

**NEW YORK**  
state department of  
**HEALTH**

Public

Nirav R. Shah, M.D., M.P.H.  
Commissioner

Sue Kelly  
Executive Deputy Commissioner

August 24, 2012

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

Catalino Dominic Dureza, M.D.  
79935 De Sol A Sol  
La Quinta, California 92253

Michael G. Bass, Esq.  
NYS Department of Health  
Corning Tower Room 2512  
Empire State Plaza  
Albany, New York 12237

**RE: In the Matter of Catalino Dominic Dureza, M.D.**

Dear Parties:

Enclosed please find the Determination and Order (No. 12-174) 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 together with the registration certificate. Delivery shall be by either certified mail or in person to:

Office of Professional Medical Conduct  
New York State Department of Health  
Office of Professional Medical Conduct  
Riverview Center  
150 Broadway - Suite 355  
Albany, New York 12204

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), (McKinney Supp. 2007) and §230-c subdivisions 1 through 5, (McKinney Supp. 2007), "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 penalties other than suspension or revocation 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., Chief Administrative Law Judge  
New York State Department of Health  
Bureau of Adjudication  
Riverview Center  
150 Broadway – Suite 510  
Albany, New York 12204

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,

REDACTED

James F. Horan  
Chief Administrative Law Judge  
Bureau of Adjudication

JFH:nm  
Enclosure

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

COPY

IN THE MATTER  
OF  
CATALINO DOMINIC DUREZA, M.D.  
CO-10-11-7046-A

DETERMINATION  
AND  
ORDER  
BPMC 12-174

A hearing was held on July 19, 2012, at the offices of the New York State Department of Health ("the Petitioner"). A Notice of Referral Proceeding and a Statement of Charges, both dated March 6, 2012, were served upon the Respondent, **Catalino Dominic Dureza, M.D.**

Pursuant to Section 230(10)(e) of the Public Health Law, **Peter B. Kane, M.D., Chair, Colleen F. O'Leary, M.D., and, Henry Sikorski, Ph.D.,** duly designated members of the State Board for Professional Medical Conduct, served as the Hearing Committee in this matter. **David A. Lenihan, Esq.,** Administrative Law Judge, served as the Administrative Officer. The Petitioner appeared by **James E. Dering, Esq.,** General Counsel, by **Michael G. Bass, Esq.,** of Counsel. The Respondent, **Catalino Dominic Dureza, M.D.,** did not appear, although duly served. Evidence was received and transcripts of these proceedings were made. After consideration of the entire record, the Hearing Committee issues this Determination and Order.

## STATEMENT OF CASE

This case was brought pursuant to Public Health Law Section 230(10) (p). The statute provides for an expedited hearing when a licensee is charged solely with a violation of Education Law Section 6530(9). In such cases, a licensee is charged with misconduct based upon a prior criminal conviction in New York State or another jurisdiction, or upon a prior administrative adjudication regarding conduct that would amount to professional misconduct, if committed in New York. The scope of an expedited hearing is limited to a determination of the nature and severity of the penalty to be imposed upon the licensee.

In the instant case, the Respondent is charged with improper professional misconduct pursuant to Education Law §6530(9)(b) by having been found guilty of professional misconduct by a duly authorized professional disciplinary agency of another state where the conduct upon which the finding was based would, if committed in New York State, constitute professional misconduct under the laws of New York State. The Respondent is also charged with violation of New York Education Law Section 6530(9)(d) by having action taken against his license to practice medicine after a disciplinary action was instituted by a 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. Copies of the Notice of Referral Proceeding and the Statement of Charges are attached to this Determination and Order as Appendix 1.



**WITNESSES**

For the Petitioner: None

For the Respondent: None

**FINDINGS OF FACT**

The following Findings of Fact were made after a review of the entire record in this matter. Numbers below in parentheses refer to exhibits, denoted by the prefix "Ex." These citations refer to evidence found persuasive by the Hearing Committee in arriving at a particular finding. Conflicting evidence, if any, was considered and rejected in favor of the cited evidence. All Hearing Committee findings were unanimous.

1. **Catalino Dominic Dureza, M.D.**, the Respondent, did not appear at the hearing but was duly served and notified of the hearing on April 12, 2012. (Petitioner's Exhibit 2.)
2. Catalino Dominic Dureza, M.D., the Respondent, was authorized to practice medicine in New York state on July 27, 1992, by the issuance of license number 189906 by the New York State Education Department. (Petitioner's Ex. 4)
3. On or about November 12, 2010, the Medical Board of California, Department of Consumer Affairs, State of California, (hereinafter "California Board"), by a

STIPULATED SETTLEMENT AND DISCIPLINARY ORDER (hereinafter "California Order"), revoked Respondent's Physician's and Surgeon's Certificate (stayed), and placed Respondent on probation for two (2) years, with terms and conditions including, inter alia, that Respondent enroll and complete courses in medical record keeping, ethics, and wrong site surgery. In the CULPABILITY section of the California Order, Respondent did not contest that at an administrative hearing, the Attorney General of the State of California could establish a prima facie case with respect to the charges and allegations contained in Accusation No. 09-2007- 182897. Accusation No. 09-2007-182897 alleged that Respondent committed Gross Negligence, Repeated Negligent Acts, and Failed to Maintain Adequate and Accurate Records in a wrong site procedure and the subsequent post-operative care or treatment of the same patient.

### **VOTE OF THE HEARING COMMITTEE**

#### **FIRST SPECIFICATION**

Respondent violated New York Education Law Section 6530(9)(b) by having been found guilty of improper professional practice or professional misconduct by a 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.

VOTE: Sustained (3-0)

## **SECOND SPECIFICATION**

Respondent violated New York Education Law Section 6530(9)(d) by having disciplinary action taken against his license to practice medicine by a 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.

VOTE: Sustained (3-0)

## **HEARING COMMITTEE DETERMINATION**

The Respondent did not appear at the hearing, either in person or by counsel. The Administrative Law Judge, after considering the documentary evidence, which included an Affidavit of Service of the Notice of Referral Proceeding and the Statement of Charges (Petitioner's Exhibit 2), ruled that the Petitioner had met the requirements of law for due diligence in the service of process, that jurisdiction had been established over the Respondent, and that the hearing could proceed on the merits notwithstanding the Respondent's absence.

The record in this case indicates that Respondent's license to practice medicine was revoked in California by a Consent Order. (See Exhibit 4) The record shows that

the Respondent has been charged with a wrong site procedure and that the revocation was stayed and the Respondent was placed on probation for two years, with certain terms and conditions. (Ex. 4)

It is clear from the documentary record that the Respondent was fully aware that this matter would be going forward. (T. 6) The panel noted that the Respondent was personally served with notice of this matter and was thus aware of this proceeding and chose to ignore it.

The panel noted that the terms of the California probation required the Respondent to complete courses in medical record keeping, ethics and wrong site surgery before he will be allowed to resume practice. The panel determined, unanimously, that the Respondent must complete these requirements and fully satisfy the California Medical Board before New York will consider lifting this indefinite suspension. After considering all the options available, the panel was unanimous in sustaining the charges and agreed, again unanimously, that the Agreed California Order should be followed as it puts in place necessary protections for patients.

The panel concluded that the people of New York would be protected by an indefinite suspension during the term of the California Order. If and when the California Order is satisfied and all its restrictions are removed, the Respondent may then petition for a lifting of this New York suspension upon a showing that he is fit and competent to resume practice in New York.

**ORDER**

**IT IS HEREBY ORDERED THAT:**

1. The specifications of professional misconduct, as set forth in the Statement of Charges, are **SUSTAINED**.
2. The Respondent's license to practice medicine in New York is indefinitely suspended until such time as the conditions imposed on his license by the State of California are satisfied and removed. The terms of the conditions of the Medical Board of California Board are attached hereto as Appendix 2 and are incorporated herein.
3. Upon the removal of the terms and conditions on his California license, the Respondent may petition the New York State Board for the removal of this indefinite suspension from his license.
4. This Order shall be effective upon service on the Respondent in accordance with the requirements of Public Health Law Section 230(10)(h).

**DATED: Cazenovia, New York**  
**August 24, 2012**

REDACTED

**Peter B. Kane, M.D., Chair**

**Colleen F. O'Leary, M.D.**  
**Henry Sikorski, Ph.D.**

To:

Catalino Dominic Dureza, M.D.,  
Respondent  
79935 De Sol A Sol  
La Quinta, CA 92253

Michael G. Bass, Esq.  
Attorney for Petitioner  
Associate Counsel  
NYS Department of Health  
Bureau of Professional Medical Conduct  
Corning Tower Building, Room 2512  
Empire State Plaza  
Albany, New York 12237

## **APPENDIX 1**



## STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

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IN THE MATTER  
OF  
CATALINO DOMINIC DUREZA, M.D.  
CO-10-11-7046-A

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STATEMENT  
OF  
CHARGES

CATALINO DOMINIC DUREZA, M.D., Respondent, was authorized to practice medicine in New York state on July 27, 1992, by the issuance of license number 189906 by the New York State Education Department.

**FACTUAL ALLEGATIONS**

A. On or about November 12, 2010, the Medical Board of California, Department of Consumer Affairs, State of California, (hereinafter "California Board"), by a STIPULATED SETTLEMENT AND DISCIPLINARY ORDER (hereinafter "California Order"), revoked Respondent's Physician's and Surgeon's Certificate (stayed), and placed Respondent on probation for two(2) years, with terms and conditions including, inter alia, that Respondent enroll and complete courses in medical record keeping, ethics, and wrong site surgery. In the CULPABILITY section of the California Order, Respondent did not contest that at an administrative hearing, the Attorney General of the State of California could establish a *prima facie* case with respect to the charges and allegations contained in Accusation No. 09-2007-182897. Accusation No. 09-2007-182897 alleged that Respondent committed Gross Negligence, Repeated Negligent Acts, and Failed to Maintain Adequate and Accurate Records in a wrong site procedure and the subsequent post operative care or treatment of the same patient.

B. The conduct resulting in the California Board disciplinary actions against Respondent would constitute misconduct under the laws of New York State, pursuant to the following sections of New York State law:

1. New York Education Law Sec. 6530(3) (negligence on more than one occasion) and/or;
2. New York Education Law Sec. 6530(4) (gross negligence) and/or;
3. New York Education Law Sec. 6530(32) (failure to maintain an accurate record).

**SPECIFICATIONS**  
**FIRST SPECIFICATION**

Respondent violated New York Education Law §6530(9)(b) by having been found guilty of improper professional misconduct by a duly authorized professional disciplinary agency of another state where the conduct upon which the finding was based would, if committed in New York state, constitute professional misconduct under the laws of New York state, in that Petitioner charges:

1. The facts in Paragraphs A and B.

**SECOND SPECIFICATION**

Respondent violated New York Education Law §6530(9)(d) by having disciplinary action taken by a 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 Petitioner charges:

2. The facts in Paragraphs A and B.

DATED: *March 6*, 2012  
Albany, New York

REDACTED

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

## APPENDIX 2



1 EDWARD G. BROWN JR.  
Attorney General of California  
2 THOMAS S. LAZAR  
Supervising Deputy Attorney General  
3 SAMUEL K. HAMMOND  
Deputy Attorney General  
4 State Bar No. 141135  
110 West "A" Street, Suite 1100  
5 San Diego, CA 92101.  
P.O. Box 85266  
6 San Diego, CA 92186-5266  
Telephone: (619) 645-2083  
7 Facsimile: (619) 645-2061  
Attorneys for Complainant.

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

13 In the Matter of the Accusation Against:

14 **CATALINO DOMINIC DUREZA, M.D.**  
79935 De Sol A Sol  
La Quinta, CA 92253

15 Physician's and Surgeon's Certificate  
No. A66607

16  
17 Respondent.

Case No. 09-2007-182897

OAH No. 2009110333

18 **STIPULATED SETTLEMENT AND**  
19 **DISCIPLINARY ORDER**

20 **PARTIES**

21 1. Linda K. Whitney (Complainant) is the Executive Director of the Medical Board of  
22 California. She is represented in this matter by Edmund G. Brown Jr., Attorney General of the  
23 State of California, by Samuel K. Hammond, Deputy Attorney General.

24 2. Respondent Catalino Dominic Dureza, M.D. (Respondent) is represented in this  
25 proceeding by attorney Peter R. Osinoff, Esq. whose address is 3699 Wilshire Blvd., 10th Floor  
26 Los Angeles, CA 90010-2719

27 3. On or about October 2, 1998, the Medical Board of California issued Physician's and  
28 Surgeon's Certificate No. A66607 to Catalino Dominic Dureza, M.D. (Respondent). The  
Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the

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1 charges brought in Accusation No. 09-2007-182897 and will expire on August 31, 2010, unless  
2 renewed.

3 JURISDICTION

4 4. On June 15, 2009, Accusation No. 09-2007-182897 was filed before the Medical  
5 Board of California, Department of Consumer Affairs, State of California (Board), and is  
6 currently pending against Respondent. A true and correct copy of the Accusation and all other  
7 statutorily required documents were properly served on Respondent on June 15, 2009.  
8 Respondent timely filed his Notice of Defense contesting the Accusation. A true and correct  
9 copy of Accusation No. 09-2007-182897 is attached hereto as Exhibit A and is incorporated  
10 herein by reference.

11 ADVISEMENT AND WAIVERS

12 5. Respondent has carefully read, fully discussed with counsel, and understands the  
13 charges and allegations in Accusation No. 09-2007-182897. Respondent has also carefully read,  
14 fully discussed with counsel, and understands the effects of this Stipulated Settlement and  
15 Disciplinary Order.

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

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

24 CULPABILITY

25 8. Respondent does not contest that at an administrative hearing, Complainant could  
26 establish a *prima facie* case with respect to the charges and allegations contained in Accusation

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28 ///

1 No. 09-2007-182897, and that he has thereby subjected his Physician's and Surgeon's Certificate  
2 No. A66607 to disciplinary action. Respondent agrees to the Board's imposition of discipline as  
3 set forth in the Disciplinary Order below.

4 9. Respondent agrees that if he ever petitions for early termination or modification of  
5 probation, or if an accusation and/or petition to revoke probation is filed against him before the  
6 Medical Board of California, all the charges and allegations contained in Accusation No. 09-  
7 2007-182897 shall be deemed true, correct, and fully admitted by Respondent for the purposes of  
8 any such proceeding or any other licensing proceeding involving Respondent in the State of  
9 California.

10 CONTINGENCY

11 10. The parties agree that this Stipulated Settlement and Disciplinary Order shall be  
12 submitted to the Board for its consideration in the above-entitled matter and, further, that the  
13 Board shall have a reasonable period of time in which to consider and act on this Stipulated  
14 Settlement and Disciplinary Order after receiving it.

15 11. The parties agree that this Stipulated Settlement and Disciplinary Order shall be null  
16 and void and not binding upon the parties unless approved and adopted by the Board, except for  
17 this paragraph, which shall remain in full force and effect. Respondent fully understands and  
18 agrees that in deciding whether or not to approve and adopt this Stipulated Settlement and  
19 Disciplinary Order, the Board may receive oral and written communications from its staff and/or  
20 the Attorney General's office. Communications pursuant to this paragraph shall not disqualify  
21 the Board, any member thereof, and/or any other person from future participation in this or any  
22 other matter affecting or involving Respondent. In the event that the Board, in its discretion, does  
23 not approve and adopt this Stipulated Settlement and Disciplinary Order, with the exception of  
24 this paragraph, it shall not become effective, shall be of not evidentiary value whatsoever, and  
25 shall not be relied upon or introduced in any disciplinary action by either party hereto.

26 Respondent further agrees that should the Board reject this Stipulated Settlement and Disciplinary

27 ///  
28 ///



1 Order for any reason, Respondent will assert no claim that the Board, or any member thereof,  
2 was prejudiced by its/his/her review, discussion and/or consideration of this Stipulated  
3 Settlement and Disciplinary Order or of any matter or matters related hereto.

4 ADDITIONAL PROVISIONS

5 12. This Stipulated Settlement and Disciplinary Order is intended by the parties herein to  
6 be an integrated writing representing the complete, final and exclusive embodiment of the  
7 agreements of the parties in the above-entitled matter.

8 13. The parties agree that facsimile copies of this Stipulated Settlement and Disciplinary  
9 Order, including facsimile signatures of the parties, may be used in lieu of original documents and  
10 signatures and, further, that facsimile copies shall have the same force and effect as originals.

11 14. In consideration of the foregoing admissions and stipulations, the parties agree the  
12 Board may, without further notice to or opportunity to be heard by Respondent, issue and enter  
13 the following Disciplinary Order:

14 DISCIPLINARY ORDER

15 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A66607 issued  
16 to Respondent Catalino Dominic Dureza, M.D. (Respondent) is revoked. However, the  
17 revocation is stayed and Respondent is placed on probation for two (2) years from the effective  
18 date of this Decision and Disciplinary Order on the following terms and conditions.

19 1. MEDICAL RECORD KEEPING COURSE Within 60 calendar days of the  
20 effective date of this decision, Respondent shall enroll in a course in medical record keeping, at  
21 Respondent's expense, approved in advance by the Board or its designee. Failure to successfully  
22 complete the course during the first 6 months of probation is a violation of probation.

23 A medical record keeping course taken after the acts that gave rise to the charges in the  
24 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board  
25 or its designee, be accepted towards the fulfillment of this condition if the course would have  
26 been approved by the Board or its designee had the course been taken after the effective date of  
27 this Decision. Respondent shall submit a certification of successful completion to the Board or its  
28 designee not later than 15 calendar days after successfully completing the course, or not later than

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

2 2. ETHICS COURSE Within 60 calendar days of the effective date of this Decision,  
3 Respondent shall enroll in a course in ethics, at Respondent's expense, approved in advance by  
4 the Board or its designee. Failure to successfully complete the course during the first year of  
5 probation is a violation of probation.

6 An ethics course taken after the acts that gave rise to the charges in the Accusation, but  
7 prior to the effective date of the Decision may, in the sole discretion of the Board or its designee,  
8 be accepted towards the fulfillment of this condition if the course would have been approved by  
9 the Board or its designee had the course been taken after the effective date of this Decision.

10 Respondent shall submit a certification of successful completion to the Board or its  
11 designee not later than 15 calendar days after successfully completing the course, or not later than  
12 15 calendar days after the effective date of the Decision, whichever is later.

13 3. CLINICAL TRAINING -WRONG-SITE SURGERY COURSE Within 60  
14 calendar days of the effective date of this Decision, Respondent shall enroll in the Wrong-Site  
15 Surgery Course offered by the Physician Assessment and Clinical Education Program at the  
16 University of California - San Diego School of Medicine (PACE). Respondent shall complete the  
17 course not later than six months after Respondent's initial enrollment unless the Board or its  
18 designee agrees in writing to a later time for completion. Failure to successfully complete the  
19 course within the specified period shall constitute a violation of probation.

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

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

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

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

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

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

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

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

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

25          10.       RESIDING OR PRACTICING OUT-OF-STATE       In the event Respondent  
26 should leave the State of California to reside or to practice, Respondent shall notify the Board or  
27 its designee in writing 30 calendar days prior to the dates of departure and return. Non-practice is  
28 defined as any period of time exceeding 30 calendar days in which Respondent is not engaging in

1 any activities defined in Sections 2051 and 2052 of the Business and Professions Code.

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

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

17 11. FAILURE TO PRACTICE MEDICINE - CALIFORNIA RESIDENT

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

26 All time spent in an intensive training program which has been approved by the Board or its  
27 designee shall be considered time spent in the practice of medicine. For purposes of this  
28 condition, non-practice due to a Board-ordered suspension or in compliance with any other

1 condition of probation, shall not be considered a period of non-practice.

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

5 12. COMPLETION OF PROBATION Respondent shall comply with all financial  
6 obligations (e.g., cost recovery, restitution, probation costs) not later than 120 calendar days prior  
7 to the completion of probation. Upon successful completion of probation, Respondent's  
8 certificate shall be fully restored.

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

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

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

7 ACCEPTANCE

8 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully  
9 discussed it with my attorney, Peter R. Osinoff, Esq. I understand the stipulation and the effect  
10 it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement and  
11 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the  
12 Decision and Order of the Medical Board of California, Department of Consumer Affairs, State  
13 of California.

14 DATED: 7/21/10 REDACTED  
15 CATALINO DOMINIC DUREZA, M.D.  
16 Respondent

17 I have read and fully discussed with Respondent Catalino Dominic Dureza, M.D., the terms  
18 and conditions and other matters contained in the above Stipulated Settlement and Disciplinary  
19 Order. I approve its form and content.

20 DATED: 7/23/10 REDACTED  
21 PETER R. OSINOFF, ESQ.  
22 Attorney for Respondent

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16



**ENDORSEMENT**

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

DATED: 7/23/14

Respectfully Submitted,  
EDMUND G. BROWN JR.  
Attorney General of California  
Thomas S. Lazar  
Supervising Deputy Attorney General

REDACTED  
SAMUEL K. HAMMOND  
Deputy Attorney General  
*Attorneys for Complainant*

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**Exhibit A**

**Accusation No. 09-2007-182897**

1 EDMUND G. BROWN JR., Attorney General  
of the State of California  
2 STEVEN V. ADLER  
Supervising Deputy Attorney General  
3 SAMUEL K. HAMMOND, State Bar No. 141135  
Deputy Attorney General  
4 110 West "A" Street, Suite 1100  
San Diego, CA 92101

5  
6 P.O. Box 85266  
San Diego, CA 92186-5266  
Telephone: (619) 645-2083  
7 Facsimile: (619) 645-2061

8 Attorneys for Complainant

FILED  
STATE OF CALIFORNIA  
MEDICAL BOARD OF CALIFORNIA  
SACRAMENTO June 15, 20 09  
BY REDACTED ANALYST

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

12 In the Matter of the Accusation Against:  
13 CATALINO DOMINIC DUREZA, M.D.  
79935 De Sol A Sol  
14 La Quinta, CA 92253  
15 Physician's and Surgeon's Certificate  
No. A66607

Case No. 09-2007-182897  
OAH No.  
ACCUSATION

16 Respondent.

17  
18  
19 Complainant alleges:

20 PARTIES

- 21 1. Barbara Johnston (Complainant) brings this Accusation solely in her  
22 official capacity as the Executive Director of the Medical Board of California.  
23 2. On or about October 2, 1998, the Medical Board of California issued  
24 Physician's and Surgeon's Certificate Number A66607 to Catalino Dominic Dureza, M.D.  
25 (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times  
26 relevant to the charges brought herein and will expire on August 31, 2010, unless renewed.

27 ///  
28 ///

JURISDICTION

3. This Accusation is brought before the Medical Board of California, Department of Consumer Affairs (Board) under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

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

5. Section 2234 of the Code provides that the Division of Medical Quality shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:

"(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the violation of, or conspiring to violate any provision of this chapter [Chapter 5, the Medical Practice Act].

"(b) Gross negligence.

"(c) Repeated negligent acts . . .

"(d) Incompetence.

"(e) The commission of any act involving dishonesty or corruption which is substantially related to the qualifications, functions, or duties of a physician and surgeon.

"(f) Any action or conduct which would have warranted the denial of a certificate.

"...."

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1. California Business and Professions Code section 2002, as amended and effective January 1, 2008, provides that, unless otherwise expressly provided, the term "board" as used in the State Medical Practice Act (Cal. Bus. & Prof. Code, §§ 2000, et seq.) means the "Medical Board of California," and references to the "Division of Medical Quality" and "Division of Licensing" in the Act or any other provision of law shall be deemed to refer to the Board.

1           6.     Section 2266 provides that the failure of the physician and surgeon to  
2 maintain adequate and accurate records relating to the provision of services to their patients  
3 constitutes unprofessional conduct.

4           7.     Unprofessional conduct under Code section 2234 is conduct which  
5 breaches the rules or ethical code of the medical profession, or conduct unbecoming a member in  
6 good standing of the medical profession and demonstrates an unfitness to practice medicine

7                                   FIRST CAUSE FOR DISCIPLINE  
8                                   (Gross Negligence)

9           8.     Respondent, Catalino Dominic Dureza, M.D., has subjected his  
10 Physician's and Surgeon's Certificate No. A66607 to disciplinary action under section 2234, as  
11 defined by section 2234, subdivision (b), of the Code in that, he committed gross negligence in  
12 his care, treatment and management of patient E.E. The circumstances are as follows:

13           A.     On or about December 17, 2003, patient E.E., then 43 years old, obtained  
14 a neurological consultation from respondent. The patient was involved in an automobile  
15 accident in about May 2002 resulting in cervical, thoracic and lumber spine damage. On  
16 or about April 16, 2003, the patient underwent a lumber spine fusion procedure but he  
17 continued to complain of thoracic and cervical spine pain, and for this reason D.A.C.,  
18 M.D., the patient's primary orthopedist referred the patient to respondent.

19           B.     On this visit (on December 17, 2003), respondent obtained a history,  
20 performed a physical examination and reviewed a MRI of the cervical spine.  
21 Respondent's diagnosis for the patient included cervical disc displacement, cervical  
22 stenosis and spinal cord myelopathy. He recommended the patient undergo a "C5-C6.  
23 anterior cervical discectomy with fusion and plating."<sup>2</sup> Respondent also ordered a MRI  
24 of the thoracic spine which was performed on or about January 10, 2004. The MRI was  
25 reported as revealing a "disc protrusion at the T5 -[T]6 impinging on the spinal cord."

26  
27  
28           2. "C5-C6" refers to cervical spine numbers 5 and 6; "T5-T6" refers to thoracic spine  
          numbers 5 and 6; and "T2-T3" refers to thoracic spine numbers 2 and 3.

1 C. On or about March 6, 2004, respondent performed a cervical spine surgery  
2 including a C5-C6 discectomy with inter-body fusion and plating on the patient.  
3 Thereafter, the patient made follow-up visits on March 25, June 29 and July 28, 2004.  
4 On the visits in June and July 2004, respondent noted the patient complained of pain in  
5 the thoracic spine, and that there was thoracic tenderness on palpation.

6 D. In about August or September 2004, respondent requested authorization  
7 from the State Compensation Insurance Fund (SCIF) to perform thoracic spine surgery  
8 involving discectomy at T5-T6 on the patient.<sup>3</sup> On or about September 16, 2004, SCIF  
9 requested J.B.C., M.D., examine the patient in order to evaluate respondent's surgical  
10 request. Upon his examination of the patient and review of the available MRI film,  
11 Dr. J.B.C. concluded that the thoracic herniation was not at T5-T6, but was at T4-T5, and  
12 was probably not symptomatic. Respondent scheduled the thoracic spine surgery  
13 including discectomy with inter-body fusion at T5-T6, for December 7, 2004.

14 E. On or about December 2, 2004, respondent referred the patient to P.D.A.,  
15 M.D. for preoperative evaluation and clearance for "T5-T6 Translateral Inter-body Fusion  
16 with a Pedicle Screw Fixation." In his handwritten preoperative checklist dated  
17 December 7, 2004, respondent noted the operative procedure would be "Thoracic Five-  
18 Six Translateral Inter-body Fusion with Pedicle Screw Fixation."<sup>4</sup> Also, the patient  
19 signed a consent form on December 7, 2004, in which he consented to a "Thoracic Five-  
20 Six Translateral Inter-body Fusion with Pedicle Screw Fixation" procedure.

21 F. On December 7, 2004, respondent performed the thoracic spine procedure  
22 as scheduled. Although the patient remained in the hospital for two days after the  
23

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24 3. The patient's injury was work related and therefore the patient was in the State  
25 Worker's Compensation system.

26 4. In his handwritten notations on the preoperative checklist, the words  
27 "Four-Five" after "Thoracic" have been crossed out and the words "Five-Six" have been  
28 inserted. Similarly, in respondent's handwritten intra-operative record, the words "Four-Five"  
have been crossed out and "Five-Six" inserted. At the physician interview on January 31, 2008,  
respondent denied making the changes.

22

1 procedure, respondent failed to provide and/or document he provided any post operative  
2 care or treatment to the patient at the hospital. Respondent also failed to provide and/or  
3 document he provided any post operative care or treatment to the patient at anytime after  
4 the patient left the hospital.

5 G. In about February 2005, Dr. D.A.C. (the patient's primary orthopedist)  
6 ordered x-rays of the thoracic spine in order to review the thoracic surgery respondent  
7 performed on the patient. The report of the x-ray was issued on February 28, 2005, and  
8 an addendum was issued on March 18, 2005. Both the report and addendum indicated  
9 that the discectomy with inter-body fusion respondent performed on the patient was  
10 actually performed at the T2-T3 level and not at the T5-T6 level.

11 H. Respondent's operative report of the December 7, 2004, procedure was  
12 dictated on or about February 4, 2005.<sup>3</sup> According to respondent's operative report, the  
13 procedures performed included discectomy with inter-body fusion at the T5-T6 level.  
14 The operative report does not contain any description of any steps respondent took to  
15 "localize" the correct thoracic disc level for the discectomy.<sup>4</sup>

16 I. At the physician interview on January 31, 2008, respondent indicated that  
17 during the surgery on December 7, 2004, he concluded T5-T6 was not the correct level,  
18 and that he intended to perform the discectomy with inter-body fusion "one level above  
19 the T4-T5 level" (i.e. at T3-T4) which he concluded was the correct level.<sup>7</sup>

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21 ///

22 \_\_\_\_\_  
23 5. At the physician interview on January 31, 2008, respondent stated he dictated an  
24 operative report within 24 hours of the procedure on December 7, 2004, but the dictation was  
25 either lost or erased and was forced to re-dictate the operative report from memory and from the  
patient's chart on February 4, 2005.

26 6. At the physician interview on January 31, 2008, respondent indicated that he obtained  
27 an intraoperative x-ray during the surgery on December 7, 2004, but that the films cannot be  
found.

28 7. Respondent's operative report does not contain this information.





1 paragraphs 8 and 9 above, which are realleged and incorporated by reference as though fully set  
2 forth herein.

3 THIRD CAUSE FOR DISCIPLINE

4 (Failure to Maintain Adequate and Accurate Records)

5 11. Respondent, Catalino Dominic Dureza, M.D. has subjected his Physician's  
6 and Surgeon's Certificate No. A66607 to disciplinary action under section 2234, as defined by  
7 section 2266, of the Code in that, he failed to maintain adequate and accurate records in his care,  
8 treatment and management of patient E.E., as more particularly alleged in paragraphs 8 through  
9 10 above, which are realleged and incorporated by reference as though fully set forth herein.

10 PRAYER

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

- 13 1. Revoking or suspending Physician's and Surgeon's Certificate
- 14 No. A66607, issued to Catalino Dominic Dureza, M.D.;
- 15 2. Revoking, suspending or denying approval of Catalino Dominic Dureza,
- 16 M.D.'s authority to supervise physician's assistants, pursuant to section 3527 of the Code;
- 17 3. Ordering Catalino Dominic Dureza, M.D. to pay the Board the costs of
- 18 probation monitoring if placed on probation; and,
- 19 4. Taking such other and further action as deemed necessary and proper.
- 20

21 DATED: June 15, 2009

22  
23 REDACTED

24 BARBARA JOHNSTON *[Signature]*  
25 Executive Director  
26 Medical Board of California  
27 State of California  
28 Complainant