

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

In the Matter of the Accusation Against:)
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)
)
)
JAMES GREGORY HENDRICKS, M.D.) Case No. 12-2011-217067
)
Physician's and Surgeon's)
Certificate No. G 84825)
)
Respondent.)
_____)

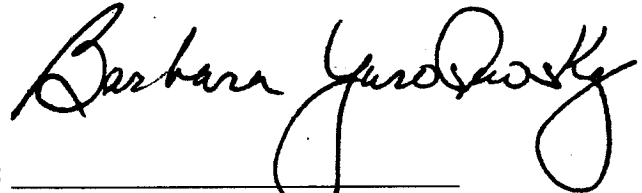
DECISION AND ORDER

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

This Decision shall become effective at 5:00 p.m. on December 5, 2013

IT IS SO ORDERED November 5, 2013.

MEDICAL BOARD OF CALIFORNIA



By: _____
Barbara Yaroslavsky, Chair
Panel A

1 KAMALA D. HARRIS
Attorney General of California
2 JOSE R. GUERRERO
Supervising Deputy Attorney General
3 DAVID CARR
Deputy Attorney General
4 State Bar No. 131672
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 703-5538
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Attorneys for Complainant

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

10
11 In the Matter of the Accusation Against:
12 **JAMES GREGORY HENDRICKS, M.D.**
13 Respondent.

Case No. 12-2011-217067
OAH No. 2013050853

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

14
15
16 In the interest of a prompt and speedy settlement of this matter, consistent with the public
17 interest and the responsibility of the Medical Board of California of the Department of Consumer
18 Affairs, the parties hereby agree to the following Stipulated Settlement and Disciplinary Order
19 which will be submitted to the Board for approval and adoption as the final disposition of the
20 Accusation.

21 PARTIES

22 1. Kimberly Kirchmeyer (Complainant) is the Interim Executive Officer of the
23 Medical Board of California. She brought this action solely in her official capacity and is
24 represented in this matter by Kamala D. Harris, Attorney General of the State of California, by
25 David Carr, Deputy Attorney General.
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28

1 CULPABILITY

2 9. Respondent understands and agrees that the charges and allegations in Accusation
3 No. 12-2011-217067, if proven at a hearing, constitute cause for imposing discipline upon his
4 Physician's and Surgeon's certificate.

5 10. For the purpose of resolving the Accusation without the expense and uncertainty
6 of further proceedings, Respondent does not contest that, at an administrative hearing,
7 Complainant could establish a *prima facie* case with respect to the charges in the Accusation.
8 Respondent hereby gives up his right to contest those charges.

9 11. Respondent agrees that his Physician's and Surgeon's certificate is subject to
10 discipline and he agrees to be bound by the Board's probationary terms as set forth in the
11 Disciplinary Order below.

12 CIRCUMSTANCES IN MITIGATION

13 12. Respondent James Gregory Hendricks, M.D. has never been the subject of any
14 license disciplinary action. He is admitting responsibility at an early stage in the proceedings.

15 RESERVATION

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

20 CONTINGENCY

21 14. This stipulation shall be subject to approval by the Medical Board of California.
22 Respondent understands and agrees that counsel for Complainant and the staff of the Medical
23 Board of California may communicate directly with the Board regarding this stipulation and
24 settlement, without notice to or participation by Respondent or his counsel. By signing the
25 stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek
26 to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails
27 to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary
28 Order shall be of no force or effect, except for this paragraph; it shall be inadmissible in any legal

1 action between the parties; and the Board shall not be disqualified from further action by having
2 considered this matter.

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

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

10 DISCIPLINARY ORDER

11 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. G94925, issued
12 to Respondent James Gregory Hendricks, M.D., is revoked. However, the revocation is stayed
13 and Respondent is placed on probation for four (4) years on the following terms and conditions:

14 17. ALCOHOL - ABSTAIN FROM USE. Respondent shall abstain completely from
15 the use of products or beverages containing alcohol. If Respondent has a confirmed positive
16 biological fluid test for alcohol, Respondent shall receive a notification from the Board or its
17 designee to immediately cease the practice of medicine. The Respondent shall not resume the
18 practice of medicine until a final decision on an accusation and/or a petition to revoke probation
19 is rendered. An accusation and/or petition to revoke probation shall be filed by the Board within
20 15 days of the notification to cease practice. If the Respondent requests a hearing on the
21 accusation and/or petition to revoke probation, the Board shall provide the Respondent with a
22 hearing within 30 days of the request, unless the Respondent stipulates to a later hearing. A
23 decision shall be received from the Administrative Law Judge or the Board within 15 days unless
24 good cause can be shown for the delay. The cessation of practice shall not apply to the reduction
25 of the probationary time period. If the Board does not file an accusation or petition to revoke
26 probation within 15 days of the issuance of the notification to cease practice or does not provide
27 Respondent with a hearing within 30 days of such a request, the notification of cease practice
28 shall be dissolved.

1 18. BIOLOGICAL FLUID TESTING. Respondent shall immediately submit to
2 biological fluid testing by First Lab, at Respondent's expense, upon request of the Board or its
3 designee. "Biological fluid testing" may include, but is not limited to, urine, blood, breathalyzer,
4 hair follicle testing, or similar drug screening approved by the Board or its designee. Respondent
5 shall contract with First Lab or other service approved in advance by the Board or its designee
6 that will conduct random, observed biological fluid testing. The contract shall require results of
7 the tests to be transmitted by the laboratory or service directly to the Board or its designee within
8 four hours of the results becoming available. Respondent shall maintain this laboratory or service
9 contract during the period of probation. A certified copy of any laboratory test result may be
10 received in evidence in any proceedings between the Board and Respondent. If Respondent fails
11 to cooperate in a random biological fluid testing program within the specified time frame,
12 Respondent shall receive a notification from the Board or its designee to immediately cease the
13 practice of medicine. The Respondent shall not resume the practice of medicine until final
14 decision is rendered on an accusation and/or a petition to revoke probation. An accusation and/or
15 petition to revoke probation shall be filed by the Board within 15 days of the notification to cease
16 practice. If the Respondent requests a hearing on the accusation and/or petition to revoke
17 probation, the Board shall provide the Respondent with a hearing within 30 days of the request,
18 unless the Respondent stipulates to a later hearing. A decision shall be received from the
19 Administrative Law Judge or the Board within 15 days unless good cause can be shown for the
20 delay. The cessation of practice shall not apply to the reduction of the probationary time period.
21 If the Board does not file an accusation or petition to revoke probation within 15 days of the
22 issuance of the notification to cease practice or does not provide Respondent with a hearing
23 within 30 days of such a request, the notification of cease practice shall be dissolved.

24 19. PROFESSIONALISM PROGRAM (ETHICS COURSE). Within 60 calendar
25 days of the effective date of this Decision, Respondent shall enroll in a professionalism program,
26 that meets the requirements of Title 16, California Code of Regulations (CCR) section 1358.
27 Respondent shall participate in and successfully complete that program. Respondent shall
28 provide any information and documents that the program may deem pertinent. Respondent shall

1 successfully complete the classroom component of the program not later than six (6) months after
2 Respondent's initial enrollment, and the longitudinal component of the program not later than the
3 time specified by the program, but no later than one (1) year after attending the classroom
4 component. The professionalism program shall be at Respondent's expense and shall be in
5 addition to the Continuing Medical Education (CME) requirements for renewal of licensure.
6 A professionalism program taken after the acts that gave rise to the charges in the Accusation, but
7 prior to the effective date of the Decision may, in the sole discretion of the Board or its designee,
8 be accepted towards the fulfillment of this condition if the program would have been approved by
9 the Board or its designee had the program been taken after the effective date of this Decision.
10 Respondent shall submit a certification of successful completion to the Board or its designee not
11 later than 15 calendar days after successfully completing the program or not later than 15 calendar
12 days after the effective date of the Decision, whichever is later.

13 20. PSYCHOTHERAPY. Within 60 calendar days of the effective date of this
14 Decision, Respondent shall submit to the Board or its designee for prior approval the name and
15 qualifications of a California-licensed board certified psychiatrist or a licensed psychologist in
16 Napa County who has a doctoral degree in psychology and at least five years of postgraduate
17 experience in the diagnosis and treatment of emotional and mental disorders. Upon approval,
18 Respondent shall undergo and continue psychotherapy treatment, including any modifications to
19 the frequency of psychotherapy, until the Board or its designee deems that no further
20 psychotherapy is necessary upon recommendation of the treating psychotherapist.

21 The psychotherapist shall consider any information provided by the Board or its designee
22 and any other information the psychotherapist deems relevant and shall furnish a written
23 evaluation report to the Board or its designee. Respondent shall cooperate in providing the
24 psychotherapist any information and documents that the psychotherapist may deem pertinent.
25 Respondent shall have the treating psychotherapist submit quarterly status reports to the Board or
26 its designee. The Board or its designee may require Respondent to undergo psychiatric
27 evaluations by a Board-appointed board certified psychiatrist. If, prior to the completion of
28 probation, Respondent is found to be mentally unfit to resume the practice of medicine without

1 restrictions, the Board shall retain continuing jurisdiction over Respondent's license and the
2 period of probation shall be extended until the Board determines that Respondent is mentally fit
3 to resume the practice of medicine without restrictions. Respondent shall pay the cost of all
4 psychotherapy and psychiatric evaluations.

5 STANDARD CONDITIONS

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

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

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

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

21 4. QUARTERLY DECLARATIONS. Respondent shall submit quarterly
22 declarations under penalty of perjury on forms provided by the Board, stating whether there has
23 been compliance with all the conditions of probation.

24 Respondent shall submit quarterly declarations not later than 10 calendar days after the
25 end of the preceding quarter.

26 ///

27 ///

1 5. GENERAL PROBATION REQUIREMENTS.

2 Compliance with Probation Unit

3 Respondent shall comply with the Board's probation unit and all terms and conditions of
4 this Decision.

5 Address Changes

6 Respondent shall, at all times, keep the Board informed of Respondent's business and
7 residence addresses, email address (if available), and telephone number. Changes of such
8 addresses shall be immediately communicated in writing to the Board or its designee. Under no
9 circumstances shall a post office box serve as an address of record, except as allowed by Business
10 and Professions Code section 2021(b).

11 Place of Practice

12 Respondent shall not engage in the practice of medicine in Respondent's or any patient's
13 place of residence unless the patient resides in a skilled nursing facility or other similar licensed
14 facility.

15 License Renewal

16 Respondent shall maintain a current and renewed California physician's and surgeon's
17 license.

18 Travel or Residence Outside California

19 Respondent shall immediately inform the Board or its designee, in writing, of travel to any
20 areas outside the jurisdiction of California which lasts, or is contemplated to last, more than thirty
21 (30) calendar days. In the event Respondent should leave the State of California to reside or to
22 practice Respondent shall notify the Board or its designee in writing 30 calendar days prior to the
23 dates of departure and return.

24 6. INTERVIEW WITH THE BOARD OR ITS DESIGNEE. Respondent shall be
25 available in person upon request for interviews either at Respondent's place of business or at the
26 probation unit office, with or without prior notice throughout the term of probation.

27 7. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board
28 or its designee in writing within 15 calendar days of any periods of non-practice lasting more than

1 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is
2 defined as any period of time Respondent is not practicing medicine in California as defined in
3 Business and Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month
4 in direct patient care, clinical activity or teaching, or other activity as approved by the Board. All
5 time spent in an intensive training program which has been approved by the Board or its designee
6 shall not be considered non-practice. Practicing medicine in another state of the United States or
7 Federal jurisdiction while on probation with the medical licensing authority of that state or
8 jurisdiction shall not be considered non-practice. A Board-ordered suspension of practice shall
9 not be considered as a period of non-practice.

10 In the event Respondent's period of non-practice while on probation exceeds 18 calendar
11 months, Respondent shall successfully complete a clinical training program that meets the criteria
12 of Condition 18 of the current version of the Board's "Manual of Model Disciplinary Orders and
13 Disciplinary Guidelines" prior to resuming the practice of medicine.

14 Respondent's period of non-practice while on probation shall not exceed two (2) years.

15 Periods of non-practice will not apply to the reduction of the probationary term.

16 Periods of non-practice will relieve Respondent of the responsibility to comply with the
17 probationary terms and conditions with the exception of this condition and the following terms
18 and conditions of probation: Obey All Laws; and General Probation Requirements.

19 8. COMPLETION OF PROBATION. Respondent shall comply with all financial
20 obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the
21 completion of probation. Upon successful completion of probation, Respondent's certificate shall
22 be fully restored.

23 9. VIOLATION OF PROBATION. Failure to fully comply with any term or
24 condition of probation is a violation of probation. If Respondent violates probation in any
25 respect, the Board, after giving Respondent notice and the opportunity to be heard, may revoke
26 probation and carry out the disciplinary order that was stayed. If an accusation or petition to
27 revoke probation or an interim suspension order is filed against Respondent during probation, the
28

1 Board shall have continuing jurisdiction until the matter is final and the period of probation shall
2 be extended until the matter is final.

3 10. LICENSE SURRENDER. Following the effective date of this Decision, if
4 Respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy
5 the terms and conditions of probation, Respondent may request to surrender his or her license.
6 The Board reserves the right to evaluate Respondent's request and to exercise its discretion in
7 determining whether or not to grant the request, or to take any other action deemed appropriate
8 and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent
9 shall within 15 calendar days deliver Respondent's wallet and wall certificate to the Board or its
10 designee and Respondent shall no longer practice medicine. Respondent will no longer be subject
11 to the terms and conditions of probation. If Respondent re-applies for a medical license, the
12 application shall be treated as a petition for reinstatement of a revoked certificate.

13 11. PROBATION MONITORING COSTS. Respondent shall pay the costs associated
14 with probation monitoring each and every year of probation, as designated by the Board. Current
15 costs of probation monitoring, which may be adjusted on an annual basis, are \$4,080. Such costs
16 shall be payable to the Medical Board of California and delivered to the Board or its designee no
17 later than January 31 of each calendar year.

18 ACCEPTANCE

19 I have carefully read the above Stipulated Settlement and Disciplinary Order and have
20 fully discussed it with my attorney, Sharon Barclay Kime. I understand the stipulation and the
21 effect it will have on my Physician's and Surgeon's certificate. I enter into this Stipulated
22 Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be
23 bound by the Decision and Order of the Medical Board of California.

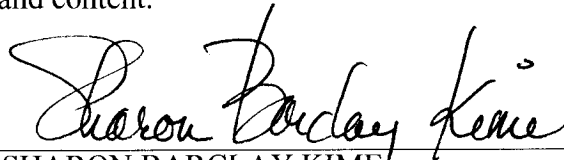
24
25 DATED: _____

26 
27 _____
28 JAMES GREGORY HENDRICKS, M.D.
Respondent

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

4
5 DATED:

9.6.13


SHARON BARCLAY KIME
Attorney for Respondent

6
7
8 ENDORSEMENT

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

12 Dated:

Sept. 23, 2013

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
JOSE R. GUERRERO
Supervising Deputy Attorney General


DAVID CARR
Deputy Attorney General
Attorneys for Complainant

Exhibit A

Accusation No. 12-2011-217067

1 KAMALA D. HARRIS
Attorney General of California
2 JOSE R. GUERRERO
Supervising Deputy Attorney General
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4 State Bar No. 131672
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7 *Attorneys for Complainant*

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO December 19, 2012
BY: [Signature] ANALYST

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

11 In the Matter of the Accusation Against:

12 **JAMES GREGORY HENDRICKS, M.D.**

13 3520 Beard Road,
14 Napa, CA 94558

15 Physician's and Surgeon's Certificate
16 No. G84825,

17 Respondent.

Agency Case No. 12-2011-217067

OAH Case No.

ACCUSATION

18
19
20 Complainant alleges:

21 **PARTIES**

22
23 1. Linda K. Whitney ("Complainant") brings this Accusation solely in her official
24 capacity as the Executive Director of the Medical Board of California.

25 2. On or about September 4, 1998, the Medical Board of California issued
26 Physician's and Surgeon's Certificate Number G84825 to James Gregory Hendricks, M.D.
27 ("Respondent"). This Certificate will expire December 31, 2013, unless renewed.

28 ///

1 **JURISDICTION**

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

5 4. Section 2227 of the Code provides that a licensee who is found guilty under the
6 Medical Practice Act may have his or her license revoked, suspended for a period not to exceed
7 one year, placed on probation and required to pay the costs of probation monitoring, or such other
8 action taken in relation to discipline as the Board¹ deems proper.

9 5. Section 2234 of the Code provides in pertinent part that the Board “shall take
10 action against any licensee who is charged with unprofessional conduct. In addition to other
11 provisions of this article, unprofessional conduct includes, but is not limited to, the following:

12 “(a) Violating . . . any provision of this chapter.

13 “...”

14 6. Section 2239 states, in relevant part:

15
16 “(a) The use or prescribing for or administering to himself
17 or herself, of any controlled substance; or the use of any of
18 the dangerous drugs specified in Section 4022, or of alcoholic
19 beverages, to the extent, or in such a manner as to be dangerous
20 or injurious to the licensee, or to any other person or to the
21 public, or to the extent that such use impairs the ability of the
22 licensee to practice medicine safely...constitutes unprofessional
23 conduct.”

24 **FACTS**

25 7. On or about July 12, 2011, at about 11:55 p.m. an officer of the California
26 Highway Patrol saw a car on State Route 221 near Napa traveling approximately 20 miles per
27 hour faster than the posted speed limit of 40 miles per hour and weaving within the lane. The

28 ¹ Effective January 1, 2008, the Legislature abolished the divisions of the Medical Board of California. Under Business and Professions Code section 2002, any reference to the “Division of Medical Quality” or the “Division of Licensing” in the Medical Practice Act (Business and Professions Code section 2000 *et seq*) or any other provision of law now refers to the Medical Board.

1 officer stopped the car and spoke with the driver, Respondent. Based on his training and
2 experience, the officer believed Respondent was under the influence of alcohol. Respondent's
3 performance on a series of field sobriety tests administered by the officer supported that
4 conclusion. Respondent thereafter consented to a blood draw for testing, which revealed
5 Respondent's blood alcohol at about 12:40 a.m. on July 13 to be 0.17%. Respondent was
6 promptly arrested for driving under the influence.

7 8. On or about August 17, 2011, Criminal Complaint No. CR158193 was filed in Napa
8 County Superior Court, charging Respondent with misdemeanor violations of Vehicle Code
9 sections 23152(a) (Driving Under the Influence of Alcohol or Drugs) and 23152(b) (Driving With
10 an 0.08% or Higher Blood Alcohol), and violation of the specific allegation of Vehicle Code
11 section 23578 (Driving With a 0.15% or More Blood Alcohol).

12 9. On or about November 30, 2011, Respondent, appearing through his attorney, entered
13 a no contest plea to the alleged violations of Vehicle Code sections 23152(b) and 23578.
14 Respondent was sentenced that day to serve 4 days in custody, to pay a fine, and to comply with
15 standard conditions of probation for 5 years.

16 10. After receiving notice of Respondent's arrest, the Medical Board initiated an
17 investigation of the circumstances of the incident. On December 13, 2011, Board investigators
18 interviewed Respondent at his medical office in Napa. Respondent related the details of his
19 arrest and conviction. Respondent informed the investigators that he has privileges at Queen of
20 the Valley Hospital in Napa, and is on call there one weekend per month. Respondent stated that
21 he was scheduled to work July 13, 2011, the day following his arrest, but said he was not on call
22 the night of his arrest. When asked by the investigators if he had drunk any alcohol the night
23 before this interview, Respondent said he had consumed a glass and half of wine the preceding
24 night. At the investigators' request Respondent provided a urine sample for testing. Respondent
25 then amended his statement regarding his alcohol consumption the preceding night, saying that he
26 had drunk 2 or 3 glasses of wine. By a telephone call the following day to the investigators,
27 Respondent corrected his earlier denial that he was on call the night of July 12 when he was
28 arrested.

1 11. Documentation obtained by the Medical Board investigators from Queen of the
2 Valley Hospital in Napa confirmed that Respondent was on call July 12, 2011, the night of his
3 arrest. That hospital record also revealed that Respondent was again on call the night of
4 December 12, 2011, the night preceding his interview with the investigators when Respondent
5 had acknowledged drinking 2 or 3 glasses of wine.

6 **CAUSE FOR DISCIPLINE**
7 (Excessive Use of Alcohol)

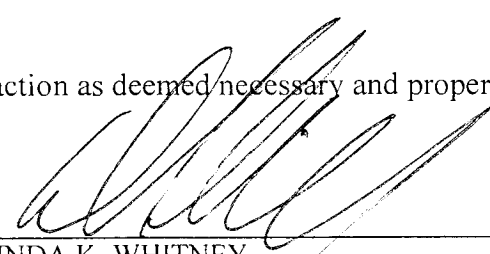
8 12. Respondent's license is subject to disciplinary action for unprofessional conduct
9 by violation of section 2239(a), in that he consumed a quantity of alcohol sufficient to produce a
10 blood alcohol reading of 0.17% while he was on hospital call and that he also drank 2 or 3 glasses
11 of wine on another night when he was on call. Respondent was therefore using alcohol in a
12 manner so as to be dangerous to the public or to impair his ability to practice medicine safely.

13 **PRAYER**

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

- 16 1. Revoking or suspending Physician's and Surgeon's Certificate Number G84825,
17 issued to James Gregory Hendricks, M.D.;
- 18 2. Revoking, suspending, or denying approval of James Gregory Hendricks, M.D.'s
19 authority to supervise physician assistants, pursuant to section 3527 of the Code;
- 20 3. Ordering James Gregory Hendricks, M.D., if placed on probation, to pay the costs
21 of probation monitoring; and
- 22 4. Taking such other and further action as deemed necessary and proper.

23
24 DATED: December 10, 2012


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

25
26
27 *Complainant*