



STATE OF NEW YORK DEPARTMENT OF HEALTH

Corning Tower The Governor Nelson A. Rockefeller Empire State Plaza Albany, New York 12237

Barbara A. DeBuono, M.D., M.P.H.
Commissioner

Karen Schimke
Executive Deputy Commissioner

September 4, 1996

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Timothy Mahar, Esq.
NYS Department of Health
Corning Tower-Room 2438
Empire State Plaza
Albany, New York 12237

Frederick Zimmer, Esq.
NYS Department of Health
Corning Tower-Room 2438
Empire State Plaza
Albany, New York 12237

Naresh Kumar Gupta, M.D.
1602 Pataudi House
Darya Gang
New Delhi, India 110002

Effective Date: 09/11/96

RE: In the Matter of Naresh Kumar Gupta, M.D.

Dear Mr. Mahar, Mr. Zimmer and Dr. Gupta:

Enclosed please find the Determination and Order (No. 96-203) of the Hearing Committee in the above referenced matter. This Determination and Order shall be deemed effective upon the receipt or seven (7) days after mailing by certified mail as per the provisions of §230, subdivision 10, paragraph (h) of the New York State Public Health Law.

Five days after receipt of this Order, you will be required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate. Delivery shall be by either **certified mail or in person** to:

RECEIVED
SEP 05 1996
OFFICE OF PROFESSIONAL
MEDICAL CONDUCT

Office of Professional Medical Conduct
New York State Department of Health
Corning Tower - Fourth Floor (Room 438)
Empire State Plaza
Albany, New York 12237

If your license or registration certificate is lost, misplaced or its whereabouts is otherwise unknown, you shall submit an affidavit to that effect. If subsequently you locate the requested items, they must then be delivered to the Office of Professional Medical Conduct in the manner noted above.

As prescribed by the New York State Public Health Law §230, subdivision 10, paragraph (i), and §230-c subdivisions 1 through 5, (McKinney Supp. 1992), "the determination of a committee on professional medical conduct may be reviewed by the Administrative Review Board for professional medical conduct." Either the licensee or the Department may seek a review of a committee determination.

Request for review of the Committee's determination by the Administrative Review Board stays all action until final determination by that Board. Summary orders are not stayed by Administrative Review Board reviews.

All notices of review must be served, by **certified mail**, upon the Administrative Review Board **and** the adverse party within fourteen (14) days of service and receipt of the enclosed Determination and Order.

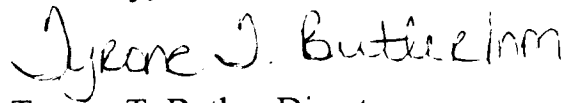
The notice of review served on the Administrative Review Board should be forwarded to:

James F. Horan, Esq., Administrative Law Judge
New York State Department of Health
Bureau of Adjudication
Empire State Plaza
Corning Tower, Room 2503
Albany, New York 12237-0030

The parties shall have 30 days from the notice of appeal in which to file their briefs to the Administrative Review Board. Six copies of all papers must also be sent to the attention of Mr. Horan at the above address and one copy to the other party. The stipulated record in this matter shall consist of the official hearing transcript(s) and all documents in evidence.

Parties will be notified by mail of the Administrative Review Board's Determination and Order.

Sincerely,

A handwritten signature in cursive script that reads "Tyrone T. Butler/nm".

Tyrone T. Butler, Director
Bureau of Adjudication

TTB:nm
Enclosure

COPY

STATE OF NEW YORK : DEPARTMENT OF HEALTH
STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

IN THE MATTER

-OF-

NARESH KUMAR GUPTA, M.D.

DECISION
AND
ORDER
OF THE
HEARING
COMMITTEE
BPMC ORDER
NO. 96- 203

This matter was commenced by a Notice of Hearing and Statement of Charges, both dated June 13, 1996 which were served upon **NARESH KUMAR GUPTA, M.D.**, (hereinafter referred to as "Respondent"). **ARSENIO G. AGOPOVICH, M.D., Chairperson, LEO FISHEL, JR., M.D.**, and **TIMOTHY TRUSCOTT**, duly designated members of the State Board for Professional Medical Conduct, served as the Hearing Committee in this matter pursuant to Section 230(10)(e) of the Public Health Law. **JONATHAN M. BRANDES, ESQ.**, Administrative Law Judge, served as the Administrative Officer. A hearing was held on August 7, 1996 at Room 711, Legislative Office Building, Albany, New York. The State Board For Professional Medical Conduct (hereinafter referred to as "Petitioner") appeared by **HENRY M. GREENBERG, ESQ.**, General Counsel, by **TIMOTHY MAHAR, ESQ.**, Associate Counsel, for **FREDERICK ZIMMER, ESQ.**, Assistant Counsel, Bureau of Professional Medical Conduct. Respondent did not appear in person but did submit a written statement which was distributed to the Committee. Evidence was received. A transcript of these proceedings was made.

After consideration of the entire record, the Hearing Committee issues this Decision and Order.

STATEMENT OF CASE

This case was brought pursuant to Public Health Law Section 230(10)(p). This statute provides for an expedited hearing where a licensee is charged solely with a violation of Section 6530(9) of the Education Law. In such cases, a licensee is charged with misconduct based upon prior professional disciplinary action or criminal conviction. The scope of this expedited hearing is limited to a determination of the nature and severity of the penalty to be imposed by this state upon the licensee based solely upon the record of the previous conviction or discipline.

In the instant case, Respondent is charged with professional misconduct pursuant to the New York State Education Law, Section 6530(9)(d) (having been disciplined by the duly authorized agency of another state). The charges in this proceeding arise from a stipulation, decision and Order dated August 31, 1995 entered into by Respondent and the Medical Board of California. In the mentioned documents, Respondent was alleged to have committed sexual and medical misconduct. The allegations in this proceeding and the underlying events are more particularly set forth in the Notice of Referral Proceeding and Statement of Charges, a copy of which is attached to this Decision and Order as Appendix One.

FINDINGS OF FACT

The Committee adopts the factual statements set forth on pages one through four of the Statement of Charges (Appendix One) as its findings of fact and incorporates them herein. In addition, the Committee adopts the factual statements set forth on pages one through six and attachments to the Decision and Order before the Division of Medical Quality, Medical Board of California, which is incorporated herein and attached hereto as Appendix Two.¹

¹This document was received in evidence as Exhibit 3.

CONCLUSIONS
WITH REGARD TO
FACTUAL ALLEGATIONS
AND
PENALTY

Petitioner herein, has proven by a preponderance of the evidence that Respondent was disciplined by The Division of Medical Quality of the Medical Board of the State of California. While there was no final adjudication, the activities from which the discipline arises would constitute gross negligence, negligence on more than one occasion, acts evidencing moral unfitness, patient abandonment and patient abuse, under the laws of this state. The Division of Medical Quality of the Medical Board of California revoked Respondent's license. However, that body stayed the revocation and placed Respondent on probation for five years. Respondent now resides in India. He did not appear at this proceeding in person however, he did have actual notice of it and submitted a brief written statement

Respondent has violated standards in every aspect of medical practice (with the possible exception of record keeping). He has shown himself to be both lacking in scruples, in that he committed acts of moral turpitude, as well as lacking in technical ability, since he committed gross negligence. He is obviously a danger to any patient he would come in contact with. Based upon the acts established, there can be only one appropriate penalty and that is revocation. While some may question why this state is being more punitive than the state in which the alleged acts were said to have occurred, the better question is why was the State of California was so lenient with this practitioner.

ORDER

WHEREFORE, Based upon the preceding facts and conclusions,

It is hereby **ORDERED** that:

1. The Factual allegations in the Statement of Charges are **SUSTAINED**

Furthermore, it is hereby **ORDERED** that;

2. The Specifications of Misconduct contained within the Statement of Charges (Appendix One) are **SUSTAINED**;

Furthermore, it is hereby **ORDERED** that;

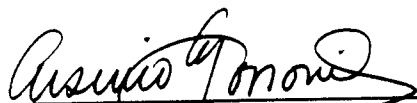
3. The license of Respondent to practice medicine in the State of New York is hereby **REVOKED**;

Furthermore, it is hereby **ORDERED** that;

4. This order shall take effect **UPON RECEIPT** or **SEVEN (7) DAYS** after mailing of this order by Certified Mail.

Dated:
Troy, New York

August 31st, 1996


ARSENIO G. AGOPOVICH, M.D., Chairperson
LEO FISHEL, JR., M.D.
TIMOTHY TRUSCOTT

TO:

TIMOTHY MAHAR, ESQ.

Associate Counsel
Bureau of Professional Medical Conduct
New York State Department of Health
Room 2429 Corning Tower
Empire State Plaza
Albany NY 12237

NARESH KUMAR GUPTA, M.D.

1602 Pataudi House
Darya Gang
New Delhi India 110002

FREDERICK ZIMMER ESQ.

Assistant Counsel
Bureau of Professional Medical Conduct
New York State Department of Health
Room 2429 Corning Tower
Empire State Plaza
Albany NY 12237

APPENDIX ONE

STATE OF NEW YORK : DEPARTMENT OF HEALTH
STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

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IN THE MATTER : NOTICE OF
OF : REFERRAL
NARESH KUMAR GUPTA, M.D. : PROCEEDING

-----x

TO: NARESH GUPTA, M.D.
1602 Pataudi House
Darya ganj
New Delhi 110002
India

PLEASE TAKE NOTICE THAT:

An adjudicatory proceeding will be held pursuant to the provisions of N.Y. Pub. Health Law Section 230(10)(p) (McKinney Supp. 1996) and N.Y. State Admin. Proc. Act Sections 301-307 and 401 (McKinney 1984 and Supp. 1996). The proceeding will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct (Committee) on the 7th day of August, 1996 at 10:00 in the forenoon of that day at the OGS Conference Room (at entrance to Corning Tower Building), South Mall, Concourse Level, Empire State Plaza, Albany, New York 12230.

At the proceeding, evidence will be received concerning the allegations set forth in the Statement of Charges, which is attached. A stenographic record of the proceeding will be made and the witnesses at the proceeding will be sworn and examined.

You may appear in person at the proceeding and may be represented by counsel. You may produce evidence or sworn testimony on your behalf. Such evidence or sworn testimony shall

be strictly limited to evidence and testimony relating to the nature and severity of the penalty to be imposed upon the licensee. Where the charges are based on the conviction of state law crimes in other jurisdictions, evidence may be offered which would show that the conviction would not be a crime in New York State. The Committee also may limit the number of witnesses whose testimony will be received, as well as the length of time any witness will be permitted to testify.

If you intend to present sworn testimony, the number of witnesses and an estimate of the time necessary for their direct examination must be submitted to the New York State Department of Health, Division of Legal Affairs, Bureau of Adjudication, Corning Tower Building, 25th Floor, Empire State Plaza, Albany, New York 12237, ATTENTION: HON. TYRONE BUTLER, DIRECTOR, BUREAU OF ADJUDICATION, (henceforth "Bureau of Adjudication") as well as the Department of Health attorney indicated below, on or before July 31, 1996.

You may file a written answer, brief, and affidavits with the Committee. Six copies of all papers you wish to submit must be filed with the Bureau of Adjudication at the address indicated above on or before July 31, 1996, except that the answer may be served on or before August 5, 1996. A copy of the above papers must be served respectively on the above dates on the Department of Health attorney indicated below. Pursuant to Section 301(5) of the State Administrative Procedure Act, the Department, upon reasonable notice, will provide at no charge a qualified interpreter of the deaf to interpret the proceedings to, and the testimony of, any deaf person.

The proceeding may be held whether or not you appear. Please note that requests for adjournments must be made in writing to the Bureau of Adjudication, at the address indicated above, with a copy of the request to the attorney for the Department of Health, whose name appears below, at least five days prior to the scheduled date of the proceeding. Adjournment requests are not routinely granted. Claims of court engagement will require detailed affidavits of actual engagement. Claims of illness will require medical documentation. Failure to obtain an attorney within a reasonable period of time prior to the proceeding will not be grounds for an adjournment.

The Committee will make a written report of its findings, conclusions as to guilt, and a determination. Such determination may be reviewed by the administrative review board for professional medical conduct.

SINCE THESE PROCEEDINGS MAY RESULT IN A DETERMINATION THAT SUSPENDS OR REVOKES YOUR LICENSE TO PRACTICE MEDICINE IN NEW YORK STATE AND/OR IMPOSES A FINE FOR EACH OFFENSE CHARGED, YOU ARE URGED TO OBTAIN AN ATTORNEY TO REPRESENT YOU IN THIS MATTER.

DATED: Albany, New York
June 13, 1996



PETER D. VAN BUREN
Deputy Counsel
Bureau of Professional
Medical Conduct

Inquiries should be addressed to:

FREDERICK ZIMMER
Assistant Counsel
NYS Department of Health
Division of Legal Affairs
Corning Tower Building
Room 2429
Empire State Plaza
Albany, New York 12237
(518) 473-4282

AFFIDAVIT OF SERVICE

STATE OF NEW YORK
STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

DEPARTMENT OF HEALTH

In the Matter
of
Naresh Kumar Gupta M.D

Respondent

REPUBLIC OF INDIA, CITY OF MADRAS

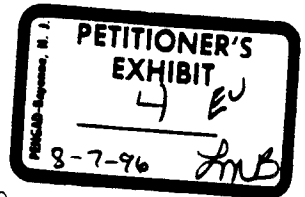
I, K.L. Krishnan, being duly sworn, hereby depose and state: THAT on July 19, 1996, alongwith Mr.V.M.John a clerk in the Law Offices of K.J.John, Advocate, Supreme Court of India, 32 Supreme Enclave Mayur Vihar, New Delhi - 110 091 first went to 1602 Pataudi House, Darya Gunj, New Delhi - 110002, India, the residence of the respondent and upon learning from his brother that the respondent was on duty at Safdarjung Hospital, went to Safdarjung Hospital at 11.00 A.M, at the location of Safdarjung Hospital, Neurology Department, New Delhi, your deponent and served the within Notice of Hearing, Statement of Charges and copy of Department of Health Hearing Rules upon Naresh Kumar Gupta M.D., the respondent therein named.

**** INDIVIDUAL - By delivering thereat a true copy of each to said defendant personally; deponent knew the person so served to be the person described as said defendant therein.

DESCRIPTION - Deponent describes the individual served as follows:

SEX	SKIN COLOUR	HAIR COLOUR	APPROX. AGE	HEIGHT	WEIGHT
Male	Brown	Part grey/part black	Mid 40's	About 5'10"	Approx 150/160 lbs

OTHER IDENTIFYING FEATURES: Oval face; sharpe nose



Sworn to before me this 26th
day of July 1996

K.L. Krishnan
Printed Name K.L.KRISHNAN

Laurel Steele

Notary Public

INTERSERVE
146-148 Barrett Street, Suite 100
Schenectady, New York 12305
Phone (518) 372-4312
F# INT - 385

Laurel Steele
Vice Consul

CONSULATE GENERAL OF THE
UNITED STATES OF AMERICA

MADRAS, INDIA

STATE OF NEW YORK : DEPARTMENT OF HEALTH
STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

-----X

IN THE MATTER : STATEMENT
OF : OF
NARESH KUMAR GUPTA, M.D. : CHARGES

-----X

NARESH KUMAR GUPTA, M.D., the Respondent, was authorized to practice medicine in New York State on June 22, 1990 by the issuance of license number 182353 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. Respondent and the Division of Medical Quality of the Medical Board of California (hereinafter the "California Board"), by a Stipulation, Decision and Order dated August 31, 1995, agreed that Respondent's Physician's and Surgeon's Certificate would be revoked. The revocation was stayed and Respondent was placed on probation for five years with terms and conditions including, among other things, the following:

1. That Respondent, during the period of probation, have a third party present while examining or treating female patients;
2. That Respondent submit to the California Board a plan for monitoring his practice by another physician;
3. That Respondent enroll in and complete a course of ethics approved by the California Board;

4. That Respondent submit quarterly declarations stating that he has fully complied with the conditions of probation; and
5. That Respondent be prohibited from supervising physician's assistants during the period of probation.

3. The conduct resulting in the California Board's disciplinary action against Respondent included, among other things, the following:

1. Respondent, on or about February 10, 1992, in violation of California Business and Professions Code §726 [sexual misconduct, abuse or relations with a patient significantly related to the qualifications, functions or duties of a physician] and §2234 (b) [gross negligence], treated M.L., a 22 year old female who presented for a neurological consultation. Under the pretext of performing a breast examination, Respondent directed M.L. to remove her blouse and bra. Respondent proceeded to rub, stroke and painfully compress M.L.'s breasts for 25 minutes to a half hour. Respondent also painfully pinched and pulled M.L.'s nipples repeatedly during the course of the pretextual breast "examination". Although M.L. tried to cover herself with her arms and thereby to avoid Respondent contact with her breasts, Respondent pushed her arms away and forced them to her sides. Respondent straddled M.L.'s right leg with his legs and pressed and rubbed his genital area against her leg while also rubbing and stroking her breasts and pinching and pulling her nipples. Respondent told M.L. "that she appeared to be the kind that liked it".
2. Respondent, in or about May of 1992, gave notice to his building manager that he would vacate his medical offices in or about June of 1992. In or about June of 1992, Respondent removed the medical records of his patients from his offices to another location. On or about June 25, 1992, he vacated his apartment and returned to India. On or about June 23, 1992, V.L., a 36 year old female victim of multiple sclerosis and a patient of Respondent's for several years, attempted to place a prescription renewal

with her attending pharmacist. She was informed by her pharmacist that Respondent's office phone number had been disconnected with no call forwarding provided. V.L.'s own attempts to contact Respondent on or after June 23, 1992 were unsuccessful as Respondent's office phone number had been disconnected with no indication of another number where Respondent could be reached. Respondent did not inform V.L. of his intended departure so that she might arrange for a transfer of care without interruption of treatment and medications. Respondent did not provide V.L. with her medical records prior to his departure so that she might arrange for a transfer of care without interruption of treatment and medications nor did Respondent inform V.L. of the location of her medical records subsequent to his unannounced departure, in violation of California Business and Professions Code §2234 (b) [gross negligence].

3. Respondent left numerous items unsecured and or in plain view at his medical offices including syringes, needles, Sharp's collectors with used syringes and needles inside and ampules of medication including but not limited to Mellaril, Desyrel, Halcion, Restoril, Pamelor, Buspar, Ativan, Tegretol, Xanax and Valium, in violation of California Business and Professions Code §2234 (b).
4. Respondent, by committing the conduct indicated in paragraphs B.1, B.2 and B.3 above, or any combination thereof, committed repeated negligent acts within the meaning of California Business and Professions Code §2234 (c).

C. The conduct resulting in the California disciplinary action against Respondent would constitute misconduct under the laws of New York State pursuant to the following sections of New York law;

1. N.Y. Educ. Law §6530(3) (McKinney Supp 1996) -
[practicing the profession with negligence on more

than one occasion] as to paragraphs B.1 and B.2
B.3 and/or B.4 above; and/or

2. N.Y. Educ. Law §6530(4) (McKinney Supp. 1996) -
[practicing the profession with gross negligence on a
particular occasion] as to paragraphs B.1, B.2 and/or
B.3 above; and/or
3. N.Y. Educ. Law §6530(20) (McKinney Supp. 1996) -
[conduct in the practice of medicine which evidences
moral unfitness to practice medicine] as to Paragraph
B.1 above; and/or
4. N.Y. Educ. Law §6530(30) (McKinney Supp. 1996) -
[abandoning or neglecting a patient under and in need
of immediate professional care...] as to paragraph
B.2 above; and/or
5. N.Y. Educ. Law §6530(31) (McKinney Supp. 1996) -
[willfully harassing, abusing or intimidating a
patient either physically or verbally] as to
paragraph B.1 above.

SPECIFICATIONS


FIRST SPECIFICATION

Respondent is charged with professional misconduct under

N.Y. Educ. Law §6530(9)(d) (McKinney Supp. 1996) by reason of his having had disciplinary action taken against him by the duly authorized professional disciplinary agency of another state, where the conduct resulting in the disciplinary action would, if committed in New York State, constitute professional misconduct under the laws of New York State in that the Petitioner charges:

1. The facts in paragraphs A and A.1, A.2, A.3, A.4 and/or A.5, and B and B.1, B.2, B.3 and/or B.4, and C and C.1, C.2, C.3, C.4 and/or C.5.

DATED: *June 13*, 1996
Albany, New York


PETER D. VAN BUREN
Deputy Counsel
Bureau of Professional
Medical Conduct

APPENDIX TWO

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

In the Matter of the Accusation)
Against:)
NARESH K. GUPTA, M.D.)
Certificate #A-44000)
Respondent.)

File No: 12-92-16655

DECISION AND ORDER

The foregoing Stipulation, Decision and Order is adopted by the Division of Medical Quality of the Medical Board of California, Department of Consumer Affairs, State of California, as its Decision in the above-entitled matter.

This Decision shall become effective on November 16, 1995.

DATED October 17, 1995.

MEDICAL BOARD OF CALIFORNIA

I do hereby certify that
the foregoing is true
and correct copy of the
original on file in this

J. Finner 2/1/96
DATE
Asst. Cust. Records

DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA

Ira Lubell
Ira Lubell, M.D.



1 DANIEL E. LUNGREN, Attorney General
of the State of California
2 JANA L. TUTON, Supervising
Deputy Attorney General
3 GAIL M. HEPPELL,
Deputy Attorney General
4 1300 I St., Suite 125
P.O. Box 944255
5 Sacramento, CA 94244-2550
Telephone: (916) 324-5336
6
7

N. Ferrer 3/1/96
Cost-Cont. Records

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

11 In the Matter of the Accusation) No. D-5405
Against:)
12) STIPULATION, DECISION
NARESH K. GUPTA, M.D.) AND ORDER
13 1618 Vancouver Drive)
Saginaw, MI 48603)
14 Physician's and Surgeon's)
Certificate No. A-44000)
15 Respondent.)
16

17 IT IS HEREBY STIPULATED by and between the parties to the
18 above-entitled matter that the following is true:
19 1. Respondent Naresh K. Gupta, M.D. (hereinafter
20 "respondent") was issued physician and surgeon's certificate number
21 A-44000 by the Board. At all times pertinent herein, said
22 certificate was and currently is, in full force and effect.
23 2. On September 23, 1993, an accusation bearing number
24 D-5405 was filed by Dixon Arnett, Executive Director of the Medical
25 Board of California (hereinafter "Board") in his official capacity.
26 Said accusation lists causes for disciplinary action against
27 respondent, and said accusation is incorporated by reference as
28 though fully set forth at this point. Respondent was duly and

1 properly served with Accusation number D-5405 by certified mail,
2 and respondent filed a timely Notice of Defense requesting a
3 hearing on the charges contained in the accusation.

4 3. Respondent has not retained counsel. Respondent is
5 representing himself. Respondent understands the charges and the
6 allegations of violation of the California Business and Professions
7 Code alleged in Accusation number D-5405. (A true and correct copy
8 of the Accusation is attached as Exhibit A and is incorporated by
9 reference as if set forth in full.) Respondent understands his
10 rights under the Administrative Procedure Act of the State of
11 California, including his right to a formal hearing and opportunity
12 to defend against the charges contained therein, and
13 reconsideration and appeal of any adverse decision that might be
14 rendered following said hearing. Respondent waives his rights to
15 a hearing, reconsideration, and appeal and to any and all other
16 rights which may be accorded him pursuant to the Administrative
17 Procedure Act regarding the charges contained in the accusation,
18 subject to the provisions of paragraph 6.

19 4. Without admitting the truth of any of the allegations
20 contained in the accusation, respondent agrees that there is a
21 legal and factual basis for the imposition of discipline and for
22 the entry of the order set forth herein. In the event of violation
23 of probation, respondent agrees that the Board may consider all of
24 the allegations contained in the accusation as true.

25 5. It is stipulated and agreed by and between the
26 parties that the admissions herein are deemed true only for the
27 purpose of this proceeding, and any other proceeding before the
28 Medical Board.

1 6. In the event that this Stipulation, Decision, and
2 Order, is not accepted and adopted by the Medical Board, the
3 stipulation and characterization of law and fact made by all
4 parties herein shall be null and void and inadmissible in any
5 proceeding involving the parties to it.

6 WHEREFORE, it is stipulated that the Medical Board of
7 California may issue the following Decision and Order:

8 Physician and Surgeon's Certificate number A-44000 issued
9 to Naresh K. Gupta, M.D. is hereby revoked. However, revocation is
10 stayed and respondent is placed on probation for five (5) years
11 with the following terms and conditions. Within fifteen (15) days
12 of this decision the respondent shall provide the Division, or its
13 designee, proof of service that respondent has served a true copy
14 of this decision on the Chief of Staff or the Chief Executive
15 Officer at every hospital where privileges or membership are
16 extended or where respondent is employed to practice medicine and
17 on the Chief Executive Officer at every insurance carrier where
18 malpractice coverage is extended.

19 1. During probation, respondent shall have a third party
20 present while examining or treating female patients. Respondent
21 shall within thirty (30) days of the effective date of the
22 decision, submit to the Division or its designee for its prior
23 approval the names of person(s) who will act as the third party
24 present. The respondent shall execute a release authorizing the
25 third party(s) present to divulge any information that the Board
26 may request during interviews by the probation monitor on a
27 periodic basis.

28 ///

1 2. Within thirty (30) days of the effective date of this
2 decision, respondent shall submit to the Division or its designee
3 for its prior approval a plan of practice in which respondent's
4 practice shall be monitored by another physician in respondent's
5 field of practice, who shall provide periodic reports to the
6 Division or its designee.

7 If the monitor resigns or is no longer available,
8 respondent shall, within fifteen (15) days, move to have a new
9 monitor appointed, through nomination by respondent and approval by
10 the Division or its designee. Any and all costs associated with
11 the monitor shall be the responsibility of respondent.

12 3. Within sixty (60) days of the effective date of this
13 decision, respondent shall enroll in a course in Ethics approved in
14 advance by the Division or its designee, and shall successfully
15 complete the course during the first year of probation.

16 4. Respondent shall be prohibited from supervising
17 physician's assistants during the period of probation.

18 5. Respondent shall obey all federal, state and local
19 laws, all rules governing the practice of medicine in California
20 and remain in full compliance with any court ordered criminal
21 probation, payments and other orders.

22 6. Respondent shall submit quarterly declarations under
23 penalty of perjury on forms provided by the Division, stating
24 whether there has been full compliance with all the conditions of
25 probation.

26 7. Respondent shall comply with the Division's probation
27 surveillance program. Respondent shall, at all times, keep the
28 Division informed of his addresses of business and residence which

1 shall both serve as addresses of record. Changes of such addresses
2 shall be immediately communicated in writing to the Division.
3 Under no circumstances shall a post office box serve as an address
4 of record.

5 Respondent shall immediately inform the Division, in
6 writing of any travel to any areas outside of California which
7 lasts, or is contemplated to last, more than thirty (30) days.

8 8. Respondent shall appear in person for interviews with
9 the Division, or its designee or its designated physician(s) upon
10 request at various intervals and with reasonable notice.

11 9. The period of probation shall not run during the time
12 respondent is practicing or residing outside the jurisdiction of
13 California. If, during probation, respondent leaves the
14 jurisdiction of California to practice or reside elsewhere, whether
15 temporarily or permanently, respondent is required to immediately
16 notify the Division or its designee in writing of the date that
17 respondent's departure, and the date of return, if any.

18 10. Upon successful completion of probation,
19 respondent's certificate will be fully restored.

20 11. If respondent violates probation in any respect, the
21 Division, after giving respondent notice and the opportunity to be
22 heard, may revoke probation and carry out the disciplinary order
23 that was stayed. If an accusation or petition to revoke probation
24 is filed against respondent during probation, the Division shall
25 have continuing jurisdiction until the matter is final, and the
26 period of probation shall be extended until the matter is final.

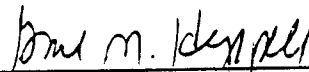
27 12. Following the effective date of this probation, if
28 respondent ceases practicing due to retirement, health reasons or

1 is otherwise unable to satisfy the terms and conditions of
2 probation, respondent may voluntarily tender his certificate to the
3 Board. The Division reserves the right to evaluate the
4 respondent's request and to exercise discretion whether to grant
5 the request, or to take any other action deemed appropriate and
6 reasonable under the circumstances. Upon formal acceptance of the
7 tendered license, respondent will no longer be subject to the terms
8 and conditions of probation.

9 13. Respondent acknowledges that he shall not be allowed
10 to withdraw from this stipulation unless it is rejected by the
11 Division.

12 DANIEL E. LUNGREN, Attorney General
13 of the State of California

14 DATED: 8/31/95



15 GAIL M. HEPPELL
16 Deputy Attorney General
Attorneys for Complainant

17
18 DATED: 21 Aug 95



19 NARESH K. GUPTA, M.D.
20 Respondent
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EXHIBIT A

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STATE OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
DIVISION OF MEDICAL QUALITY
OFFICE OF THE ATTORNEY GENERAL
1515 K STREET, SUITE 511
SACRAMENTO, CALIFORNIA 94244-2550

J. Ferrer 3/1/96
SIGNED DATE
Asst. Cust. Records
TITLE

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

In the Matter of the Accusation)
Against:)

NARESH K. GUPTA, M.D.)
1618 Vancouver Drive)
Saginaw, MI 48603)

Physician's and Surgeon's)
Certificate No. A-44000)

Respondent.)

No. D-5405
ACCUSATION

Complainant, Dixon Arnett, alleges as follows:

1. He is the Executive Director of the Medical Board of California (hereinafter "Board") and makes and files this accusation solely in his official capacity.
2. On or about September 14, 1987, respondent Naresh K. Gupta, M.D. (hereinafter "respondent") was issued Physician's and Surgeon's Certificate No. A-44000 by the Board. At all times pertinent herein, said certificate was, and currently is, in full force and effect.

1 3. Section 2220 of the Business and Professions Code
2 (hereinafter "Code") provides, in pertinent part, that the
3 Division of Medical Quality may take action against the holder of
4 a physician's and surgeon's certificate who is guilty of
5 unprofessional conduct.

6 4. Section 726 of the Code provides that the
7 commission of any act of sexual abuse, misconduct, or relations
8 with a patient which is substantially related to the
9 qualifications, functions, or duties of a physician constitutes
10 unprofessional conduct and grounds for discipline.

11 5. Section 2234(b) of the Code provides that gross
12 negligence constitutes grounds for discipline.

13 6. Section 2234(c) of the Code provides that repeated
14 negligent acts constitute grounds for discipline.

15 7. Respondent has subjected his certificate to
16 discipline pursuant to Code sections 726, 2234(b), and 2234(c) as
17 more particularly alleged below:

18 Michele L.

19 8. Michele L.,^{1/} a then 22-year-old female, presented
20 to respondent's Fremont, California offices on or about February
21 10, 1992, on self-referral for a neurological consultation.
22 Michele L. suffered from epilepsy-like seizures or pseudoseizures
23 for which she had received neurological care, including anti-
24 convulsant medication, from the age of two years. While her
25 husband had been in the armed forces she had received

26
27 1. The full names of patients referred to herein will be
available to respondent upon request for discovery.

1 neurological care and medication for her seizures. She had also
2 received care for a right axillary cyst. Michele L. sought a
3 neurological consultation from respondent in anticipation of her
4 husband's imminent separation from the armed forces.

5 9. Under the pretext of performing a breast
6 examination in response to the report of an axillary cyst in
7 Michele L.'s medical records, respondent directed Michele L. to
8 remove her blouse and bra. Respondent then proceeded to rub,
9 stroke, and painfully compress Michele L.'s breasts for twenty-
10 five (25) minutes to a half hour. Respondent also painfully
11 pinched and pulled Michele L.'s nipples repeatedly during the
12 course of the pretextual breast "examination." Although Michele
13 L. tried to cover herself with her arms and thereby to avoid
14 respondent's contact with her breasts, respondent pushed her arms
15 away and forced them to her sides. Respondent straddled Michele
16 L.'s right leg with his legs and pressed and rubbed his genital
17 area against her leg while also rubbing and stroking her breasts
18 and pinching and pulling her nipples. Respondent told Michele L.
19 that she appeared to be "the kind that liked it."

20 10. After the conclusion of the conduct indicated in
21 paragraph 9 above, respondent prepared prescriptions for Michele
22 L. When Michele L. demanded her medical records from respondent,
23 however, he refused to give them to her, and only released them
24 to her husband upon his subsequent demand.

25 11. As a result of respondent's conduct indicated in
26 paragraph 9, above, respondent committed gross negligence within
27 the meaning of Code section 2234(b) and sexual misconduct, abuse,

1 or relations with a patient substantially related to the
2 qualifications, functions, or duties of a physician within the
3 meaning of Code section 726.

4 Vicki L.

5 12. In or about May, 1992, respondent gave notice to
6 his building manager that he would vacate his medical offices in
7 or about June, 1992. In or about June, 1992, respondent removed
8 the medical records of his patients from his offices to another
9 location. On or about June 25, 1992, respondent vacated his
10 apartment and returned to India. On or about June 23, 1992,
11 Vicki L., a 36-year-old female victim of multiple sclerosis and a
12 patient of respondent's for several years, attempted to place a
13 prescription renewal with her attending pharmacist. She was
14 informed by her pharmacist that respondent's office phone number
15 had been disconnected with no call forwarding provided. Vicki
16 L.'s own attempts to contact respondent on or after June 23,
17 1992, were similarly unsuccessful as respondent's office phone
18 had been disconnected with no indication of another number where
19 respondent could be reached. Respondent did not inform Vicki L.
20 of his intended departure so that she might arrange for a
21 transfer of care without interruption of treatment and
22 medications. Respondent did not provide Vicki L. with her
23 medical records prior to his departure so that she might arrange
24 for a transfer of care without interruption of treatment and
25 medications, nor did respondent inform Vicki L. of the location
26 of her medical records subsequent to his unannounced departure.

27 / / /

1 13. Respondent's failure to inform Vicki L. of his
2 intended departure and his failure to provide her with her
3 medical records or the location of her medical records prior or
4 subsequent to his departure constitute gross negligence within
5 the meaning of Code section 2234(b).

6 Failure to Properly Secure Office

7 14. Respondent left the following items unsecured
8 and/or in plain view at his medical offices in Fremont,
9 California at his departure:

- 10 (a) 100 10cc syringes;
11 (b) 100 3cc syringes;
12 (c) 95 21-gauge, 1.5 inch needles;
13 (d) 1 used 3cc syringe with 22-gauge needle
14 attached;
15 (e) 2 8-quart Sharp's collectors with used syringes
16 and needles inside;
17 (f) 10 .05 mg/ml ampules of injectable pediatric
18 atropine sulfate;
19 (g) 24 7.5 mg Lorocet Plus (hydrocodone
20 bitartrate);
21 (h) 12 10 mg Toradol;
22 (i) 48 15 mg Mellaril;
23 (j) 32 300 mg Desyrel;
24 (k) 48 100 mg Ansaid;
25 (l) 10 .25 mg Halcion;
26 (m) 40 Librax Caps;
27 (n) 10 15 mg Restoril;

1 (o) 6 30 mg Restoril;
2 (p) 448 20 mg Feldene;
3 (q) 180 75 mg Orudis;
4 (r) 20 50 mg Orudis;
5 (s) 168 200 mg Clinoril;
6 (t) 18 25 mg Surmontil;
7 (u) 48 50 mg Pamelor;
8 (v) 12 75 mg Pamelor;
9 (w) 40 Wygesic;
10 (x) 84 10 mg Buspar;
11 (y) 72 2 mg Ativan;
12 (z) 42 1 mg Ativan;
13 (aa) 30 .50 mg Ativan;
14 (bb) 1281 100 mg Tegretol;
15 (cc) 147 200 mg Tegretol;
16 (dd) 19 200 mg Tegretol;
17 (ee) 27 300 mg Lodine;
18 (ff) 45 2 mg Xanax;
19 (gg) 120 1 mg Xanax;
20 (hh) 183 .50 mg Xanax;
21 (ii) 60 .25 mg Xanax;
22 (jj) 96 Esgic Plus;
23 (kk) 4 Atrovent Inhaler;
24 (ll) 100 10 mg Valium;
25 (mm) 100 5 mg Valium;
26 (nn) 100 2 mg Valium;
27 (oo) 12 .4 ml Aromatic Ammonia;

1 (pp) 330 250 mg Depakote;
2 (qq) 750 125 mg Depakote;
3 (rr) 200 100 mg Dilantin;
4 (ss) 180 100 mg Dilantin;
5 (tt) →42 240 mg Verelan;
6 (uu) 84 240 mg Verelan;
7 (vv) 84 60 mg Procardia;
8 (ww) 40 60 mg (loose) Procardia;
9 (xx) 384 30 mg Procardia XL;
10 (yy) 68 30 mg (loose) Procardia XL;
11 (zz) 24 50 mg Zoloft;
12 (aaa) 2 oz. Mylanta;
13 (bbb) 15 20 mg Lioresal;
14 (ccc) 20 2.5 mg Parlodel;
15 (ddd) 46 500 mg Keftab;
16 (eee) 16 Moduretic;
17 (fff) 2 250 mg Keflex;
18 (ggg) 24 250 mg Eryc;
19 (hhh) 40 Bactrim DS;
20 (iii) 20 Bactrim DS;
21 (jjj) 120 .333 mg E-Mycin;
22 (kkk) 140 20 mg Mevacor;
23 (lll) 140 10 mg Prinivil;
24 (mmm) 168 10 mg Monopril;
25 (nnn) 30 75 mg Persantine;
26 (ooo) 100 5 mg Vasotec;
27 (ppp) 4 75 mg Inuocin;

- 1 (qqq) 63 4 mg Medrol;
- 2 (rrr) 4 150 mg Zantac;
- 3 (sss) 10 300 mg Zantac;
- 4 (ttt) 60 250 mg Ticlid;
- 5 (uuu) 45 150 mg Mexitil;
- 6 (vvv) 30 200 mg Mexitil;
- 7 (www) 45 Sinemet CR;
- 8 (xxx) 32 Sinemet CR;
- 9 (yyy) 50 120 mg Inderal LA;
- 10 (zzz) 35 80 mg Inderal LA;
- 11 (aaaa) 56 80 mg Inderal LA;
- 12 (bbbb) 35 60 mg Inderal LA;
- 13 (cccc) 16 .1 mg Catapres TTS Starter Kits;
- 14 (dddd) 8 .2 mg Catapres TTS Starter Kits;
- 15 (eeee) 24 .2 mg Catapres TTS Starter Kits;
- 16 (ffff) 48 200 mg Mexitil;
- 17 (gggg) 48 150 mg Mexitil.

18 15. Respondent's leaving the items indicated in
19 paragraph 14, above, unsecured and/or in plain view at his
20 medical offices in Fremont, California at his departure
21 constitutes gross negligence within the meaning of Code section
22 2234(b).

23 16. Respondent's conduct indicated in paragraphs 11,
24 13, and 15, above, or any combination thereof, constitutes
25 repeated negligent acts within the meaning of Code section
26 2234(c).

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WHEREFORE complainant prays that the Division of Medical Quality hold a hearing on the matters alleged herein and, following said hearing, issue a decision:

1. Revoking or suspending Physician's and Surgeon's Certificate Number A-44000 heretofore issued to respondent Naresh K. Gupta, M.D.;
2. Prohibiting respondent from supervising physician assistants; and
3. Taking such other and further action as it deems proper.

DATED: 9/23/93



DIXON ARNETT
Executive Director
Medical Board of California
State of California

Complainant