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

In the Matter of the Accusation Against:	)	
Chitra Anjani Bhakta, M.D.	)	**File No. 18-2012-228940**
Physician's and Surgeon's Certificate No. A 63631	)	
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 October 29, 2015.

IT IS SO ORDERED September 29, 2015.

MEDICAL BOARD OF CALIFORNIA

By: _____
Jamie Wright, Esq., Chair
Panel A

KAMALA D. HARRIS
Attorney General of California
JUDITH T. ALVARADO
Supervising Deputy Attorney General
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Attorneys for Complainant

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

In the Matter of the Accusation Against: CHITRA BHAKTA, M.D. 22 Belcanto Irvine, California 92614 Physician's and Surgeon's Certificate No. A 63631, Respondent.	Case No. 18-2012-228940 OAH No. 2015030303 **STIPULATED SETTLEMENT AND DISCIPLINARY ORDER**

IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-entitled proceedings that the following matters are true:.

PARTIES

1. Kimberly Kirchmeyer ("Complainant") is the Executive Director of the Medical Board of California ("Board"). She brought this action solely in her official capacity and is represented in this matter by Kamala D. Harris, Attorney General of the State of California, by Claudia Ramirez, Deputy Attorney General.

2. Respondent Chitra Bhakta, M.D. ("Respondent") is represented in this proceeding by attorney John D. Harwell, Esq., whose address is: 225 27th Street, Manhattan Beach, California 90266.

3. On or about October 10, 1997, the Board issued Physician's and Surgeon's Certificate

No. A 63631 to Respondent. That Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. 18-2012-228940 and will expire on March 31, 2017, unless renewed.

JURISDICTION

4. Accusation No. 18-2012-228940 was filed before the Board, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on January 13, 2015. Respondent timely filed her Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 18-2012-228940 is attached as Exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 18-2012-228940. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

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

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

CULPABILITY

9. Respondent does not contest that, at an administrative hearing, Complainant could establish a prima facie case with respect to the charges and allegations contained in Accusation No. 18-2012-228940, and that she has thereby subjected her license to disciplinary action.

10. Respondent agrees that her Physician's and Surgeon's Certificate is subject to discipline and she agrees to be bound by the Board's imposition of discipline as set forth in the Disciplinary Order below.

11. The admissions made by Respondent herein are only for the purposes of this proceeding, or any other proceedings in which the Board or other professional licensing agency is involved, and shall not be admissible in any other criminal, civil or other proceeding.

CONTINGENCY

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

13. The parties understand and agree that Portable Document Format (PDF) and facsimile copies of this Stipulated Settlement and Disciplinary Order, including Portable Document Format (PDF) and facsimile signatures thereto, shall have the same force and effect as the originals.

14. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

A. PUBLIC REPRIMAND

IT IS HEREBY ORDERED THAT Physician's and Surgeon's Certificate No. A 63631 issued to Respondent Chitra Bhakta, M.D., shall be and is hereby publicly reprimanded pursuant to California Business and Professions Code section 2227, subdivision (a)(4). This public reprimand, which is issued in connection with Respondent's care and treatment of Patient C.H. as

set forth in Accusation No. 18-2012-228940, is as follows:

"Between May 2012 to December 2012, you committed acts constituting gross negligence and repeated negligent acts in violation of Business and Professions Code section 2234, subdivisions (b) and (c), respectively, in that you allowed Patient C.H. to mix and self administer intravenous antibiotics and you inadequately monitored the antibiotic treatment, as more fully described in Accusation 18-2012-228940.

You also maintained inadequate medical records in violation of Business and Professions Code section 2266 in that Patient C.H.'s records show that you failed to communicate with home nursing staff and/or Patient C.H. on a regular basis as to her status, as more fully described in Accusation 18-2012-228940."

B. PRESCRIBING PRACTICES COURSE

Within sixty (60) calendar days of the effective date of this Decision, Respondent shall enroll, at her own expense, in a course in prescribing practices, approved in advance by the Board or its designee. The PACE prescribing course offered at the University of California - San Diego School of Medicine is an approved course. Respondent shall successfully complete said course no later than six months after her initial enrollment unless the Board or its designee agrees in writing to a later time for completion. Respondent may satisfy this term by successfully completing said course prior to the effective date of the Decision adopting this Stipulated Settlement. Upon successfully completing said course, Respondent agrees to forward, no later than 15 days after successfully completing the course, a copy of the Certificate of Successful Completion of the course to the Board or its designee.

Failure to participate in and successfully complete the prescribing practices course outlined above shall constitute unprofessional conduct and is grounds for further disciplinary action.

C. MEDICAL RECORD-KEEPING COURSE

Within sixty (60) calendar days of the effective date of this Decision, Respondent shall enroll, at her own expense, in a course in medical record keeping, approved in advance by the Board or its designee. The PACE medical record keeping course offered at the University of California - San Diego School of Medicine is an approved course. Respondent shall successfully

complete said course no later than six months after her initial enrollment unless the Board or its designee agrees in writing to a later time for completion. Respondent may satisfy this term by successfully completing said course prior to the effective date of the Decision adopting this Stipulated Settlement. Upon successfully completing said course, Respondent agrees to forward, no later than 15 days after successfully completing the course, a copy of the Certificate of Successful Completion of the course to the Board or its designee.

Failure to participate in and successfully complete the medical record-keeping course outlined above shall constitute unprofessional conduct and is grounds for further disciplinary action.

D. EDUCATION COURSE

Within 60 calendar days of the effective date of this Decision, Respondent shall submit to the Board or its designee for its prior approval educational program(s) or course(s) which shall not be less than 20 hours. The educational program(s) or course(s) shall be aimed at correcting any areas of deficient practice or knowledge and shall be Category I certified, limited to classroom, conference, or seminar settings. The educational program(s) or course(s) shall be at Respondent's expense and shall be in addition to the Continuing Medical Education ("CME") requirements for renewal of licensure. The prescribing practices course and the medical record-keeping course listed above shall not satisfy this condition.

Respondent shall provide proof of attendance for 20 hours of CME in satisfaction of this condition, proof of which shall be provided within 180 calendar days of the effective date of this Decision.

Failure to participate in and successfully complete the education course outlined above shall constitute unprofessional conduct and is grounds for further disciplinary action.

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, John D. Harwell, Esq. I understand the stipulation and the effect it will have on my Physician's 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: 08/26/2015

CHITRA BHAKTA, M.D.
Respondent

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

DATED: 8/27/15

John D. Harwell, Esq.
Attorney for Respondent

ENDORSEMENT

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

Dated: 8-27-15

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
JUDITH T. ALVARADO
Supervising Deputy Attorney General

CLAUDIA RAMIREZ
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 18-2012-228940

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

In the Matter of the Accusation Against: CHITRA BHAKTA, M.D. 22 Belcanto, Irvine, California 92614 Physician's and Surgeon's Certificate No. A 63631, Respondent.	Case No. 18-2012-228940 **ACCUSATION**

Complainant alleges:

PARTIES

1. Kimberly Kirchmeyer (Complainant) brings this Accusation solely in her official capacity as the Executive Director of the Medical Board of California ("Board").

2. On October 10, 1997, the Board issued Physician's and Surgeon's Certificate number A 63631 to Chitra Bhakta, M.D. ("Respondent"). That license was in full force and effect at all times relevant to the charges brought herein and will expire on March 31, 2015, unless renewed.

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JURISDICTION

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

4. The Medical Practice Act ("Act") is codified at sections 2000-2521 of the Business and Professions Code.

5. Pursuant to Code section 2001.1, the Board's highest priority is public protection.

6. Code section 2227, subdivision (a), provides as follows:

> "(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 board, may, in accordance with the provisions of this chapter:
>
> "(1) Have his or her license revoked upon order of the board.
>
> "(2) Have his or her right to practice suspended for a period not to exceed one year upon order of the board.
>
> "(3) Be placed on probation and be required to pay the costs of probation monitoring upon order of the board.
>
> "(4) Be publicly reprimanded by the board. The public reprimand may include a requirement that the licensee complete relevant educational courses approved by the board.
>
> "(5) Have any other action taken in relation to discipline as part of an order of probation, as the board 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 board 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."

7. Section 2234 of the Code, states:

> "The board 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.
>
> "(b) Gross negligence.

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

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

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

"(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.

"(g) The practice of medicine from this state into another state or country without meeting the legal requirements of that state or country for the practice of medicine. Section 2314 shall not apply to this subdivision. This subdivision shall become operative upon the implementation of the proposed registration program described in Section 2052.5.

"(h) The repeated failure by a certificate holder, in the absence of good cause, to attend and participate in an interview scheduled by the mutual agreement of the certificate holder and the board. This subdivision shall only apply to a certificate holder who is the subject of an investigation by the board."

FACTS ALLEGED

8. C.H. is a wheelchair dependent patient. Respondent first saw C.H. on May 22, 2012. On C.H.'s first appointment, Respondent took an in-depth history with regards to C.H.'s care with over 15 doctors, a hospitalization for severe pain and a complete medical work up.

9. C.H. told Respondent that she had been bitten by a tick while working outside after which she suffered from the target rash and joint pain that is typical of Lyme Disease.

10. Respondent had C.H. sign a consent for treatment and another consent for treatment for Intravenous antibiotics on May 22, 2012. The records show that C.H. was advised that the use of Intravenous antibiotics had specific risks such as sepsis and that is why Respondent enforced monthly blood draws and monthly appointments while patients remained on intravenous therapy.

11. There was no physical examination noted on the initial chart provided by Respondent noting C.H.'s function capability while confined to a wheelchair.

12. There was no documentation of a supportive individual present with C.H. and she had stated that she had once been her boyfriend's caretaker prior to falling ill herself. C.H. followed up with Respondent after initial labs had been drawn on June 29, 2012. Respondent charted in her notes that C.H was Lymes positive and prescribed intravenous antibiotics for C.H. There are no vital signs charted on the preliminary notes provided nor is there a physical exam charted.

13. Respondent informed patient in the consent forms that Lyme Disease is a controversial disease and is largely a clinical diagnosis when the primary test, Western Blot, is negative. C.H. signed her consent understanding the risks were more severe with IV therapy than oral antibiotic therapy and there was a greater need for accountability and follow up.

14. C.H.'s records reflect notes for an August 14, 2012 "follow up." However, this appears to be a "telephone appointment" during where Respondent notified C.H. that her laboratory results came back positive for Lyme Disease.[1] Respondent asked her staff to email the test results and labs to C.H. It appears that prior to the telephone appointment, C.H. had received three weeks of antibiotic therapy and had reported some improvement. C.H. was told to return in a month for her standard monthly laboratory tests and blood tests to be drawn prior to her appointment.

15. C.H. returned on September 18, 2012, for her follow up appointment without any labs. There are no vital signs or a physical exam of the wound site noted on the chart. C.H. told Respondent that she could not afford her Invanz antibiotics and she had several other concerns about how she cannot get certain labs drawn or referrals due to cost. As a result, Respondent switched antibiotics but first ordered an abdominal ultrasound to assess if C.H. had a healthy gallbladder.[2]

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[1] A revised note was provided by Respondent, which now has vital signs, and detailed risks and benefits are listed on the new chart note, although no physical exam was charted.

[2] Respondent's chart notes stress the importance of labs and the ultrasound to assure safe care of the patient. However, Respondent wrote the prescription for Rocephin changing the (continued...)

16. Respondent's staff appears to have asked C.H. if she was working with a registered nurse to help her with weekly wound care and home assessments. However, a registered nurse must provide chart notes to the attending physician who is supervising the patient's care. Thus, such an inquiry would be unnecessary if proper protocols were being followed.

17. Respondent's records -- or the lack thereof -- indicate that she and/or her staff failed to communicate on a regular basis with nursing staff providing home health care monitoring to C.H.

18. However, Respondent's re-written chart notes include new charted notes warning C.H. of the consequences for non-compliance. The specific entries were not present in the original provider notes produced, and call into question when they were actually written.

19. In October, 2012, C.H. did not appear for her appointment. She also went an additional month being non-compliant with labs, did not follow up with a neurologist, and did not enroll in physical therapy. Respondent's staff made several attempts to reach C.H. to reschedule. However, Respondent did not discontinue the intravenous antibiotics by calling the infusion center.

20. C.H. was responsible for mixing and administering her own home intravenous antibiotics, with no skilled nursing assistance.

21. In November, 2012, Respondent's staff reached out to C.H. trying to reach her to come and make an appointment. However, this appears to have occurred only because the infusion center notified Respondent's clinic that they would no longer provide intravenous antibiotics to C.H. due to non-payment. The records for this month indicate that Respondent requested a referral for removal of the Hickman catheter and a request for C.H. to come into the clinic to pick up that removal referral.

22. At no time did Respondent take responsibility and attempt to telephone the patient herself to warn her of the risk of sepsis if the Hickman catheter were not removed.

(...continued)
antibiotic regime despite the fact that C.H. never obtained labs and never obtained the abdominal ultrasound.

23. Although C.H. listed her daughter, F., as the emergency contact person, at no time did Respondent's office document that they tried to contact F.

24. Respondent took a detailed history on C.H.'s new patient intake but failed to assure that at least two other people would serve as contact points to ascertain that the patient was safe and capable of self-care. In fact, Respondent failed to determine the name or number of the boyfriend C.H. stated that she lived with as an emergency contact.

25. In December, 2012, C.H.'s sister, K.T., a registered nurse, found C.H. at her home soiled in urine with adult diapers around the room. When discovered, C.H. was unable to even support herself to get in and out of her bed. Furthermore, C.H. had fallen at some point in time and had fractured her hip and not sought medical care.

26. K.T. eventually took C.H. to St. John's Pleasant Valley Hospital, where the line sepsis was discovered and the Hickman catheter was removed. C.H. was hospitalized for three weeks on intravenous antibiotics as a result.

FIRST CAUSE FOR DISCIPLINE

(Unprofessional Conduct - Gross Negligence)

27. By reason of the matters set forth above in paragraphs 8 through 26, incorporated herein by this reference, Respondent is subject to disciplinary action under section 2234(b) of the Code, in that she was grossly negligent in the care and treatment of C.H. The circumstances are as follows:

28. Respondent failed to take an appropriate intake history when she chose to allow C.H. to do home IV therapy, which action constitutes gross negligence and is a violation of section 2234(b) of the Code.

29. Respondent failed to establish a point of contact and safety for C.H., which actions constitute gross negligence and is a violation of section 2234(b) of the Code.

30. Respondent allowed C.H. to mix and administer her own intravenous antibiotics, which actions constitute gross negligence and is a violation of section 2234(b) of the Code.

31. Respondent gave C.H. a new Rocephin medication on September 18, 2012, even though C.H. had failed to obtain an abdominal ultrasound as ordered, which was necessary for Respondent to know if it was safe to use, which action constitutes gross negligence and is a violation of section 2234(b) of the Code.

SECOND CAUSE FOR DISCIPLINE

(Unprofessional Conduct - Repeated Negligent Acts)

32. By reason of the matters set forth above in paragraphs 8 through 31, incorporated herein by this reference, Respondent is subject to disciplinary action under section 2234(c) of the Code in that she was repeatedly negligent in the care and treatment of C.H. The circumstances are as follows:

33. Respondent failed to appropriately monitor and survey the safety of C.H.'s home intravenous therapy (IV), which actions constitute negligence and which actions, in conjunction with other acts of negligence, constitute repeated negligent acts and is a violation of section 2234(c) of the Code.

34. Respondent failed to cancel the home intravenous antibiotics in September, 2012, when C.H. failed to have her laboratory tests and blood draws done prior to her appointment, or at all, which actions constitute negligence and which actions, in conjunction with other acts of negligence, constitute repeated negligent acts and is a violation of section 2234(c) of the Code.

35. Respondent failed to discontinue home Intravenous antibiotics following C.H.'s repeated failures to comply with the signed patient plan, which actions constitute negligence and which actions, in conjunction with other acts of negligence, constitute repeated negligent acts and is a violation of section 2234(c) of the Code.

THIRD CAUSE FOR DISCIPLINE

(Failure to Maintain Adequate and Accurate Records)

36. By reason of the matters set forth above in paragraphs 8 through 35, incorporated herein by this reference, Respondent is subject to disciplinary action under section 2266 of the

Code, in that she failed to maintain adequate and accurate medical records. The circumstances are as follows:

37. Respondent's records, or the lack thereof, indicate that she and/or her staff failed to communicate on a regular basis with nursing staff providing home health care monitoring to C.H., and/or C.H. herself as to her status.

PRAYER

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

1. Revoking or suspending Physician's and Surgeon's Certificate Number A 63631, issued to Chitra Bhakta, M.D.

2. Revoking, suspending or denying approval of her authority to supervise physician assistants, pursuant to section 3527 of the Code;

3. Ordering her to pay the Medical Board of California the costs of probation monitoring if placed on probation, and;

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

DATED: January 13, 2015

KIMBERLY KIRCHMEYER
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California

Complainant

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