

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

In the Matter of the Accusation)	
Against:)	
)	
)	
MUKESH MISRA, M.D.)	File No. 08-2007-186068
)	
Physician's and Surgeon's)	
Certificate No. A-95774)	
)	
Respondent)	
_____)	


DECISION

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

This Decision shall become effective at 5:00 p.m. on June 28, 2012.

IT IS SO ORDERED May 29, 2012.

MEDICAL BOARD OF CALIFORNIA

By: 

Hedy Chang, Chair
Panel B

1 KAMALA D. HARRIS
Attorney General of California
2 ROBERT MCKIM BELL
Supervising Deputy Attorney General
3 KLINT JAMES MCKAY
Deputy Attorney General
4 State Bar No. 120881
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 576-1327
6 Facsimile: (213) 897-9395
E-mail: Klint.McKay@doj.ca.gov
7 *Attorneys for Complainant*

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

12 In the Matter of the Accusation Against:

13 **MUKESH MISRA, M.D.**
14 P.O. Box 6711
Lancaster, California 93539-6711
15 Physician's & Surgeon's Certificate
16 No A 95774,

Respondent

Case No. 08-2007-186068

OAH No. 2010101167

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

17
18 In the interest of a prompt and speedy settlement of this matter, consistent with the public
19 interest and the responsibility of the Medical Board of California of the Department of Consumer
20 Affairs, the parties hereby agree to the following Stipulated Settlement and Disciplinary Order
21 which will be submitted to the Board for approval and adoption as the final disposition of the
22 Accusation.

23 **PARTIES**

24 1. Linda K. Whitney (Complainant) is the Executive Director of the Medical Board of
25 California. She brought this action solely in her official capacity and is represented in this matter
26 by Kamala D. Harris, Attorney General of the State of California, by Klint James McKay,
27 Deputy Attorney General.
28

1 2. Respondent Mukesh Misra, M.D., ("Respondent") is represented in this proceeding
 2 by attorney George Strasser, whose address is Baker, Manock & Jensen, 5260 N Palm Avenue,
 3 Suite 421, Fresno, CA 93704.

4 3. On or about June 1, 2006, the Board issued Physician's and Surgeon's Certificate
 5 number A 95774 to Respondent. Respondent's Certificate was in full force and effect at all times
 6 relevant to the charges brought herein. It will expire on January 31, 2014, unless renewed.

7 **JURISDICTION**

8 4. Accusation No. 08-2007-186068 was filed before the Medical Board of California,
 9 Department of Consumer Affairs ("Board"), on August 19, 2010, and is currently pending against
 10 Respondent. The Accusation and all other statutorily required documents were properly served
 11 on Respondent that date. Respondent timely filed his Notice of Defense contesting the
 12 Accusation. A copy of Accusation No. 08-2007-186068 is attached as **Exhibit A** and
 13 incorporated herein by reference.

14 **ADVISEMENT AND WAIVERS**

15 5. Respondent has carefully read, fully discussed with counsel, and understands the
 16 charges and allegations in Accusation No. 08-2007-186068. Respondent has also carefully read,
 17 fully discussed with counsel, and understands the effects of this Stipulated Settlement and
 18 Disciplinary Order.

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

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

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1 **CULPABILITY**

2 8. a) Respondent admits all allegations in the Fourth Cause for Discipline.
3 Respondent agrees that all other allegations in the Accusation, if proven by Complainant at a
4 hearing, would constitute cause for imposing discipline upon his Physician's and Surgeon's
5 Certificate, but Respondent does not admit same.

6 b) If Respondent ever petitions to modify or terminate any term or condition set
7 forth herein, or should the Board or any other regulatory agency in California or elsewhere
8 hereinafter institute any other action against Respondent, including but not limited to an
9 Accusation and/or Petition to Revoke Probation, the allegations and facts set forth in the Fourth
10 Cause of Action in the Accusation shall be deemed admitted for all purposes.

11 9. Respondent agrees that his Physician and Surgeon's Certificate is subject to discipline
12 and he agrees to be bound by the Board's imposition of discipline as set forth in the Disciplinary
13 Order below.

14 **CONTINGENCY**

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

24 11. The parties understand and agree that facsimile copies of this Stipulated Settlement
25 and Disciplinary Order, including facsimile signatures thereto, shall have the same force and
26 effect as the originals.
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1 12. In consideration of the foregoing admissions and Stipulations, the parties agree that
2 the Board may, without further notice or formal proceeding, issue and enter the following
3 Disciplinary Order:

4
5 **DISCIPLINARY ORDER**

6 IT IS HEREBY ORDERED that upon completion of the Record Keeping Course and the
7 Professionalism Program set forth hereinbelow, a Public Letter of Reprimand containing the
8 language set forth in **Exhibit B** shall be issued by the Board to Respondent, subject to the
9 following terms and conditions.

10 A. EDUCATION COURSE

11 Within 60 calendar days of the effective date of this Decision, and on an annual basis
12 thereafter for five calendar years, Respondent shall submit to the Board or its designee for its
13 prior approval educational program(s) or course(s) which shall not be less than 40 hours per year.
14 The educational program(s) or course(s) shall be aimed at correcting any areas of deficient
15 practice or knowledge and shall be Category I certified. The educational program(s) or course(s)
16 shall be at Respondent's expense and shall be in addition to the Continuing Medical Education
17 (CME) requirements for renewal of licensure. Following the completion of each course, the
18 Board or its designee may administer an examination to test Respondent's knowledge of the
19 course. Respondent shall provide proof of attendance for 65 hours of CME of which 40 hours
20 were in satisfaction of this condition.

21 B. MEDICAL RECORDS KEEPING COURSE

22 Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a
23 course in medical record keeping equivalent to the Medical Record Keeping Course offered by
24 the Physician Assessment and Clinical Education Program, University of California, San Diego
25 School of Medicine (Program), approved in advance by the Board or its designee. Respondent
26 shall provide the program with any information and documents that the Program may deem
27 pertinent. Respondent shall participate in and successfully complete the classroom component of
28

1 the course not later than six (6) months after Respondent's initial enrollment. Respondent shall
2 successfully complete any other component of the course within one (1) year of enrollment. The
3 medical record keeping course shall be at Respondent's expense and shall be in addition to the
4 Continuing Medical Education (CME) requirements for renewal of licensure. A medical record
5 keeping course taken after the acts that gave rise to the charges in the Accusation, but prior to the
6 effective date of the Decision may, in the sole discretion of the Board or its designee, be accepted
7 towards the fulfillment of this condition if the course would have been approved by the Board or
8 its designee had the course been taken after the effective date of this Decision. Respondent shall
9 submit a certification of successful completion to the Board or its designee not later than 15
10 calendar days after successfully completing the course, or not later than 15 calendar days after the
11 effective date of the Decision, whichever is later

12 C. PROFESSIONALISM PROGRAM

13 Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a
14 professionalism program, that meets the requirements of Title 16, California Code of Regulations
15 (CCR) section 1358. Respondent shall participate in and successfully complete that program.
16 Respondent shall provide any information and documents that the program may deem pertinent.
17 Respondent shall successfully complete the classroom component of the program not later than
18 six (6) months after Respondent's initial enrollment, and the longitudinal component of the
19 program not later than the time specified by the program, but no later than one (1) year after
20 attending the classroom component. The professionalism program shall be at Respondent's
21 expense and shall be in addition to the Continuing Medical Education (CME) requirements for
22 renewal of licensure. A professionalism program taken after the acts that gave rise to the charges
23 in the Accusation, but prior to the effective date of the Decision may, in the sole discretion of the
24 Board or its designee, be accepted towards the fulfillment of this condition if the program would
25 have been approved by the Board or its designee had the program been taken after the effective
26 date of this Decision. Respondent shall submit a certification of successful completion to the
27 Board or its designee not later than 15 calendar days after successfully completing the program or
28 not later than 15 calendar days after the effective date of the Decision, whichever is later.

D. NOTIFICATION

Within seven (7) days of the effective date of this Decision, the Respondent shall provide a true copy of this Decision and Accusation to the Chief of Staff or the Chief Executive Officer at every hospital where privileges or membership are extended to Respondent, at any other facility where Respondent engages in the practice of medicine, including all physician and locum tenens registries or other similar agencies, and to the Chief Executive Officer at every insurance carrier which extends malpractice insurance coverage to Respondent. Respondent shall submit proof of compliance to the Board or its designee within 15 calendar days. This condition shall apply to any change(s) in hospitals, other facilities or insurance carrier.

E. OBEY ALL LAWS

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

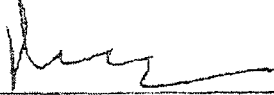
F. FAILURE TO COMPLY WITH TERM OR CONDITION

Failure to comply with any term or condition hereof shall constitute a basis for disciplinary action.

.ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, George Strasser. 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 Medical Board of California.

DATED: 3-28-12


MUKESH MISRA, M.D.,
Respondent

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

4
5 DATED: 3/29/2012 
6 GEORGE STRASSER,
7 Attorney for Respondent

8
9 **ENDORSEMENT**

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

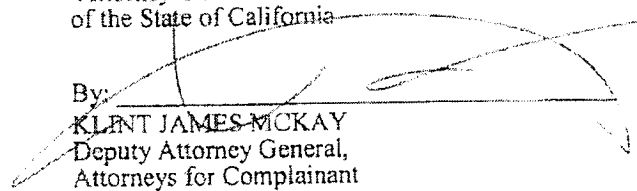
13 DATED: 4/13/12
14
15 KAMALA D. HARRIS,
16 Attorney General
17 of the State of California
18 By: 
19 KLINT JAMES MCKAY
20 Deputy Attorney General,
21 Attorneys for Complainant

EXHIBIT A
Accusation No. 08-2007-186068

1 EDMUND G. BROWN, JR.
Attorney General of California
2 KLINT JAMES MCKAY
Deputy Attorney General
3 State Bar No. 120881
300 So. Spring Street, Suite 1702
4 Los Angeles, California 90013
Telephone: (213) 576-1327
5 Facsimile: (213) 897-9395
E-mail: Klint.McKay@doj.ca.gov
6 *Attorneys for Complainant*

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO August 19, 2010
BY: [Signature] ANALYST

7 BEFORE THE
8 MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
9 STATE OF CALIFORNIA

10
11 In the Matter of the Accusation Against:

Case No. 08-2007-186068

12 **MUKESH MISRA, M.D.**
13 P.O. Box 6711
Lancaster, California 93539-6711

ACCUSATION

14 Physician's & Surgeon's Certificate
15 No A 95774,

16 Respondent

17 Complainant alleges:

18 **PARTIES**

19 1. Linda K. Whitney (Complainant) brings this Accusation solely in her official capacity
20 as the Executive Director of the Medical Board of California ("Board").

21 2. On or about June 1, 2006, the Board issued Physician's and Surgeon's Certificate
22 number A 95774 to Mukesh Misra, M.D. ("Respondent"). Respondent's Certificate was in full
23 force and effect at all times relevant to the charges brought herein. It will expire on January 31,
24 2012, unless renewed.

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JURISDICTION

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3. This Accusation is brought before Board under the authority of the following laws. All section references are to the Business and Professions Code (“Code”) unless otherwise indicated.

STATUTORY PROVISIONS

4. Section 2227 of the Code states:

“(a) A licensee whose matter has been heard by an administrative law judge of the Medical Quality Hearing Panel as designated in Section 11371 of the Government Code, or whose default has been entered, and who is found guilty, or who has entered into a stipulation for disciplinary action with the division¹, may, in accordance with the provisions of this chapter:

“(1) Have his or her license revoked upon order of the division.

“(2) Have his or her right to practice suspended for a period not to exceed one year upon order of the division.

“(3) Be placed on probation and be required to pay the costs of probation monitoring upon order of the division.

“(4) Be publicly reprimanded by the division.

“(5) Have any other action taken in relation to discipline as part of an order of probation, as the division or an administrative law judge may deem proper.

“(b) Any matter heard pursuant to subdivision (a), except for warning letters, medical review or advisory conferences, professional competency examinations, continuing education activities, and cost reimbursement associated therewith that are agreed to with the division and successfully completed by the licensee, or other matters made confidential or privileged by existing law, is deemed public, and shall be made available to the public by the board pursuant to Section 803.1.

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 5. Section 2228 of the Code states:

2 “The authority of the board or a division of the board or the California Board of Podiatric
3 Medicine to discipline a licensee by placing him or her on probation includes, but is not limited to
4 the following:

5 “(a) Requiring the licensee to obtain additional professional training and to pass an
6 examination upon the completion of the training. The examination may be written or oral, or
7 both, and may be a practical or clinical examination, or both, at the option of the board or division
8 or the administrative law judge.

9 “(b) Requiring the licensee to submit to a complete diagnostic examination by one or more
10 physicians and surgeons appointed by the division. If an examination is ordered, the board or
11 division shall receive and consider any other report of a complete diagnostic examination given
12 by one or more physicians and surgeons of the licensee’s choice.

13 “(c) Restricting or limiting the extent, scope, or type of practice of the licensee, including
14 requiring notice to applicable patients that the licensee is unable to perform the indicated
15 treatment, where appropriate.

16 “(d) Providing the option of alternative community service in cases other than violations
17 relating to quality of care, as defined by the Division of Medical Quality.

18 6. Section 2234 of the Code states:

19 “The Division of Medical Quality shall take action against any licensee who is charged with
20 unprofessional conduct. In addition to other provisions of this article, unprofessional conduct
21 includes, but is not limited to, the following:

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

25 “(b) Gross negligence.

26 “(c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or
27 omissions. An initial negligent act or omission followed by a separate and distinct departure from
28 the applicable standard of care shall constitute repeated negligent acts.

1 “(1) An initial negligent diagnosis followed by an act or omission medically appropriate
2 for that negligent diagnosis of the patient shall constitute a single negligent act.

3 “(2) When the standard of care requires a change in the diagnosis, act, or omission that
4 constitutes the negligent act described in paragraph (1), including, but not limited to, a
5 reevaluation of the diagnosis or a change in treatment, and the licensee’s conduct departs from the
6 applicable standard of care, each departure constitutes a separate and distinct breach of the
7 standard of care.

8 “(d) Incompetence.

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

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

12 7. Section 2226 of the Code states: “The failure of a physician and surgeon to maintain
13 adequate and accurate records relating to the provision of services to their patients constitutes
14 unprofessional conduct.”

15 **FIRST CAUSE FOR DISCIPLINE**
16 (Gross Negligence as to Patient R. J.²)

17 7. Respondent is subject to disciplinary action for unprofessional conduct pursuant to
18 Business and Professions Code sections 2234(b) based on his performing surgery on the wrong
19 side of the patient’s brain. The facts and circumstances are as follows:

20 A. R. J. was a 45 year-old female with a presentation consistent "with multiple
21 intracerebral and diffuse subdural abscesses" as per an MRI (magnetic resonance imaging test)
22 performed on July 7, 2007.

23 B. The MRI depicts changes to the left frontal and parietal lobe, along with evidence of
24 an associated collection adjacent the superior sagittal sinus and falx, leptomeningeal
25 enhancement, and possible restriction of flow in the sagittal sinus. There are very minor changes
26 seen in the anterior medial right frontal lobe as well. These changes are all consistent with

27 _____
28 ² Each patient is referenced by his or her initials for privacy reasons

1 multiple intra cerebral abscesses and an associated subdural empyema primarily involving the left
2 anterior hemispheric tissue, falx and frontal lobe. The largest and most appropriate surgical lesion
3 noted was a 2.0 cm mass in the left anterior medial frontal lobe..

4 C. The patient was taken to surgery and a bifrontal craniotomy was performed as the
5 main procedure. Respondent's note describes a right temporal burr hole followed by a right
6 bifrontal craniotomy and opening of the frontal sinus: However, the operative note fails to detail
7 the exact nature of the intracranial procedure and it is not possible to determine the fundamental
8 intraoperative findings, that is, whether the dura was opened, and if so what "lesion" was
9 encountered and what, if any, intra-dural procedure was conducted.

10 D. The operative note describes frontal-sinus disease and sinus osteoma, but does not
11 report finding evidence of purulence within the sinus, nor does it clearly indicate whether both
12 frontal sinuses were explored. There is a similar lack of detail provided in the operative notes
13 regarding the intra-operative pathology encountered.

14 E. Following the above surgery, the patient underwent a follow-up CT (computerized
15 tomography scan) on the same day (July 7, 2007). This demonstrated a right frontal craniotomy
16 that extended slightly across the midline towards the left. The CT showed the persistent left
17 anterior frontal and subdural collection consistent with the abscess/empyema.

18 F. The patient was returned to the operating room the same day because of the evidence
19 of residual abscess on the post-operative CT scan. It is noted that a signed informed consent form
20 was not obtained for this second procedure, but it does indicate that Respondent spoke with the
21 patient's family regarding the need for the operation.

22 G. The procedure note described extending the prior craniotomy toward the left frontal
23 region in posterior, inferior, and medial directions. The note then reflected that the dura was open,
24 but does not detail the nature of this opening and neglected to state the precise nature of the intra-
25 dural procedure. The note does describe the finding of cerebritis with evacuation of "pus," but not
26 the exact location of the pus (intracerebral or subdural).

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1 H. A CT following the second procedure indicated decompression of the left frontal
2 abscess cavity. The patient was placed on broad-spectrum antibiotics for a presumed infection,
3 and eventually transferred to another facility on August 10, 2007 for further management.

4 8. The failure to perform surgery on the correct side of the patient's brain, requiring a
5 second surgery, constitutes an extreme departure from the standard of care and gross negligence
6 within the meaning of Code section 2234(b).

7 **SECOND CAUSE FOR DISCIPLINE**

8 (Incompetence as to Patient R.J.)

9 9. Respondent is subject to disciplinary action for unprofessional conduct due to
10 incompetence pursuant to Business and Professions Code section 2234(d) based on the facts set
11 forth above.

12 **THIRD CAUSE FOR DISCIPLINE**

13 (Repeated Acts of Negligence as to Patient R.J.)

14 10. Respondent is subject to disciplinary action for unprofessional conduct pursuant to
15 Business and Professions Code section 2234(c) for repeated acts of negligence based on the facts
16 set forth in the First Cause for Discipline.

17 **FOURTH CAUSE FOR DISCIPLINE**

18 (Inadequate Records as to Patient R.J.)

19 11. Respondent is subject to disciplinary action for unprofessional conduct pursuant to
20 Business and Professions Code section 2266 for failing to maintain adequate records regarding
21 the treatment of R.J., including but not limited to the conduct of her surgeries, as more fully set
22 forth above in the First Cause for Discipline

23 **FIFTH CAUSE FOR DISCIPLINE**

24 (Repeated Acts of Negligence as to Patient J.C.)

25 12. Respondent is subject to disciplinary action for unprofessional conduct pursuant to
26 Business and Professions Code sections 2234(c) based on his failure to adequately perform
27 surgery on the patient's spine. The facts and circumstances are as follows:
28

1 A. J.C. is a 34 year old male who sustained a C6-C7 bilateral facet dislocation and
2 subluxation, C7 body-fracture and right pedicle fracture from a motor vehicle accident on July 7,
3 2010.

4 B. Respondent's records indicate that an MRI (magnetic resonance imaging test) showed
5 a disc herniation at C6-C7. The patient had an incomplete spinal cord injury corresponding to the
6 level of injury manifested by motor loss involving the upper extremities (distal worse than
7 proximal: 3-4/5 overall), 4/5 lower extremity weakness, paresthesias in all extremities and a
8 sensory level below C5-C6 bilaterally.

9 C. He was evaluated by Respondent and was initially treated with Gardner-Wells tong
10 traction that failed to reduce the subluxation at a total traction weight of 35-40 pounds. Traction
11 failed to reduce the subluxation and the patient underwent anterior C6-C7 cervical discectomy,
12 interbody cage placement and C6-C7 plate fusion with intraoperative fluoroscopic imaging on
13 July 10, 2007. This operation was performed by Respondent and another physician.

14 D. The operative note reflects that there was proper placement of the instrumentation and
15 "improvement in the subluxation" presumably determined by the intraoperative fluoroscopy,
16 although how the improvement was determined is not clearly stated. The operative note also
17 describes a cerebrospinal fluid leak that was not associated with further complications in the
18 patient's course.

19 E. The patient was placed in an Aspen collar post operatively and the GW traction was
20 removed. The medical record indicates the patient was stable in terms of neurological function
21 following the procedure and may have showed some signs of improvement. The notes from July
22 11, 2007 reflect hand strength at 3/5 and possible improvement of the paresthesias. The medical
23 record describes a C-spine x-ray on July 11, 2007 that apparently showed the C6-C7 level through
24 the soft tissue with evidence of a slight posterior offset. The patient was placed in a halo vest and
25 ring on the morning of July 11, 2007.

26 F. Notes from July 12, 2007 reflect some incremental improvement in hand strength
27 (4/5), but other notes in the medical record continue to show the same degree of distal upper
28 extremity weakness, paresthesias and sensory loss in the upper extremities. The patient

1 underwent a post operative CT scan on July 12, 2007 which showed persistence of the C6-C7
2 subluxation (>6mm) with narrowing of the spinal canal at this level, as well as a C6 spinous
3 process fracture. Respondent's notes also indicate a failure of the anterior instrumentation evident
4 on this post-op CT scan.

5 G. The patient returned to the OR on July 13, 2007, for a complex procedure involving
6 removal of the anterior instrumentation, reduction of the facet dislocation with posterior
7 instrumentation from a posterior approach, followed by a C7 carpectomy and C6-T1 cervical
8 fusion and instrumentation with allo- and autografts (from an anterior approach).

9 H. The operative note from that day states that the intraoperative "imaging was limited"
10 and as a result it was "difficult to visualize a significant reduction at this level". The post-op CT
11 on July 14, 2007 is reported to show reduction of the facet dislocation, but in fact, it was not clear
12 that the facets had been reduced to their normal position and the C6-C7 subluxation, while
13 improved, appeared to persist.

14 I. The patient was discharged from the hospital on July 20, 2007, Respondent indicated
15 in his notes that J.C. had intact strength and no sensory symptoms upon out-patient follow-up
16 examination.

17 J. The anterior method chosen by Respondent to treat the cervical injury was inferior to
18 a posterior approach and constitutes a simple departure from the standard of care. The degree of
19 subluxation and facet dislocation from the initial CT is significant and should the anterior
20 approach be selected as the first method to address the trauma, it would have preferable to
21 immediately image the patient with a CT scan to confirm reduction of the dislocation, restoration
22 of the spinal alignment and decompression of the spinal cord, which Respondent did not do.

23 K. Respondent's failure to obtain timely definitive imaging of the cervical alignment on
24 the day following surgery, despite the neurological stability of the patient was an additional
25 simple departure from the standard of care. The C-spine scan obtained on July 11, 2007 was not
26 adequate to image the alignment at C6-C7 and the CT should have been performed immediately
27 thereafter. The scan was obtained instead on the following day and demonstrated the persistent
28 subluxation.

1 L. The patient did not return to the OR until the following day, most likely because it
2 was felt that he was neurologically stable, and urgent restoration of spinal alignment was not
3 considered necessary.

4 13. The events set forth in subparagraphs J and K constitute simple departures from the
5 standard of care pursuant to Business and Professions Code sections 2234(c).

6 **SIXTH CAUSE FOR DISCIPLINE**

7 (Incompetence as to Patient J.C.)

8 14. Respondent is subject to disciplinary action for unprofessional conduct pursuant to
9 Business and Professions Code section 2234(d) based on the facts set forth above.

10 **PRAYER**

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

13 1. Revoking or suspending Physician's & Surgeon's Certificate No A 95774 issued to
14 Mukesh Misra, M.D.,

15 2. Revoking, suspending or denying approval of his authority to supervise physician
16 assistants, pursuant to Section 3527 of the Code;

17 3. If placed on probation, ordering him to pay the costs of probation monitoring; and

18 4. Taking such other and further action as deemed necessary and proper.

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20 DATED: August 19, 2010

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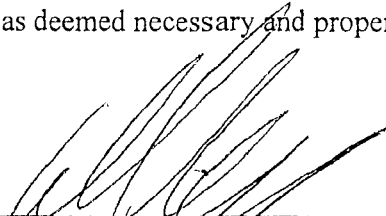
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LINDA K. WHITNEY,
Executive Director,
Medical Board of California,

EXHIBIT B
Public Letter of Reprimand

Dear Dr. Misra:

In a surgery performed on July 29, 2007 on a patient's brain, you failed to adequately document the surgical procedure and the post operative condition and care of the patient. Adequate documentation is critical to patient care and the ability of other medical providers to determine future treatment of the patient.

You are therefore issued this letter of reprimand.