

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

In the Matter of the Accusation Against: )  
)  
)

FOUAD GHALY, M.D. )

File No. 06-1999-95440

Physician's and Surgeon's )  
Certificate No. C 39588 )  
)

Respondent. )  
\_\_\_\_\_ )


DECISION

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

This Decision shall become effective at 5:00 p.m. on July 14, 2005.

IT IS SO ORDERED June 14, 2005.

MEDICAL BOARD OF CALIFORNIA

By:   
Ronald L. Morton, M.D., Chair  
Panel A  
Division of Medical Quality

1 BILL LOCKYER, Attorney General  
of the State of California  
2 ROBERT McKIM BELL, State Bar No. 56332  
Deputy Attorney General  
3 California Department of Justice  
300 So. Spring Street, Suite 1702  
4 Los Angeles, CA 90013  
Telephone: (213) 897-2556  
5 Facsimile: (213) 897-9395

6 Attorneys for Complainant

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

13 In the Matter of the Accusation Against:

14 FOUAD GHALY, M.D.  
31335 Marne Drive  
Rancho Palos Verdes, California 90275  
Physician & Surgeon Certificate No. C 39588,

15 Respondent.

Case No. 06-1999-95440

OAH No. L-2002010669

16 **STIPULATED SETTLEMENT AND**  
17 **DISCIPLINARY ORDER**

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

20 **PARTIES**

21 1. The Executive Director of the Medical Board of California ("Board") brought  
22 this action solely in his official capacity and is represented in this matter by Bill Lockyer, Attorney  
23 General of the State of California, by Robert McKim Bell, Supervising Deputy Attorney General.

24 2. Respondent Fouad Ghaly, M.D. ("Respondent") is represented in this  
25 proceeding by attorney Michael Miretsky of the law firm of McCurdy & Leibl, LLP, 12925 Riverside  
26 Drive, 3rd Floor, Sherman Oaks, California 91423.

27 3. On January 26, 1981, the Board issued Physician & Surgeon Certificate No.  
28 C 39588 to Dr. Ghaly. The Certificate was in full force and effect at all times relevant to the charges  
brought in Accusation No. 06-1999-95440.

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**JURISDICTION**

4. Accusation No. 06-1999-95440 was filed before the Board's Division of Medical Quality ("Division") and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on who filed a timely Notice of Defense contesting the Accusation. A copy of Accusation No. 06-1999-95440 is attached as Appendix 1, and is incorporated herein by reference.

**ADVISEMENT AND WAIVERS**

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 06-1999-95440. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

6. Respondent is fully aware of his 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 his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his 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.

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

**CULPABILITY**

8. Respondent admits that he failed to maintain adequate and accurate records relating to the provision of services to his patients and agrees that his Physician & Surgeon Certificate is subject to disciplinary action for unprofessional conduct under Business and Professions Code section 2234, subdivision (a). The other charges shall be deemed unproven. Respondent agrees to be bound by the Division's imposition of discipline as set forth in the Disciplinary Order below.

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CONTINGENCY

9. This stipulation shall be subject to approval by the Division of Medical Quality. Respondent understands and agrees that counsel for Complainant and the staff of the Medical Board of California may communicate directly with the Division regarding this stipulation and settlement, without notice to or participation by Respondent or his counsel. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Division considers and acts upon it. If the Division 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 Division shall not be disqualified from further action by having considered this matter.

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

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

DISCIPLINARY ORDER

**IT IS HEREBY ORDERED** that Physician & Surgeon Certificate No. C 39588 issued to Respondent Fouad Ghaly, M.D. is revoked. However, the revocation is stayed and Respondent is placed on probation for five (5) years on the following terms and conditions.

Within 15 days after the effective date of this decision the respondent shall provide the Division, or its designee, proof of service that respondent has served a true copy of this decision on the Chief of Staff or the Chief Executive Officer at every hospital where privileges or membership are extended to respondent or at any other facility where respondent engages in the practice of medicine and on the Chief Executive Officer at every insurance carrier where malpractice insurance coverage is extended to respondent.

1. PROHIBITED PRACTICE During probation, and for so long as he practices

1 medicine, respondent is prohibited from performing any cosmetic or plastic surgery procedures,  
2 including laser hair removal. Any violation of this term during the five-year period of probation  
3 shall constitute a violation of probation; thereafter, breach of Dr. Ghaly's covenant to no longer  
4 perform cosmetic or plastic surgery, including laser hair removal, shall constitute general  
5 unprofessional conduct within the meaning of section 2234 of the Business and Professions Code  
6 for which disciplinary action may be taken. At the earliest opportunity, respondent shall inform any  
7 applicable patients that he is unable to perform cosmetic or plastic surgery, including laser hair  
8 removal.

9           2.       MEDICAL RECORD KEEPING COURSE Within 60 calendar days of the  
10 effective date of this decision, respondent shall enroll in a course in medical record keeping, at  
11 respondent's expense, approved in advance by the Division or its designee. Failure to successfully  
12 complete the course during the first 6 months of probation is a violation of probation.

13           A medical record keeping course taken after the acts that gave rise to the charges in  
14 the Accusation, but prior to the effective date of the Decision may, in the sole discretion of the  
15 Division or its designee, be accepted towards the fulfillment of this condition if the course would  
16 have been approved by the Division or its designee had the course been taken after the effective date  
17 of this Decision.

18           Respondent shall submit a certification of successful completion to the Division or  
19 its designee not later than 15 calendar days after successfully completing the course, or not later than  
20 15 calendar days after the effective date of the Decision, whichever is later.

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

24           4.       QUARTERLY REPORTS Respondent shall submit quarterly declarations  
25 under penalty of perjury on forms provided by the Division, stating whether there has been  
26 compliance with all the conditions of probation.

27           5.       PROBATION SURVEILLANCE PROGRAM COMPLIANCE Respondent  
28 shall comply with the Division's probation surveillance program. Respondent shall, at all times, keep

1 the Division informed of his business and residence addresses which shall both serve as addresses  
2 of record. Changes of such addresses shall be immediately communicated in writing to the Division.  
3 Under no circumstances shall a post office box serve as an address of record, except as allowed by  
4 Business and Professions Code section 2021(b).

5 Respondent shall, at all times, maintain a current and renewed physician's and  
6 surgeon's license.

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

10 6. INTERVIEW WITH THE DIVISION, ITS DESIGNEE OR ITS  
11 DESIGNATED PHYSICIAN(S) Respondent shall appear in person for interviews with the  
12 Division, its designee or its designated physician(s) upon request at various intervals and with  
13 reasonable notice.

14 7. TOLLING FOR OUT-OF-STATE PRACTICE, RESIDENCE OR IN-STATE  
15 NON-PRACTICE In the event respondent should leave California to reside or to practice outside  
16 the State or for any reason should respondent stop practicing medicine in California, respondent shall  
17 notify the Division or its designee in writing within ten (10) days of the dates of departure and return  
18 or the dates of non-practice within California. Non-practice is defined as any period of time  
19 exceeding thirty (30) days in which respondent is not engaging in any activities defined in Sections  
20 2051 and 2052 of the Business and Professions Code. All time spent in an intensive training  
21 program approved by the Division or its designee shall be considered as time spent in the practice  
22 of medicine. A Board-ordered suspension of practice shall not be considered as a period of non-  
23 practice. Periods of temporary or permanent residence or practice outside California or of non-  
24 practice within California, as defined in this condition, will not apply to the reduction of the  
25 probationary order.

26 8. COMPLETION OF PROBATION Upon successful completion of probation,  
27 respondent's certificate shall be fully restored.

28 9. VIOLATION OF PROBATION If respondent violates probation in any

1 respect, the Division, after giving respondent notice and the opportunity to be heard, may revoke  
2 probation and carry out the disciplinary order that was stayed. If an accusation or petition to revoke  
3 probation is filed against respondent during probation, the Division shall have continuing jurisdiction  
4 until the matter is final, and the period of probation shall be extended until the matter is final.

5 10. COST RECOVERY The respondent is hereby ordered to reimburse the  
6 Division the amount of two thousand five hundred dollars (\$2,500) as the liquidated amount of the  
7 agency's costs of investigation and prosecution of the case against him. Such payment shall be made  
8 within ninety (90) days of the effective date of this decision. Failure to reimburse the Division's cost  
9 of investigation and prosecution shall constitute a violation of the probation order, unless the  
10 Division agrees in writing to payment by an installment plan because of financial hardship. The  
11 filing of bankruptcy by the respondent shall not relieve the respondent of his responsibility to  
12 reimburse the Division for its investigative and prosecution costs.

13 11. PROBATION COSTS Respondent shall pay the costs associated with  
14 probation monitoring each and every year of probation, as designated by the Division, which are  
15 currently set at two thousand four hundred eighty-eight dollars \$2,488.00, but may be adjusted on  
16 an annual basis. Such costs shall be payable to the Division of Medical Quality and delivered to the  
17 designated probation surveillance monitor no later than January 31 of each calendar year. Failure  
18 to pay costs within 30 days of the due date shall constitute a violation of probation.

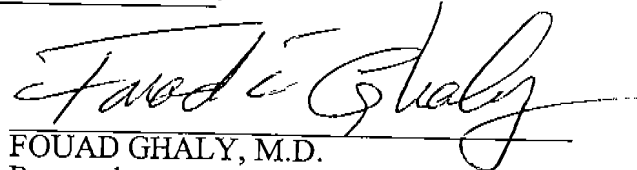
19 12. LICENSE SURRENDER Following the effective date of this decision, if  
20 respondent ceases practicing due to retirement, health reasons or is otherwise unable to satisfy the  
21 terms and conditions of probation, respondent may voluntarily tender his certificate to the Board.  
22 The Division reserves the right to evaluate the respondent's request and to exercise its discretion  
23 whether to grant the request, or to take any other action deemed appropriate and reasonable under  
24 the circumstances. Upon formal acceptance of the tendered license, respondent will not longer be  
25 subject to the terms and conditions of probation.

26  
27 ACCEPTANCE

28 I have carefully read the above Stipulated Settlement and Disciplinary Order and have

1 fully discussed it with my attorney, Michael Miretsky. I understand the stipulation and the effect it  
2 will have on my Physician & Surgeon Certificate. I enter into this Stipulated Settlement and  
3 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision  
4 and Order of the Division of Medical Quality, Medical Board of California.

5 DATED: 5/12/05

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8 FOUAD GHALY, M.D.  
9 Respondent

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

13 DATED: 5/12/05

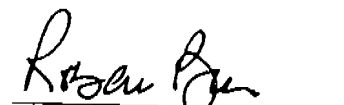
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16 MICHAEL MIRETSKY  
17 Attorney for Respondent

18 **ENDORSEMENT**

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

22 DATED: May 5, 2005.

23 BILL LOCKYER, Attorney General  
24 of the State of California

25   
26 ROBERT MCKIM BELL  
27 Deputy Attorney General

28 Attorneys for Complainant



**Appendix 1**

**Accusation No. 06-1999-95440**

1 BILL LOCKYER, Attorney General  
of the State of California  
2 E. A. JONES III, State Bar No. 71375  
Deputy Attorney General for  
3 Robert McKim Bell  
Deputy Attorney General  
4 California Department of Justice  
300 South Spring Street, Suite 1702  
5 Los Angeles, CA 90013  
Telephone: (213) 897-2543  
6 Facsimile: (213) 897-1071  
7 Attorneys for Complainant

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10 **BEFORE THE**  
**DIVISION OF MEDICAL QUALITY**  
**MEDICAL BOARD OF CALIFORNIA**  
11 **DEPARTMENT OF CONSUME AFFAIRS**  
**STATE OF CALIFORNIA**  
12

13 In the Matter of the Accusation Against:

Case No. 06-1999-95440

14 FOUAD GHALY, M.D.  
3250 Lomita Blvd., Suite 208  
15 Torrance, CA 90505

**A C C U S A T I O N**

16 Physician's and Surgeon's Certificate No.  
C39588

17 Respondent.  
18

19  
20 Complainant alleges:

21 **PARTIES**

- 22
- 23 1. Ron Joseph ("Complainant") brings this Accusation solely in his official  
24 capacity as the Executive Director of the Medical Board of California.
  - 25 2. On or about January 26, 1981, the Medical Board of California issued  
26 Physician's and Surgeon's Certificate Number C39588 to Fouad Ghaly, M.D. ("Respondent").  
27 The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the  
28 charges brought herein and will expire on October 31, 2002, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Division of Medical Quality, Medical Board of California, Department of Consumer Affairs, State of California (Division"), under the authority of the following sections of the Business and Professions Code ("Code"). Section 2227 of the Code provides that a licensee who is found guilty under the Medical Practice Act may have license revoked, suspended for a period not to exceed one year, placed on probation and required to pay the costs of probation monitoring, or such other action taken in relation to discipline as the Division deems proper.

4. Section 2234 of the code states 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, or assisting in or abetting the violation of, or conspiring to violate, any provision of this chapter.
- (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.
- (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.

5. Section 125.3 of the states, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.



1 to be performed prior to the procedure. There is no evidence that test patches were  
2 performed. On or about July 17, 1998, respondent performed sclerotherapy and laser  
3 treatment of patient R.T.'s right leg. Thereafter she was seen in follow-up on July 20,  
4 1998, July 25, 1998, July 28, 1998, and September 10, 1998. Patient failed to make her  
5 appointment for September 17, 1998. On or about July 28, 1998, patient R.T. was  
6 prescribed Soloquin for hyperpigmentation but the patient did not have the prescription  
7 filled. On or about September 10, 1998, a compounded prescription was filled and paid  
8 for by respondent. The July 17, 1998 procedure resulted in long term hyperpigmentation,  
9 dark hair and possible dermal scarring.

10 B. On or about June 22, 1998, respondent was grossly negligent when he failed  
11 to examine patient R.T. and determine her skin type in order to take necessary precautions  
12 to protect the patient from untoward results.

13 C. On or about July 17, 1998, respondent was grossly negligent when he failed  
14 to perform a laser treatment test of the patient's healing in an area where scarring could  
15 be hidden if it occurred.

16 D. On or about July 17, 1998, respondent was grossly negligent when he  
17 performed sclerotherapy and laser treatment of patient R.T.'s right leg without adequate  
18 training and experience.

19 Patient R.I.

20 E. In or around August 1998, patient R.I. presented to respondent for a routine  
21 physical exam and check-up. Respondent advised patient R.I. that respondent could  
22 remove hair from patient R.I.'s face. Thereafter respondent performed a hair removal  
23 procedure on patient R.I.'s face. Respondent's procedure resulted in areas of second  
24 degree and deep second degree burns on patient R.I.'s right face, right neck and chin.  
25 Respondent failed to maintain medical records regarding patient R.I.

26 F. In or around August 1998, respondent was grossly negligent when he failed  
27 to maintain medical records on patient R.I.

28 G. In or around August 1998, respondent was grossly negligent when he

1 performed a hair removal procedure on the face of patient R.I. without adequate training  
2 and experience.

3 Patient T.C.

4 H. On or about November 3, 1998, patient T.C. presented to respondent seeking  
5 a consultation for facial cosmetic surgery. Respondent's records indicate that patient T.C.  
6 was on a skin bleaching protocol but does not indicate who started it or when. There is  
7 no evidence of an initial history and physical being performed on patient T.C. There is no  
8 evidence of a preoperative screen before her laser resurfacing. On or about November 6,  
9 1998, respondent performed a laser resurfacing procedure on patient T.C.'s face. The  
10 operative note indicates that the patient was given pre medication (the type, dosage and  
11 route of administration are not noted) and Versed intra-muscularly. There is not  
12 anesthesia or monitoring record indicating that vital signs were taken while the patient  
13 was under sedation.

14 I. The office records of respondent for patient T.C. indicate that respondent  
15 started patient T.C. on a diet regimen but no history and physical relating to that regimen  
16 is present. There is no diagnostic work up relating to any possible metabolic cause for the  
17 patient's alleged excessive weight. The office record of patient T.C. regarding the weight  
18 regimen reflects that on numerous occasions neither her weight nor blood pressure was  
19 taken.

20 J. Respondent saw patient T.C. in follow-up for the November 6, 1998 surgery  
21 on November 9, 1998, November 11, 1998, November 16, 1998, December 15, 1998,  
22 December 22, 1998, January 22, 1999, March 1, 1999, and April 27, 1999. Respondent's  
23 records did not indicate the deep burns or delayed healing that patient T.C. was  
24 experiencing until the March 1999 visit. On the April 27, 1999 visit, patient T.C.'s scars  
25 were injected with Celestone. The records contain no other indication of treatment of the  
26 scars.

27 K. Patient T.C. was prescribed a narcotic on or about January 21, 1999. A  
28 nurse's note in respondent's office chart reflects that patient T.C. was prescribed Vicodin

1 ES (a narcotic) on or about March 3, 1999. A further nurse note indicates that the patient  
2 was prescribed Vicodin ES 100# on or about March 25, 1999 because the patient was to  
3 have surgery on April 2, 1999. The note does not indicate the type of surgery. The chart  
4 does not document any surgery performed by respondent on patient T.C. in April 1999  
5 nor is there any indication that respondent saw the patient between January 22, 1999 and  
6 April 27, 1999. There is no evidence in the chart justifying the usage of the narcotic  
7 medication.

8 L. On or about November 3, 1998, respondent was grossly negligent when he  
9 failed to perform an initial history and physical on patient T.C.

10 M. On or about November 3, 1998, respondent was grossly negligent when he  
11 failed to perform a pre-operative screen before laser surgery on patient T.C.

12 N. On or about November 6, 1998, respondent was grossly negligent when he  
13 failed to maintain adequate records of the anesthesia and/or monitor patient T.C. during  
14 the laser facial surgery performed on patient T.C.

15 O. On or about November 6, 1998, respondent was grossly negligent when he  
16 performed laser facial resurfacing on patient T.C. without adequate training and  
17 experience in such surgery..

18 P. On or about December 29, 1998, and thereafter, respondent was grossly  
19 negligent when he failed to perform an initial history and physical and diagnostic work-up  
20 on patient T.C. in connection with the weight control regimen for patient T.C.

21 Q. On or about December 29, 1998, and thereafter, respondent was grossly  
22 negligent when he failed to properly monitor patient T.C. in connection with the weight  
23 control regimen for patient T.C.

24 R. On or about March 3, 1999, and March 25, 1999, respondent was grossly  
25 negligent when he excessively prescribed narcotic medications to patient T.C.

26 Patient C.M.

27 S. On or about May 12, 1998, respondent performed a bilateral  
28 transconjunctival blepharoplasty using CO2 laser under local anesthesia at his office on

1 patient C.M., a fifty year old female employee of respondent. Respondent's medical chart  
2 for patient C.M. does not contain patient information such as allergies or previous or  
3 current medical conditions. It does not contain a pre-surgical evaluation of the patient's  
4 heart, lungs or eyelids. There are no post-operative notes. There is no operative note or  
5 dictation.

6 T. On or about May 26, 1998, patient C.M. complained to respondent of  
7 diplopia.

8 U. On or about August 3, 1998, respondent was seen and diagnosed as having a  
9 transection of the left inferior rectus muscle by Dr. K.S., M.D., who referred patient C.M.  
10 to Dr. A.R., M.D., at UCLA Medical Center for corrective surgery on February 24, 1999.  
11 Dr. A.R., M.D. has performed three strabismus operations to correct the resultant muscle  
12 imbalance in patient C.M.'s eye.

13 V. On or about May 12, 1998, respondent was grossly negligent when he  
14 transected the inferior rectus muscle of patient C.M. during the course of a bilateral  
15 transconjunctival blepharoplasty.

16 W. On or about May 12, 1998, and thereafter, respondent was grossly negligent  
17 when he failed to maintain adequate medical records of the care and treatment proved to  
18 patient C.M.

19 SECOND CAUSE FOR DISCIPLINE

20 (Repeated Negligent Acts)

21 8. Respondent is subject to disciplinary action under section 2234,  
22 subdivision (c) of the Code in that respondent committed repeated negligent acts in the care and  
23 treatment of patients. The circumstances are as follows:

24 A. The facts and circumstances alleged in paragraph 7 above are incorporated  
25 here as if fully set forth.

26 Patient R.T.

27 B. On or about June 22, 1998, respondent was negligent when he failed to  
28 examine patient R.T. and determine her skin type in order to take necessary precautions to



1 protect the patient from untoward results.

2 C. On or about July 17, 1998, respondent was negligent when he failed to  
3 perform a laser treatment test of the patient's healing in an area where scarring could be  
4 hidden if it occurred.

5 D. On or about July 17, 1998, respondent was negligent when he performed  
6 sclerotherapy and laser treatment of patient R.T.'s right leg without adequate training and  
7 experience.

8 Patient R.I.

9 E. In or around August 1998, respondent was negligent when he failed to  
10 maintain medical records on patient R.I.

11 F. In or around August 1998, respondent was negligent when he performed a  
12 hair removal procedure on the face of patient R.I. without adequate training and  
13 experience.

14 Patient T.C.

15 G. On or about November 3, 1998, respondent was negligent when he failed to  
16 perform an initial history and physical on patient T.C.

17 H. On or about November 3, 1998, respondent was negligent when he failed to  
18 perform a pre-operative screen before laser surgery on patient T.C.

19 I. On or about November 6, 1998, respondent was negligent when he failed to  
20 maintain adequate records of the anesthesia and/or monitor patient T.C. during the laser  
21 facial surgery performed on patient T.C.

22 J. On or about November 6, 1998, respondent was negligent when he  
23 performed laser facial resurfacing on patient T.C. without adequate training and  
24 experience in such surgery..

25 K. On or about December 29, 1998, and thereafter, respondent was negligent  
26 when he failed to perform an initial history and physical and diagnostic work-up on  
27 patient T.C. in connection with the weight control regimen for patient T.C.

28 L. On or about December 29, 1998, and thereafter, respondent was negligent

1 when he failed to properly monitor patient T.C. in connection with the weight control  
2 regimen for patient T.C.

3 M. On or about March 3, 1999, and March 25, 1999, respondent was negligent  
4 when he excessively prescribed narcotic medications to patient T.C.

5 Patient C.M.

6 N. On or about May 12, 1998, respondent was negligent when he transected the  
7 inferior rectus muscle of patient C.M. during the course of a bilateral transconjunctival  
8 blepharoplasty.

9 O. On or about May 12, 1998, and thereafter, respondent was negligent when  
10 he failed to maintain adequate medical records of the care and treatment provided to patient  
11 C.M.

12 Patient C.C.

13 P. On or about September 7, 1999, patient C.C., a 52 year old male, presented  
14 to respondent with chief complaints of low energy and low sex drive. Patient C.C. filled  
15 out a questionnaire on diet, exercise and emotions and indicated a life goal of being the  
16 way he was physically at age 25. Respondent examined the patient and ordered extensive  
17 blood testing. Respondent saw patient C.C. on September 23, 1999 to review the lab  
18 results. Respondent concluded that patient C.C. was depressed and was suffering from  
19 chronic fatigue syndrome. Respondent began injecting patient C.C. with Human Growth  
20 Hormone (HGH). Respondent did not refer patient C.C. to an endocrinologist before  
21 starting the treatment with HGH. Respondent also started the patient on trazadone, an  
22 antidepressant. The medical record does not indicate that respondent attempted to rule  
23 out other diagnoses that may have been reflected in the lab reports and/or history taken on  
24 patient C.C. Respondent did not acknowledge or pursue other abnormalities found in the  
25 lab results: the elevated random glucose and the elevated transaminase and bilirubin.

26 Q. On or about September 23, 1999, and thereafter, respondent was negligent  
27 when he prescribed an unusual treatment (HGH) for chronic fatigue and depression  
28 without adequate work up or offering more conventional options.

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R. On or about September 23, 1999, and thereafter, respondent was negligent when he failed to pursue or refer for further evaluation laboratory abnormalities which could lead do (or rule out) diagnoses that may have explained the presenting symptoms.

THIRD CAUSE FOR DISCIPLINE

(Incompetence)

9. Respondent is subject to disciplinary action under section 2234, subdivision (d) of the Code in that respondent was incompetent in the care and treatment of patients. The circumstances are as follows:

A. The facts and circumstances alleged in paragraphs 7 and 8 above are incorporated here as if fully set forth.

FOURTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct)

10. Respondent is subject to disciplinary action under section 2234, subdivision (a) of the Code in that respondent committed acts of unprofessional conduct in the care and treatment of patients. The circumstances are as follows:

A. The facts and circumstances alleged in paragraphs 7, 8 and 9 above are incorporated here as if fully set forth.

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1 PRAYER

2 WHEREFORE, Complainant requests that a hearing be held on the matters herein  
3 alleged, and that following the hearing, the Division issue a decision:

4 1. Revoking or suspending Physician's and Surgeon's Certificate Number  
5 C39588, issued to Fouad Ghaly, M.D.;

6 2. Revoking, suspending or denying approval of Fouad Ghaly, M.D.'s  
7 authority to supervise physician's assistants, pursuant to section 3527 of the Code;

8 3. Ordering Fouad Ghaly, M.D. to pay the Division the reasonable costs of  
9 the investigation and enforcement of this case, and, if placed on probation, the costs of probation  
10 monitoring;

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

12 DATED: September 5, 2001.

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16 RON JOSEPH  
17 Executive Director  
18 Medical Board of California  
19 State of California  
20 Complainant  
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