994, and which program shall specifically designate the days, times, and number of hours each week that Dr. Harish will be participating fully in such program.

C. Dr. Harish's practice of medicine and surgery during the period that this Agreement is in effect shall take place only as long as Arundhati Kshirsagar, M.D., and Patrick Williams, M.D., agree to provide medical coverage for Dr. Harish and Dr. Harish's patients during all times that Dr. Harish is scheduled to be participating fully in the program designed for Dr. Harish by Dr. Smith, described in the preceding paragraph B.

D. No later than May 31, 1994, at 4:30 p.m., Dr. Kshirsagar and Dr. Williams shall provide to the Board a written statement that they each have a copy of this Agreement and a copy of the program designed for Dr. Harish by Dr. Smith, described in paragraph B, and that they each agree to provide medical coverage for Dr. Harish and Dr. Harish's patients during all times that Dr. Harish is scheduled to be participating fully in the out-patient alcohol/substance addiction program designed for Dr. Harish by Dr. Smith and that they each understand their responsibilities as outlined in this Agreement.

E. Dr. Smith shall file written reports with the Board every thirty (30) days, beginning July 1, 1994, attesting to the full participation of Dr. Harish in the outpatient alcohol/substance addiction program designed for him by Dr. Smith, except that if at any time Dr. Harish does not comply with the requirements of the program designed for him in any way, Dr. Smith shall immediately notify the Board in writing.

F. Dr. Harish shall, at his own expense, submit to unlimited, random and unannounced testing of bodily fluids carried out in a manner directed and approved by the Board and upon demand of the Board at any time, and Dr. Smith shall be responsible for the forwarding and submission of all such tests to the Board.

G. No later than June 10, 1994, Dr. Harish shall present a copy of this Agreement to any employer or health care or medical facility where Dr. Harish is practicing medicine, and during the three (3) years that this Agreement is in effect, Dr. Harish shall present a copy of this Agreement to any employer or health care or medical facility where he practices medicine or seeks to practice medicine.

H. If at any time during the three (3) year period that this Agreement is effective, Dr. Smith is of the opinion that it would be in the interest of the public health, safety and welfare for this Agreement to be modified, Dr. Smith may request the same in writing and shall appear before a regularly scheduled meeting of the Licensure Committee of the Board with Dr. Harish in support of such requested modification.

The failure of Dr. Harish to comply with the terms of this Agreement, or of Drs. Smith, Kshirsagar and Williams to comply with their responsibilities as outlined herein, shall constitute grounds for and shall result in the institution of disciplinary proceedings against Dr. Harish's medical license in the State of West Virginia, and further, if Dr. Harish or Dr. Smith or Dr. Kshirsagar or Dr. Williams fails to comply with the terms of this Agreement, as determined by the Board, the Board may order that Dr. Harish's medical license be suspended automatically, notwithstanding the provisions of West Virginia Code §30-1-8, without hearing, without delay, until such time as the Board may be satisfied that it is in the public interest, health, safety and welfare for his medical license to be reinstated, in any form, and Dr. Harish acknowledges that he has specifically agreed to the same by signing this Agreement.

Entered this 23<sup>rd</sup> day of May, 1994.

WEST VIRGINIA BOARD OF MEDICINE

S. Eileen Catterson, M.D.  
S. Eileen Catterson, M.D.  
President

William T. Wallace, Jr., M.D., M.P.H.  
William T. Wallace, Jr., M.D., M.P.H.  
Secretary

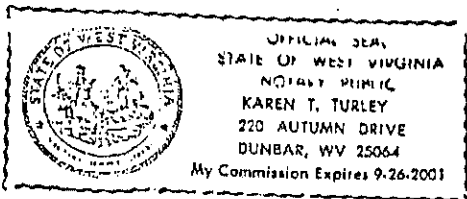
Gorli Harish, M.D.  
Gorli Harish, M.D.  
Date: \_\_\_\_\_

STATE OF WEST VIRGINIA  
COUNTY OF KANAWHA, to-wit:

I, KAREN T. TURLEY, a Notary Public for said county and state do hereby certify that Gorli Harish, M.D., whose name is signed above, has this day acknowledged the same before me.

Given under my hand this 20<sup>th</sup> day of MAY, 1994.

My Commission expires SEPTEMBER 26, 2001.



Karen T. Turley  
NOTARY PUBLIC

EXHIBIT B

## BEFORE THE WEST VIRGINIA BOARD OF MEDICINE

IN RE:

GORLI HARISH, M.D.

CONSENT ORDER

The West Virginia Board of Medicine ("Board") and Gorli Harish, M.D., ("Dr. Harish") freely and voluntarily enter into the following order pursuant to West Virginia Code §30-3-14(n):

FINDINGS OF FACT

1. Dr. Harish held an active license to practice medicine and surgery in the State of West Virginia, License Number 10453, from 1975 until Dr. Harish surrendered his license to the Board effective February 23, 1996, at 4:30 p.m.
2. Dr. Harish's address of record with the Board is in Charleston, West Virginia.
3. In February, 1996, Dr. Harish was admitted for treatment to the William J. Farley Center in Williamsburg, Virginia, and has now been released from such center and has appeared before the Licensure Committee of the Board at its regular meeting in July, 1996, and has requested reinstatement of his license to practice medicine and surgery.



4. After a full review of all of the records from the William J. Farley Center, and a full discussion with Dr. Harish, as well as with the Medical Director of such center, who appeared with Dr. Harish in support of his reinstatement request, the Licensure Committee recommended to the Board, and the Board finds, that Dr. Harish meets the requirements for reinstatement of his license to practice medicine and surgery under the West Virginia Medical Practice Act, and that it is in the public interest to reinstate Dr. Harish's license to practice medicine and surgery in the State of West Virginia, though permitting him such reinstatement without attaching certain accommodations and restrictions and limitations upon his license to practice medicine and surgery could adversely affect the health and welfare of a patient.

#### CONCLUSIONS OF LAW

1. As a matter of public policy, the provisions of the West Virginia Medical Practice Act have been enacted to protect the public interest (West Virginia Code §30-3-1).

2. Probable cause exists to deny Dr. Harish's request for reinstatement of his license to practice medicine and surgery in this state, due to the provisions of West Virginia Code §30-3-14(c)(17) and 11 CSR 1A 12.1(d) and (h), relating to excessive use of alcohol.

3. The Board has determined that it is appropriate to reinstate Dr. Harish's license to practice medicine in the State of West Virginia, provided certain accommodations, restrictions and

limitations are placed upon his license to practice medicine and surgery in the State of West Virginia.

CONSENT

Gorli Harish, M.D., by affixing his signature hereon, agrees solely and exclusively for purposes of this agreement and the entry of the Order provided for and stated herein, and proceedings conducted in accordance with this Order to the following:

1. Dr. Harish acknowledges that he is fully aware that, without his consent, here given, no permanent legal action may be taken against him except after a hearing held in accordance with West Virginia Code §30-3-14 (b) and §29A-5-1, et. seq.;

2. Dr. Harish acknowledges that he has the following rights, among others: the right to a formal hearing before the West Virginia Board of Medicine, the right to reasonable notice of said hearing, the right to be represented by counsel at his own expense, and the right to cross-examine witnesses against him;

3. Dr. Harish waives all rights to such a hearing;

4. Dr. Harish consents to the entry of this Order relative to his practice of medicine in the State of West Virginia; and,

5. Dr. Harish understands that this Order is considered public information, and that matters contained herein may be reported, as required by law, to the National Practitioner Data Bank.

ORDER

WHEREFORE, on the basis of the foregoing Findings of Fact and Conclusions of Law of the Board and the foregoing consent of Dr. Harish, the West Virginia Board of Medicine hereby ORDERS as follows:

1. The license to practice medicine and surgery in the State of West Virginia of Dr. Harish, License Number 10453, is REINSTATED, effective August 1, 1996, at 12:01 a.m.

2. Said License Number 10453 is issued subject to the following:

- a. Immediately upon issuance, License Number 10453 is REVOKED, and such revocation is immediately STAYED, and License Number 10453 shall for a two (2) year period be placed on PROBATION, terminating July 31, 1998, and during said two (2) year period, the practice of medicine and surgery of Dr. Harish shall occur only with the supervision of another duly licensed physician approved by the Board, which supervising physician shall meet regularly with Dr. Harish and which Board approved, supervising physician shall file reports with the Board concerning Dr. Harish's performance as a physician every sixty (60) days, beginning October 1, 1996, except should the performance of Dr. Harish at any time fall below the level of

reasonable skill and safety, the approved supervising physician shall immediately notify the Board. In the event that the approved supervising physician becomes unable or unwilling to so serve, Dr. Harish shall immediately so notify the Board in writing, and make arrangements acceptable to the Board for another supervising physician, and Dr. Harish may not practice surgery unless and until such supervision is again in place.

- b. Dr. Harish shall meet at least once every two (2) months with a board approved physician who will act as his recovery monitor and such Board approved physician shall file reports with the Board every sixty (60) days confirming that he has met with Dr. Harish in compliance with the provisions of this Consent Order.
- c. Dr. Harish shall appear in person for an interview with the Licensure Committee at its regularly scheduled meeting in January, 1997, and as otherwise requested by the Licensure Committee.
- d. Dr. Harish shall comply with all the provisions of the four (4) page Continuing Care Contract into which he entered on May 16, 1996, with the William J. Farley Center, with the exception that the Board approves a change of the individual designated

therein to act as the recovery monitor under such contract.

- e. Dr. Harish shall refrain from the use of any alcohol.
- f. Dr. Harish shall maintain a sponsor in Alcoholics Anonymous who will file reports with the Board every sixty (60) days, beginning October 1, 1996, confirming Dr. Harish's required attendance at Alcoholics Anonymous meetings and other meetings as required by the Continuing Care Contract referenced in paragraph d. of this Consent Order.
- g. Dr. Harish shall, at his own expense, submit to unlimited, random and unannounced testing of bodily fluids and/or breathalyzer testing, all carried out in a manner directed and approved by the Board and at any time upon the request of the Board.
- h. Dr. Harish shall review this Consent Order on a regular basis, as well as his Continuing Care Contract referenced in paragraph d. in order that he understand fully his responsibilities as outlined in each document and to prevent any non-compliance with provisions contained in either document.
- i. Within five (5) days of entry of this Consent Order, Dr. Harish shall present a copy of this Consent Order to his approved recovery supervising

- physician, his approved monitoring physician, any employer or health care or medical facility where Dr. Harish is practicing medicine and surgery in the State of West Virginia, and during the two (2) year period of probation, Dr. Harish shall present a copy of this Consent Order to any employer, health care or medical facility where Dr. Harish practices medicine and surgery or seeks to practice medicine and surgery in the State of West Virginia.
- j. Dr. Harish will not register as a dispensing physician under the provisions of 11 CSR 5.
- k. At the option of either Dr. Harish or the Board, this Consent Order or a modified version thereof may be again entered into by the parties at the end of the two (2) year probationary period.

The failure of Dr. Harish to comply with any of the terms of this Consent Order shall constitute grounds for the revocation of his license to practice medicine and surgery in the State of West Virginia, and further if Dr. Harish violates probation in any respect, as determined by the Board, the Board may terminate and dissolve the stay of revocation herein imposed, upon written notice of the same to Dr. Harish, and Dr. Harish understands that, notwithstanding any provision of law to the contrary, such termination and dissolution of the stay of revocation may occur

without any hearing provided by the Board, and by his signing of this Consent Order, Dr. Harish has consented to the same.

Entered this 25<sup>th</sup> day of July, 1996.

WEST VIRGINIA BOARD OF MEDICINE

A. Paul Brooks, Jr. M.D.  
A. Paul Brooks, Jr., M.D.  
President

Henry G. Taylor, M.D., M.P.H.  
Henry G. Taylor, M.D., M.P.H.  
Secretary

Gorli Harish

Gorli Harish, M.D.  
Date: 7/23/96

STATE OF West Virginia

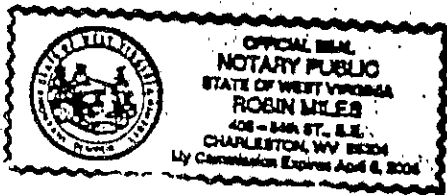
COUNTY OF Kanawha, to-wit:

I, Rosin Miles, a Notary Public for said county and state do hereby certify that Gorli Harish, M.D., whose name is signed above has this day acknowledged the same before me.

Given under my hand this 23<sup>rd</sup> day of July, 1996.

My Commission expires April 16, 2004

Rosin Miles  
NOTARY PUBLIC



DECLARATION OF SERVICE

Case Name: In the Matter of the Accusation Against:  
Gorli Harish, M.D.  
Medical Board of California Case No. 5614

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the Bar of this Court at which member's direction this service is made. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service that same day in the ordinary course of business.

On April 8, 1997, I placed the attached

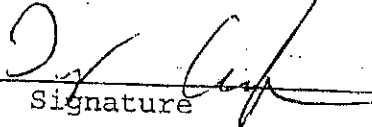
FIRST AMENDED ACCUSATION

in the internal mail collection system at the Office of the Attorney General, 1300 I Street, P.O. Box 944255, Sacramento, California 94244-2550, for deposit in the United States Postal Service that same day in the ordinary course of business, in a sealed envelope, postage fully postpaid, addressed as follows:

Nisar A. Kalwar, Esq., L.C.  
1141 Grosscup Avenue  
P.O. Box 706  
Dunbar, WV 25064

I declare under penalty of perjury the foregoing is true and correct and that this declaration was executed on April 8, 1997 at Sacramento, California.

INEZ CRAWFORD

  
Signature