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

In the Matter of the Accusation and
Petition to Revoke Probation Against:

ROBERT MITCHELL KARNS, M.D.
Certificate No. G-7277

No: D1-1998-86962

Respondent

DECISION

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Division of Medical Quality as its Decision in the above-entitled matter.

This Decision shall become effective at 5:00 p.m. on January 5, 2004

IT IS SO ORDERED December 4, 2003

By: RONALD WENDER, M.D.
Chair - Panel B
Division of Medical Quality
BEFORE THE
DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the First Amended and
Supplemental Accusation and Petition to Revoke
Probation Against:

ROBERT MITCHELL KARNS, M.D.
8920 Wilshire Blvd., Suite 321
Beverly Hills, CA 90211

Physician's & Surgeon's Certificate No. G 7277
Respondent.

In the interest of a prompt and speedy settlement of this matter, consistent with the
public interest and the responsibility of the Division of Medical Quality, Medical Board of
California of the Department of Consumer Affairs, the parties hereby agree to the following
Stipulated Settlement and Disciplinary Order which will be submitted to the Division for
approval and adoption as the final disposition of the First Amended and Supplemental
Accusation and Petition to Revoke Probation

PARTIES

1. Ron Joseph (Complainant) is the Executive Director of the Medical Board
of California. He brought this action solely in his official capacity and is represented in this
matter by Bill Lockyer, Attorney General of the State of California, by E. A. Jones III, Deputy
Attorney General.
2. Respondent Robert Mitchell Karns, M.D. (Respondent) is represented in this proceeding by attorney Robert B. Zaro, whose address is Law Offices of Robert Zaro, 915 L Street, Suite 1240, Sacramento, CA 95814.

3. On or about October 26, 1961, the Medical Board of California issued Physician's & Surgeon's Certificate No. G 7277 to Robert Mitchell Karns, M.D. (Respondent). The Certificate was in full force and effect at all times relevant to the charges brought in First Amended and Supplemental Accusation and Petition to Revoke Probation No. D1-1998-086962 and will expire on November 30, 2004, unless renewed.

JURISDICTION

4. First Amended and Supplemental Accusation and Petition to Revoke Probation No. D1-1998-086962 was filed before the Division of Medical Quality (Division) for the Medical Board of California, Department of Consumer Affairs, and is currently pending against Respondent. The First Amended and Supplemental Accusation and Petition to Revoke Probation and all other statutorily required documents were properly served on Respondent on May 5, 2003. Respondent timely filed his Notice of Defense contesting the First Amended and Supplemental Accusation and Petition to Revoke Probation. A copy of First Amended and Supplemental Accusation and Petition to Revoke Probation No. D1-1998-086962 is attached as exhibit A and incorporated herein by reference.

ADVICE AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in First Amended and Supplemental Accusation and Petition to Revoke Probation No. D1-1998-086962. 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 First Amended and Supplemental Accusation and Petition to Revoke Probation; 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 understands and agrees that the charges and allegations in First Amended and Supplemental Accusation and Petition to Revoke Probation No. D1-1998-086962, if proven at a hearing, constitute cause for imposing discipline upon his Physician's & Surgeon's Certificate.

9. Respondent neither admits nor denies the truth of the allegations contained in the First Amended and Supplemental Accusation and Petition to Revoke Probation No.D1-1998-086962, but for purposes of settlement of the pending action against him and to avoid a protracted and costly administrative hearing, he agrees that if the matter went to hearing, Complainant could put on a prima facie case. Respondent waives his right to defend the case in the hearing scheduled for September 29, 2003, and agrees that there is jurisdiction for the Board to enter into this stipulation pursuant to section 2227 of the Business and Professions Code. This waiver will not limit respondent’s ability to defend himself at any subsequent hearing.

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

CIRCUMSTANCES IN MITIGATION

11. While Respondent Robert Mitchell Karns, M.D. has been the subject of disciplinary action in the past, this is the first instance of a quality of care allegation. He is resolving this case at an early stage in the proceedings.

RESERVATION

12. This agreement made by Respondent herein is only for the purposes of this
proceeding, or any other proceedings in which the Division of Medical Quality, Medical Board of California, or other professional licensing agency is involved, and shall not be admissible in any other criminal or civil proceeding.

CONTINGENCY

13. 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.

14. 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.

15. In consideration of the foregoing 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's & Surgeon's Certificate No. G 7277 issued to Respondent Robert Mitchell Karns, M.D. is revoked. However, the revocation is stayed and Respondent is placed on probation for three (3) years commencing March 5, 2003, 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.

This condition shall apply to any change(s) in hospitals, other facilities or
insurance carrier during the period of probation.

1. **ACTUAL SUSPENSION** As part of probation, respondent is suspended
from the practice of medicine for fifteen (15) days beginning the sixteenth (16th) day after the
effective date of this decision.

2. **EDUCATION COURSE** Within 60 calendar days of the effective date of
this Decision, and on an annual basis thereafter, respondent shall submit to the Division or its
designee for its prior approval educational program(s) or course(s) which shall not be less than
25 hours per year, for each year of probation. 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. Following the completion of each course, the
Division or its designee may administer an examination to test respondent's knowledge of the
course. Respondent shall provide proof of attendance for 50 hours of continuing medical
education of which 25 hours were in satisfaction of this condition.

3. **PHYSICIAN ASSESSMENT AND CLINICAL EDUCATION
PROGRAM** Within 60 calendar days of the effective date of this Decision, respondent shall
enroll in a clinical training or educational program equivalent to the Physician Assessment and
Clinical Education Program (PACE) offered at the University of California - San Diego School
of Medicine ("Program").

The Program shall consist of a Comprehensive Assessment program comprised of
a two-day assessment of respondent’s physical and mental health; basic clinical and
communication skills common to all clinicians; and medical knowledge, skill and judgment
pertaining to respondent’s specialty or sub-specialty, and at minimum, a 40 hour program of
clinical education in the area of practice in which respondent was alleged to be deficient and which takes into account data obtained from the assessment, Decision(s), Accusation(s), and any other information that the Division or its designee deems relevant. Respondent shall pay all expenses associated with the clinical training program.

Based on respondent’s performance and test results in the assessment and clinical education, the Program will advise the Division or its designee of its recommendation(s) for the scope and length of any additional educational or clinical training, treatment for any medical condition, treatment for any psychological condition, or anything else affecting respondent’s practice of medicine. Respondent shall comply with Program recommendations.

At the completion of any additional educational or clinical training, respondent shall submit to and pass an examination. The Program’s determination whether or not respondent passed the examination or successfully completed the Program shall be binding.

Respondent shall complete the Program not later than six months after respondent’s initial enrollment unless the Division or its designee agrees in writing to a later time for completion. If respondent fails to complete the clinical training program within the designated time period, respondent shall cease the practice of medicine within 72 hours after being notified by the Division or its designee that respondent failed to complete the clinical training program.

Failure to participate in and complete successfully all phases of the clinical training program outlined above is a violation of probation.

4. **RECORD KEEPING COURSE** Within 60 days from the effective date of this decision, respondent, at his expense, shall enroll in The Physician Assessment and Clinical Education Program’s Medical Record Keeping Course at the University of California, San Diego School of Medicine (hereinafter the "PACE Program"). Respondent shall complete the PACE Program course no later than six months after his initial enrollment unless the Division or its designee agrees in writing to a later time for completion. If respondent successfully completes the PACE Program course, he agrees to cause the PACE Program representative to forward a Certification of Successful Completion of the course to the Division
or its designee. Failure to participate in, and successfully complete the PACE Program course, as outlined above, shall constitute a violation of probation.

5. MONITORING Within 30 calendar days of the effective date of this decision, respondent shall submit to the Division or its designee for prior approval as a practice monitor, the name and qualifications of one or more licensed physicians and surgeons whose licenses are valid and in good standing, and who are preferably American Board of Medical Specialties (ABMS) certified. A monitor shall have no prior or current business or personal relationship with respondent, or other relationship that could reasonably be expected to compromise the ability of the monitor to render fair and unbiased reports to the Division, including, but not limited to, any form of bartering, shall be in respondent's field of practice, and must agree to serve as respondent's monitor. Respondent shall pay all monitoring costs.

The Division or its designee shall provide the approved monitor with copies of the Decision(s) and Accusation(s), and a proposed monitoring plan. Within 15 calendar days of receipt of the Decision(s), Accusation(s), and proposed monitoring plan, the monitor shall submit a signed statement that the monitor has read the Decision(s) and Accusation(s), fully understands the role of a monitor, and agrees or disagrees with the proposed monitoring plan. If the monitor disagrees with the proposed monitoring plan, the monitor shall submit a revised monitoring plan with the signed statement.

Within 60 calendar days of the effective date of this Decision, and continuing through the first two years of probation, respondent's practice shall be monitored by the approved monitor. Respondent shall make all records available for immediate inspection and copying on the premises by the monitor at all times during business hours, and shall retain the records for the entire term of probation.

The monitor shall submit a quarterly written report to the Division or its designee which includes an evaluation of respondent's performance, indicating whether respondent's practices are within the standards of practice of medicine, and whether respondent is practicing medicine safely. After the practice monitor has been in place for six months, the Division or its designee will assess the need for continued monitoring based on a review of the monitor's
report(s). If the Division or its designee determines that respondent’s practices are within the standards of practice of medicine and that respondent is practicing medicine safely, the monitoring may be discontinued.

It shall be the sole responsibility of respondent to ensure that the monitor submits the quarterly written reports to the Division or its designee within 10 calendar days after the end of the preceding quarter.

If the monitor resigns or is no longer available, respondent shall, within 5 calendar days of such resignation or unavailability, submit to the Division or its designee, for prior approval, the name and qualifications of a replacement monitor who will be assuming that responsibility within 15 calendar days. If respondent fails to obtain approval of a replacement monitor within 60 days of the resignation or unavailability of the monitor, respondent shall be suspended from the practice of medicine until a replacement monitor is approved and prepared to assume immediate monitoring responsibility. Respondent shall cease the practice of medicine within 3 calendar days after being so notified by the Division or designee.

In lieu of a monitor, respondent may participate in a professional enhancement program equivalent to the one offered by the Physician Assessment and Clinical Education Program at the University of California, San Diego School of Medicine, that includes, at minimum, quarterly chart review, semi-annual practice assessment, and semi-annual review of professional growth and education. Respondent shall participate in the professional enhancement program at respondent’s expense during the term of probation.

Failure to maintain all records, or to make all appropriate records available for immediate inspection and copying on the premises, or to comply with this condition as outlined above is a violation of probation.

6. **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.

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

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

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

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

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

10. **RESIDING OR PRACTICING OUT-OF-STATE** In the event respondent should leave the State of California to reside or to practice, respondent shall notify the Division or its designee in writing 30 calendar days prior to the dates of departure and return. Non-practice is defined as any period of time exceeding 30 calendar days in which respondent is not engaging in any activities defined in Sections 2051 and 2052 of the Business and Professions Code.

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

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

11. **FAILURE TO PRACTICE MEDICINE - CALIFORNIA RESIDENT**

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

All time spent in an intensive training program which has been approved by the
Division or its designee shall be considered time spent in the practice of medicine. For purposes
of this condition, non-practice due to a Board-ordered suspension or in compliance with any
other condition of probation, shall not be considered a period of non-practice.

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

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

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

14. **COST RECOVERY** The respondent is hereby ordered to reimburse the
Division the amount of $2500.00 within ninety (90) days of the effective date of this decision for
its investigative and prosecution costs. Failure to reimburse the Division's cost of investigation
and prosecution shall constitute a violation of the probation order, unless the Division agrees in
writing to payment by an installment plan because of financial hardship. The filing of
bankruptcy by the respondent shall not relieve the respondent of his responsibility to reimburse
the Division for its investigative and prosecution costs.

15. **PROBATION COSTS** Respondent shall pay the costs associated with
probation monitoring each and every year of probation, as designated by the Division, which are
currently set at $2874.00, but may be adjusted on an annual basis. Such costs shall be payable to
the Division of Medical Quality and delivered to the designated probation surveillance monitor
no later than January 31 of each calendar year. Failure to pay costs within 30 days of the due
date shall constitute a violation of probation.

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

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Robert B. Zaro. I understand the stipulation and the effect it will have on my Physician's & 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 Division of Medical Quality, Medical Board of California.

DATED: ____________________

ROBERT MITCHELL KARNS, M.D.
Respondent

I have read and fully discussed with Respondent Robert Mitchell Karns, 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: ____________________

ROBERT B. ZARO
Attorney for Respondent
appropriate and reasonable under the circumstances. Upon formal acceptance of the surrender, respondent shall within 15 calendar days deliver respondent's wallet and wallet certificate to the Division or its designee and respondent shall no longer practice medicine. Respondent will no longer be subject to the terms and conditions of probation and the surrender of respondent's license shall be deemed disciplinary action. If respondent re-applies for a medical license, the application shall be treated as a petition for reinstatement of a revoked certificate.

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Robert B. Zaro. I understand the stipulation and the effect it will have on my Physician's & 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 Division of Medical Quality, Medical Board of California.

DATED: ______________

ROBERT MITCHELL KARNS, M.D.
Respondent

I have read and fully discussed with Respondent: Robert Mitchell Karns, 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: ______________

ROBERT B. ZARO
Attorney for Respondent
ENDORSEMENT

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

DATED: 9/26/03

BILLY C. LOCKYER, Attorney General of the State of California

E. A. JONES III
Deputy Attorney General
Attorneys for Complainant
Exhibit A

First Amended and Supplemental Accusation and Petition to Revoke
Probation No. D1-1998-086962
BEFORE THE
DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation and Petition to
Revoke Probation Against:

ROBERT MITCHELL KARNS, M.D.
8920 Wilshire Blvd., Suite 321
Beverly Hills, CA 90211

Physician's & Surgeon's Certificate No. G 7277
Respondent.

Complainant alleges:

PARTIES

1. Ron Joseph (Complainant) brings this Accusation and Petition to Revoke
Probation solely in his official capacity as the Executive Director of the Medical Board of
California, Department of Consumer Affairs.

2. On or about October 26, 1961, the Medical Board of California issued
The certificate, which is, and has been, in a probationary status pursuant to Case No.
11-1998-86962 as more fully set forth below, was in effect at all times relevant to the charges
brought herein, and will expire on November 30, 2004, unless renewed.

3. In a disciplinary action entitled "In the Matter of Accusation Against
Robert Mitchell Karns, M.D.,” Case No. 05-1993-29051, the Division of Medical Quality, Medical Board of California, issued a decision, effective October 11, 1996, in which Respondent's Physician's & Surgeon's Certificate was revoked. However, the revocation was stayed and Respondent's certificate was placed on probation for a period of one (1) year with certain terms and conditions, based on respondent’s excessive prescribing and gross negligence. A copy of that decision is attached as Exhibit A and is incorporated by reference. In a further disciplinary action entitled "In the Matter of Accusation Against Robert Mitchell Karns, M.D.,” Case No. 11-1998-86962, the Division of Medical Quality, Medical Board of California, issued a decision, effective April 24, 2000, in which Respondent's Physician's & Surgeon's Certificate was revoked. However, the revocation was stayed and Respondent's certificate was placed on probation for a period of three (3) years with certain terms and conditions, based on dishonesty and falsifying records. A copy of that decision is attached as Exhibit B and is incorporated by reference.

JURISDICTION

4. This Accusation and Petition to Revoke Probation is brought before the Division of Medical Quality, Medical Board of California (Division), under the authority of the following sections of the Business and Professions Code (Code).

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

6. Section 2234 of the Code states:

“[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 [Chapter 5, the Medical Practice Act].

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“(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.”

7. Section 125.3 of the Code provides, in pertinent part, that the Division 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.

8. Section 14124.12 of the Welfare and Institutions Code states, in pertinent part:

“(a) Upon receipt of written notice from the Medical Board of California, the Osteopathic Medical Board of California, or the Board of Dental Examiners of California, that a licensee's license has been placed on probation as a result of a disciplinary action, the department may not reimburse any Medi-Cal claim for the type of surgical service or invasive procedure that gave rise to the probation, including any dental surgery or invasive procedure, that was performed by the licensee on or after the effective date of probation and until the termination of all probationary terms and conditions or until the probationary period has ended, whichever occurs first. This section shall apply except in any case in which the relevant licensing board determines that compelling circumstances warrant the continued reimbursement during the probationary period of any Medi-Cal claim, including any claim for dental services, as so described. In such a case, the department shall continue to reimburse the licensee for all procedures, except for those invasive or surgical procedures for which the licensee was placed on probation.”
FIRST CAUSE FOR DISCIPLINE

(Gross Negligence)

9. Respondent is subject to disciplinary action under section 2234, subsection (b) of the Code in that respondent was grossly negligent in the care and treatment of a patient. The circumstances are as follows:

Patient H.D.

A. On or about January 27, 2000, patient H.D. was seen by respondent. The chart noted that patient H.D. was living in an “old-people’s home” requiring care around the clock. The patient’s daughter reported that patient H.D. was in excellent health except for becoming more non-communicative with time. No detail is documented regarding the note that the patient had become more non-communicative with time. The patient was on Haldol at bedtime. On exam, she was noted to have a Parkinson’s face and gait and stiffness. There is no history related to the patient’s Parkinson’s such as whether she had ever been on medications for it. There was no questioning reflected on the chart as to why the patient was on Haldol, a medication that can cause extrapyramidal effects, which can include Parkinson-like symptoms. Patient H.D. was noted by respondent to be fibrillating at a “fairly regular rate.” The patient’s heart rate was not charted so no conclusion could be reached as to whether the rate was fast, indicating a potential for cardiac problems such as congestive heart failure. There is no history as to whether the daughter was aware of the patient being in atrial fibrillation before. An EKG and blood tests were ordered. The chart does not reflect that any assessment of the patient’s mental state was made either by questioning the patient or her daughter or by testing the patient’s mental status. Respondent’s impression was that the patient had Parkinson’s and an arrhythmia. The plan was to “maintain her for now.” There was no documentation as to why the patient’s Parkinson’s was not being treated. There is no discussion as to why no therapies to address the atrial fibrillation were initiated. There was no plan with respect to the patient’s relative non-communicative state, such as looking for treatable causes such as thyroid disease or depression. A health questionnaire
dated January 31, 2000, included completed sections for past medical history, past
surgical history, social history, habits and a limited review of systems with the only “yes”
box being checked next to “Have you been in good health most of your life?”

B. On or about February 22, 2000, patient H.D., an 89 year old female,
presented with her caretaker to Dr. A.K. with a chief complaint that the patient was not
thriving and not eating. The patient was noted to have Parkinson’s disease with some
dementia. On exam, the patient had stable vital signs and an unremarkable exam and lab
tests (from the prior visit with respondent). The lab tests reviewed predated the
complaint of failure to thrive. The patient was given a vitamin B12 shot with an intention
to repeat in 2-4 weeks. Reassurance was given and the patient was advised to follow up
with Dr. A.K. as needed (prn).

C. On or about June 26, 2000, patient H.D. was seen by respondent and he
noted that she had “really gone” and was “apparently not eating.” No other history was
obtained and no examination was documented. No weight was recorded at this or the
prior visit with respondent. The chart does not reflect any discussions or plan for
addressing patient H.D.’s nutritional and hydration needs, such as via supplements or
alternative forms of feeding, such as via a tube. There is no indication in the chart as to
the patient’s (or her daughter’s) desire in this regard.

D. On or about August 8, 2000, patient H.D. was hospitalized at St John’s
Health Center for urosepsis and dehydration under the care of Dr. K. On admission it
was noted that three months prior, the patient had been feeding herself and was able to
use the bathroom.

E. On or about August 14, 2000, patient H.D. was discharged from St. John’s
Health Center and transferred to Country Villa South, a skilled nursing facility. Dr. A.K.
was noted as the assigned attending. At that time, an Advance Directive/Preferred
Intensity of Care Documentation, signed by patient H.D.’s daughter, requested no IV’s,
among other things.

F. On or about August 16, 2000, Dr. A.K. visited patient H.D.
G. On or about August 31, 2000, patient H.D.’s daughter contacted Dr. A.K. and asked him to discontinue the patient’s IV due to discomfort and bruising from the repeated line insertions. Dr. A.K. declined to order the removal of the IV and advised the daughter to contact his father, respondent. Respondent subsequently also declined to order the removal of the IV. Subsequently, on or about September 2, 2000, the care of patient H.D. was transferred to Dr. I., the medical director for Country Villa South. On or about September 10, 2000, patient H.D. expired.

H. On or about January 27, 2000, and thereafter, respondent was grossly negligent in the care and treatment of patient H.D. when he failed to obtain an adequate history, perform a sufficient physical exam and obtain appropriate laboratory tests related to the problems presented on the January 27, 2000, visit.

I. On or about January 27, 2000, and thereafter, respondent was grossly negligent in the care and treatment of patient H.D. when he failed to adequately address a treatment plan for patient H.D.’s Parkinson’s disease.

J. On or about January 27, 2000, and thereafter, respondent was grossly negligent in the care and treatment of patient H.D. when he failed to adequately address patient H.D.’s atrial fibrillation, including the heart rate and its treatment.

K. On or about January 27, 2000, and thereafter, respondent was grossly negligent in the care and treatment of patient H.D. when he failed to adequately address possible causes and treatment for patient H.D.’s non-communicative state.

L. On or about June 26, 2000, respondent was grossly negligent in the care and treatment of patient H.D. when he failed to perform any examination of patient H.D.

M. On or about June 26, 2000, and thereafter, respondent was grossly negligent in the care and treatment of patient H.D. when he failed to adequately address patient H.D.’s nutritional needs.

Patient S.R.

N. Patient S.R. first presented to respondent on or about January 27, 1994, for a “check-up.” The chart noted that patient S.R. had known asthma, allergies and an
elevated prostatic specific antigen (PSA). The chart documented that the patient had been seen by a urologist who biopsied his prostate. The chart noted that patient S.R. had had a diagnosis of chronic lymphocytic leukemia which had been discounted by a specialist. The chart included a family history, past medical history and review of systems. A physical examination was conducted by respondent and no major abnormalities were found. A blood test for PSA was elevated at 7.8. Pulmonary function testing showed moderate obstruction and low vital capacity. An electrocardiogram (EKG) was performed with abnormal results which were felt to be secondary to pulmonary not cardiac problems. Other than blood pressure, respondent failed to note vital signs on this visit.

O. On or about May 13, 1996, patient S.R. presented to respondent with complaints regarding asthma and allergies. He reported using his Proventil inhaler regularly and feeling tired. He reported that his friends had told him that he looked ashen. Patient S.R. reported that he was still being followed by a urologist for the elevated PSA. A physical exam performed by respondent showed no abnormalities. An EKG was noted to be abnormal with changes from the January 1994 EKG. A repeat pulmonary function test produced the same results as in January 1994. Respondent ordered a treadmill stress test to address the abnormal EKG. Respondent's final diagnoses were asthma, de Quervain tenosynovitis, elevated PSA, abnormal EKG and possible atherosclerotic heart disease. Other than blood pressure, respondent failed to note vital signs for this visit. Although respondent did not document ordering and reviewing a chest x-ray, a chest x-ray was performed, revealing an obvious abnormality in the left peri-hilum of lung and left anterior lung. On review, respondent failed to appreciated the lung lesion revealed in the chest x-ray.

P. On or about May 20, 1996, patient S.R. underwent a treadmill stress test, the results of which were felt to be normal.

Q. On or about November 26, 1996, patient S.R. presented to respondent post motor vehicle accident complaining of neck pain, right elbow pain and right shoulder
pain. Respondent noted that the patient was in good health since his last office visit. A physical exam was conducted with results and a diagnosis consistent with the chief complaints. Patient S.R. was treated with exercise, Motrin and physical therapy.

R. On or about December 19, 1996, patient S.R. presented to the emergency department of Cedars-Sinai Medical Center with an acute asthma episode. During the treatment and evaluation a chest x-ray revealed a mass in the left lung. Respondent was called and admitted patient S.R. for asthma exacerbation and lung mass. Respondent sought a pulmonary consultation. Patient S.R. underwent a bronchoscopy during his hospital stay; the results were still pending when he was discharged home. Patient S.R.'s asthma episode resolved and respondent discharged him home. Respondent did not subsequently see patient S.R.

S. On or about March 16, 2000, after being treated for poorly differentiated adenocarcinoma of the lung, patient S.R. died from respiratory failure secondary to metastatic lung cancer.

T. On or about May 13, 1996, respondent was grossly negligent in the care and treatment of patient S.R. when he failed to appreciate an obvious lung mass on chest x-ray.

SECOND CAUSE FOR DISCIPLINE
(Repeated Negligent Acts)

10. Respondent is subject to disciplinary action under section 2234, subsection (c) of the Code in that respondent was repeatedly negligent in the care and treatment of a patient. The circumstances are as follows:

Patient H.D.

A. The facts and circumstances alleged in paragraph 9.A. through 9.G. above are incorporated here as if fully set forth.

B. On or about January 27, 2000, and thereafter, respondent was negligent in the care and treatment of patient H.D. when he failed to obtain an adequate history, perform a sufficient physical exam and obtain appropriate laboratory tests related to the
problems presented on the January 27, 2000, visit.

C. On or about January 27, 2000, and thereafter, respondent was negligent in the care and treatment of patient H.D. when he failed to adequately address a treatment plan for patient H.D.'s Parkinson's disease.

D. On or about January 27, 2000, and thereafter, respondent was negligent in the care and treatment of patient H.D. when he failed to adequately address patient H.D.'s atrial fibrillation, including the heart rate and its treatment.

E. On or about January 27, 2000, and thereafter, respondent was negligent in the care and treatment of patient H.D. when he failed to adequately address possible causes and treatment for patient H.D.'s non-communicative state.

F. On or about January 27, 2000, and thereafter, respondent was negligent in the care and treatment of patient H.D. when he failed to address the potential for one of patient H.D.'s medications contributing to her Parkinson's.

G. On or about June 26, 2000, respondent was negligent in the care and treatment of patient H.D. when he failed to perform any examination of patient H.D.

H. On or about June 26, 2000, and thereafter, respondent was negligent in the care and treatment of patient H.D. when he failed to adequately address patient H.D.'s nutritional needs.

Patient S.R.

I. The facts and circumstances alleged in paragraph 9.N. through 9.S. above are incorporated here as if fully set forth.

J. On or about January 27, 1994, respondent was negligent in the care and treatment of patient S.R. when he failed to take and/or record the patient's vital signs.

K. On or about May 13, 1996, respondent was negligent in the care and treatment of patient S.R. when he failed to take and/or record the patient's vital signs.

L. On or about May 13, 1996, respondent was negligent in the care and treatment of patient S.R. when he failed to perform a review of systems in connection with the physical exam of patient S.R.
M. On or about May 13, 1996, respondent was negligent in the care and treatment of patient S.R. when he failed to document the ordering and subsequent review of a chest x-ray.

N. On or about May 13, 1996, respondent was negligent in the care and treatment of patient S.R. when he failed to appreciate an obvious lung mass on chest x-ray.

THIRD CAUSE FOR DISCIPLINE
(Incompetence)

11. Respondent is subject to disciplinary action under section 2234, subsection (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 9 and 10 above are incorporated here as if fully set forth.

FOURTH CAUSE FOR DISCIPLINE
(Unprofessional Conduct)

12. Respondent is subject to disciplinary action under section 2234 of the Code in that respondent engaged in unprofessional conduct in the care and treatment of patients. The circumstances are as follows:

A. The facts and circumstances alleged in paragraphs 9, 10 and 11 above are incorporated here as if fully set forth.

DISCIPLINE CONSIDERATIONS

13. To determine the degree of discipline, if any, to be imposed on Respondent, Complainant alleges that on or about October 11, 1996, in a prior disciplinary action entitled In the Matter of the Accusation Against Robert Mitchell Karns, M.D. before the Division of Medical Quality, Medical Board of California, in Case No. 05-1993-29051, respondent's license was revoked, however the revocation was stayed and respondent was placed on probation for one year for excessive prescribing and gross negligence. That decision is now final and is incorporated by reference as if fully set forth. Complainant further alleges that on or about April
24, 2000, in a prior disciplinary action entitled In the Matter of the Accusation Against Robert Mitchell Karns, M.D. before the Division of Medical Quality, Medical Board of California, in Case No. 11-1998-86962, Respondent's license was revoked, however the revocation was stayed and respondent was placed on probation for three years for dishonesty and altering medical records. That decision is now final and is incorporated by reference as if fully set forth

CAUSE TO REVOKE PROBATION

(Obey All Laws)

14. At all times after the effective date of respondent’s probationary order pursuant to Case No. 11-1998-86962, Condition 3 of said order stated that respondent was to obey all federal, state and local laws and all laws governing the practice of medicine in California and remain in full compliance with any court ordered criminal probation, payments and other orders.

15. Respondent’s probation is subject to revocation because he failed to comply with Probation Condition 3, referenced above. The facts and circumstances regarding this violation are as follows:

A. The facts and circumstances alleged in paragraphs 9 through 12 above are incorporated here as if fully set forth.

PRAYER

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

1. Revoking the probation that was granted by the Medical Board of California in Case No. 11-1998-86962 and imposing the disciplinary order that was stayed thereby revoking Physician's & Surgeon's Certificate No. G 7277 issued to Robert Mitchell Karns, M.D.;


3. Revoking, suspending or denying approval of Robert Mitchell Karns, M.D.'s authority to supervise physician's assistants, pursuant to section 3527 of the Code;
4. Ordering Robert Mitchell Karns, M.D. to pay the Division of Medical Quality the reasonable costs of the investigation and enforcement of this case, and, if placed on probation, the costs of probation monitoring;

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

DATED: May 5, 2003

RON JOSEPH
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant