

1 EDMUND G. BROWN JR.
Attorney General of California
2 GLORIA L. CASTRO
Supervising Deputy Attorney General
3 RICHARD D. MARINO
Deputy Attorney General
4 State Bar No. 90471
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-8644
6 Facsimile: (213) 897-9395
E-mail: Richard.Marino@doj.ca.gov
7 *Attorneys for Complainant*

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

11 In the Matter of the Petition to Revoke
12 Probation Against:

Case No. D1-2004-156292

13 **GEORGE DALTON FLANIGAN, III, M.D.**
14 **956 S. Longwood Ave.**
Los Angeles, CA 90019

PETITION TO REVOKE PROBATION

15 **Physician's and Surgeon's Certificate No. A**
47749

16 One.

17
18 Complainant alleges:

19
20 **PARTIES**

21 1. Linda K. Whitney (Complainant) brings this Petition to Revoke Probation solely in
22 her official capacity as the Executive Director of the Medical Board of California, Department of
23 Consumer Affairs.

24 2. On or about November 27, 1989, the Medical Board of California issued Physician
25 and Surgeon's Certificate Number A 47749 to George Dalton Flanigan, III, M.D. (Respondent).
26 The Physician and Surgeon's Certificate was in effect at all times relevant to the charges brought
27 herein and will expire on May 31, 2011, unless renewed.
28

1 B. Section 2227 of the Code provides that a licensee who is found guilty under the
2 Medical Practice Act may have his or her license revoked, suspended for a period not to
3 exceed one year, placed on probation and required to pay the costs of probation monitoring,
4 or such other action taken in relation to discipline as the Division deems proper.

5
6 **CAUSE TO REVOKE PROBATION**

7 **(Clinical Training Program)**

8 5. At all times after the effective date of Respondent's probation, Condition 3, in
9 relevant part, provided:

10 "Clinical Training Program: Within 180 calendar days of the effective date of
11 this Decision, respondent shall enroll in a clinical training or educational program
12 equivalent to the Physician Assessment and Clinical Education Program (PACE) offered at
13 the University of California—San Diego School of Medicine ("Program").

14 "...

15 "Respondent shall complete the Program **not later than one year** after
16 respondent's initial enrollment unless the Division or its representative agrees in writing to
17 a later time for completion.

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

20 **"If respondent fails to complete the clinical training program within the**
21 **designated time period, respondent shall cease the practice of medicine within 72**
22 **hours after being notified by the Division or its designee that respondent failed to**
23 **complete the clinical training program.**

24 "Failure to participate in and complete successfully the professional
25 enhancement program outlined above is a violation of probation." (Emphases added.)

26 6. Respondent's probation is subject to revocation because he failed to comply
27 with Probation Condition 3, referenced above. The facts and circumstances regarding this
28 violation are as follows:

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

- A. Respondent enrolled in the Program on or about August 29, 2007.
- B. Respondent participated in Phase I of the Program on March 27 and 28, 2008. Because his performance was marginal he was required to complete a one week (5 day) program in both obstetrics/gynecology and family medicine (Phase II).
- C. On or about April 10, 2010, Respondent was notified to cease practicing medicine for not having completed Phase II of the Program within one year of having enrolled in the Program, as required by the Board's probationary order.
- D. Respondent completed the obstetrics/gynecology program on October 24 through 29, 2010.
- E. Respondent has not participated in the 5 day course in family medicine and was not granted additional time by the Board or its designee within which to complete the family medicine program.

//

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Medical Board of California issue a decision:

1. Revoking the probation that was granted by the Medical Board of California in Case No. 11-2004-156292 and imposing the disciplinary order that was stayed thereby revoking Physician's and Surgeon's Certificate No. A 47749 issued to George Dalton Flanigan, III, M.D.;

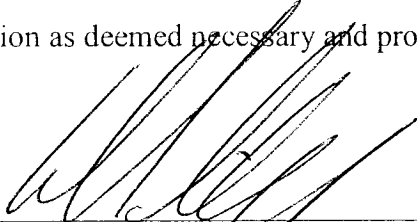
2. Revoking or suspending Physician's and Surgeon's Certificate No. A 47749, issued to George Dalton Flanigan, III, M.D.;

3. Revoking, suspending or denying approval of George D. Flanigan, M.D.'s authority to supervise physician's assistants, pursuant to section 3527 of the Code;

4. Ordering George Dalton Flanigan, III, M.D. to pay the Medical Board of California, if placed on probation, the costs of probation monitoring; and,

5. Taking such other and further action as deemed necessary and proper.

DATED: February 14, 2011



LINDA K. WHITNEY
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

LA2010502712
50701560.doc

Exhibit A

Decision and Order

Medical Board of California Case No. D1-2004-156292

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

In the Matter of the Accusation Against:)
)
)
GEORGE D. FLANIGAN, M.D.)
)
Physician's and Surgeon's)
Certificate No. A47749)
)
Respondent.)
_____)

File No. 11-2004-156292

DECISION

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

This Decision shall become effective at 5:00 p.m. on February 15, 2007.

IT IS SO ORDERED January 16, 2007.

MEDICAL BOARD OF CALIFORNIA

MEDICAL BOARD OF CALIFORNIA

I do hereby certify that this document is a true and correct copy of the original on file in this office.

Signature

Title

Date

By:

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

1 BILL LOCKYER, Attorney General
of the State of California
2 RICHARD D. MARINO, State Bar No. 90471
Deputy Attorney General
3 California Department of Justice
300 So. Spring Street, Suite 1702
4 Los Angeles, CA 90013
Telephone: (213) 897-8644
5 Facsimile: (213) 897-9395
E-mail: Richard.Marino@doj.ca.gov

6 Attorneys for Complainant

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

13 In the Matter of the Accusation Against:

14 GEORGE D. FLANIGAN, M.D.
15 956 S. Longwood Ave.
16 Los Angeles, California 90019

17 Physician and Surgeon's Certificate No. A47749

18 Respondent.

Case Nos. 11-2004-156292

OAH No. L20006010625

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

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

PARTIES

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

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

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

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

7 **JURISDICTION**

8 4. Accusation No. 11-2004-156292 was brought before the Division of
9 Medical Quality (Division) for the Medical Board of California, Department of Consumer
10 Affairs, and are currently pending against Respondent. Accusation No. 11-2004-156292 and all
11 other statutorily required documents were properly served on Respondent on September 13,
12 2005. Respondent subsequently filed his Notice of Defense contesting the Accusation. A copy
13 of Accusation No. 11-2004-156292 is as Exhibit A and incorporated herein by reference.

14 **ADVISEMENT AND WAIVERS**

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

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

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

28

1 CULPABILITY

2 8. Respondent understands and agrees that the charges and allegations in
3 Accusation No. 11-2004-156292, if proven at a hearing, constitute cause for imposing discipline
4 upon his Physician and Surgeon's Certificate.

5 9. For the purpose of resolving the Accusation without the expense and
6 uncertainty of further proceedings, Respondent agrees that, at a hearing, Complainant would be
7 able to present a prima facia case for the charges in the Accusation, and that Respondent hereby
8 gives up his right to contest those charges.

9 10. Respondent agrees that his Physician and Surgeon's Certificate is subject
10 to discipline and he agrees to be bound by the Division of Medical Quality (Division) 's
11 imposition of discipline as set forth in the Disciplinary Order below.

12 CONTINGENCY

13 11. This stipulation shall be subject to approval by the Division of Medical
14 Quality. Respondent understands and agrees that counsel for Complainant and the staff of the
15 Medical Board of California may communicate directly with the Division regarding this
16 stipulation and settlement, without notice to or participation by Respondent or his counsel. By
17 signing the stipulation, Respondent understands and agrees that he may not withdraw his
18 agreement or seek to rescind the stipulation prior to the time the Division considers and acts upon
19 it. If the Division fails to adopt this stipulation as its Decision and Order, the Stipulated
20 Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall
21 be inadmissible in any legal action between the parties, and the Division shall not be disqualified
22 from further action by having considered this matter.

23 12. The parties understand and agree that facsimile copies of this Stipulated
24 Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same
25 force and effect as the originals.

26 13. In consideration of the foregoing admissions and stipulations, the parties
27 agree that the Division may, without further notice or formal proceeding, issue and enter the
28 following Disciplinary Order:

1 DISCIPLINARY ORDER

2 **IT IS HEREBY ORDERED** that Physician and Surgeon's Certificate No.
3 A47749 issued to Respondent George D. Flanigan, M.D. (Respondent) is revoked. However,
4 the revocation is stayed and Respondent is placed on probation for five (5) years on the
5 following terms and conditions.

6 1. **Medical Record Keeping Course** Within 180 calendar days of the
7 effective date of this decision, respondent shall enroll in a course in medical record keeping, at
8 respondent's expense, approved in advance by the Division or its designee. Failure to
9 successfully complete the course during the first year of probation is a violation of 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 2. **Ethics Course** Within 180 calendar days of the effective date of this
19 Decision, respondent shall enroll in a course in ethics, at respondent's expense, approved in
20 advance by the Division or its designee. Failure to successfully complete the course during the
21 first year of probation is a violation of probation.

22 An ethics course taken after the acts that gave rise to the charges in the
23 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the
24 Division or its designee, be accepted towards the fulfillment of this condition if the course would
25 have been approved by the Division or its designee had the course been taken after the effective
26 date of this Decision.

27 Respondent shall submit a certification of successful completion to the Division
28 or its designee not later than 15 calendar days after successfully completing the course, or not

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

LINICAMEDICAPARALAMJERDEHOY FAX NO. :17145473520

Aug. 11 2006 03:57PM F1

08/11/2006 15:26 3104445280

FENTON&NELSON

PAGE 11/15

1036 12:10

ATTORNEY GENERAL LA

213 097 9335

P.13

ACCEPTANCE

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

DATED: 8/11/06

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

I have read and fully discussed with Respondent George D. Flanigan, M.D. the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 8-11-06

Henry R. Fenton Esq.
HENRY R. FENTON, ESQ.
Attorney for Respondent


1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ENDORSEMENT

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

DATED: August 15, 2006

BILL LOCKYER, Attorney General
of the State of California


RICHARD D. MARINO
Deputy Attorney General

Attorneys for Complainant

DOJ Matter ID: LA2005600315
FlaniganStipulation.wpd

Exhibit A

Accusation No. 11-2004-156292

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

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO September 13, 20 05
BY L. Denise M. Oa. ANALYST

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
13 **GEORGE DALTON FLANIGAN, III, M.D.**
14 956 South Longwood Avenue
15 Los Angeles, California 90019
16 Physician's and Surgeon's Certificate
17 No. A 47749,
18
19 Respondent.

Case No. 11-2004-156292

ACCUSATION

18 Complainant David T. Thornton, alleges:

19 **PARTIES**

- 20 1. He is the Executive Director of the Medical Board of California ("Board")
21 and brings these charges solely in his official capacity.
22 2. At all times material to this action, Respondent George Dalton Flanigan,
23 III, M.D., ("Respondent") has held physician's and surgeon's certificate No. A 47749, which
24 was issued to him on November 27, 1989 by the Board. Unless renewed, the certificate will
25 expire on May 31, 2007.
26 //
27 //
28 //

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

4 “ . . .

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

9 7. Section 2261 of the Code states:

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

13 8. Penal Code section 32, states:

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

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

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

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

3 10. Section 2266 of the Code states:

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

6 COST RECOVERY

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

11 RESPONDENT’S PRACTICE

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

14 PATIENT MARIA R.²

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

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

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

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

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

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

3 15. On May 16, 2002, Maria R. underwent a one-hour glucose tolerance test
4 which was abnormal. On May 25, 2002, the patient underwent a three-hour glucose tolerance
5 test which was incomplete because the amount of blood obtained was insufficient.

6 Notwithstanding this incomplete test finding, no further testing was ordered by Respondent or
7 performed and the result was assumed to be normal.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12 **SECOND CAUSE FOR DISCIPLINE**

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

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

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

19 **THIRD CAUSE FOR DISCIPLINE**

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

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

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

26 //

27 //

28 //

1 FOURTH CAUSE FOR DISCIPLINE

2 (INADEQUATE AND INACCURATE RECORDS)

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

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

8 FIFTH CAUSE FOR DISCIPLINE

9 (CONVICTION OF A CRIME)

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

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

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

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

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

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

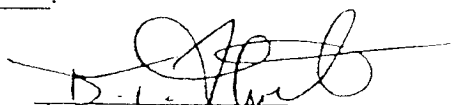
22 37. On or about March 9, 2005, Respondent pleaded nolo contendere to Count
23 42, being an accessory after the commission of a felony in violation of Penal Code 32, a
24 misdemeanor, pursuant to a plea agreement. Respondent agreed that from January 1, 2002, to
25 October 31, 2003, Respondent facilitated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

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

proper.

DATED: September 13, 2005.



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

Complainant