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

In the Matter of the Accusation Against:

Richard McInnis Hodnett, M.D.
115 Jensen Court, Suite 201
Thousand Oaks, California 91362

Physician’s and Surgeon’s Certificate
No. C 51707,

Respondent.

Complainant alleges:

PARTIES

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

2. On or about August 25, 2004, the Board issued Physician’s and Surgeon’s Certificate Number C 51707 to Richard McInnis Hodnett, M.D. (Respondent). That license was in full force and effect at all times relevant to the charges brought herein and will expire on January 31, 2020, unless renewed.

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(RICHARD MCINNIS HODNETT, M.D.) ACCUSATION NO. 800-2016-020630
JURISDICTION

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

4. Section 2001.1 of the Code states:

"Protection of the public shall be the highest priority for the Medical Board of California in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount."

5. Section 2227 of the Code states:

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

"(1) Have his or her license revoked upon order of the board.

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

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

"(4) Be publicly reprimanded by the board. The public reprimand may include a requirement that the licensee complete relevant educational courses approved by the board.

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

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

(RICHARD MCINNIS HODNETT, M.D.) ACCUSATION NO. 800-2016-020630
6. Section 2234 of the Code, states:

"The board shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:

(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the violation of, or conspiring to violate any provision of this chapter.

(b) Gross negligence.

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

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

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

7. Section 2069 of the Code states:

(a)(1) Notwithstanding any other law, a medical assistant may administer medication only by intradermal, subcutaneous, or intramuscular injections and perform skin tests and additional technical supportive services upon the specific authorization and supervision of a licensed physician and surgeon or a licensed podiatrist. A medical assistant may also perform all these tasks and services upon the specific authorization of a physician assistant, a nurse practitioner, or a certified nurse-midwife.

(b) As used in this section and Sections 2070 and 2071, the following definitions shall apply:
“(1) ‘Medical assistant’ means a person who may be unlicensed, who performs basic
administrative, clerical, and technical supportive services in compliance with this section and
Section 2070 for a licensed physician and surgeon or a licensed podiatrist, or group thereof, for a
medical or podiatry corporation, for a physician assistant, a nurse practitioner, or a certified
nurse-midwife as provided in subdivision (a), or for a health care service plan, who is at least 18
years of age, and who has had at least the minimum amount of hours of appropriate training
pursuant to standards established by the board. The medical assistant shall be issued a certificate
by the training institution or instructor indicating satisfactory completion of the required training.
A copy of the certificate shall be retained as a record by each employer of the medical assistant.

“(2) ‘Specific authorization’ means a specific written order prepared by the supervising
physician and surgeon or the supervising podiatrist, or the physician assistant, the nurse
practitioner, or the certified nurse-midwife as provided in subdivision (a), authorizing the
procedures to be performed on a patient, which shall be placed in the patient’s medical record, or
a standing order prepared by the supervising physician and surgeon or the supervising podiatrist,
or the physician assistant, the nurse practitioner, or the certified nurse-midwife as provided in
subdivision (a), authorizing the procedures to be performed, the duration of which shall be
consistent with accepted medical practice. A notation of the standing order shall be placed on the
patient’s medical record.

“(3) ‘Supervision’ means the supervision of procedures authorized by this section by the
following practitioners, within the scope of their respective practices, who shall be physically
present in the treatment facility during the performance of those procedures:

“(A) A licensed physician and surgeon.

“...

“(4) ‘Technical supportive services’ means simple routine medical tasks and procedures
that may be safely performed by a medical assistant who has limited training and who functions
under the supervision of a licensed physician and surgeon or a licensed podiatrist, or a physician
assistant, a nurse practitioner, or a certified nurse-midwife as provided in subdivision (a).

“(c) Nothing in this section shall be construed as authorizing any of the following:
“(1) The licensure of medical assistants.

“...”

8. Section 2216 of the Code states:

“On or after July 1, 1996, no physician and surgeon shall perform procedures in an outpatient setting using anesthesia, except local anesthesia or peripheral nerve blocks, or both, complying with the community standard of practice, in doses that, when administered, have the probability of placing a patient at risk for loss of the patient’s life-preserving protective reflexes, unless the setting is specified in Section 1248.1. Outpatient settings where anxiolytics and analgesics are administered are excluded when administered, in compliance with the community standard of practice, in doses that do not have the probability of placing the patient at risk for loss of the patient’s life-preserving protective reflexes.

“...”

HEALTH AND SAFETY CODE

9. Section 1248.1 of the Health and Safety Code states:

“No association, corporation, firm, partnership, or person shall operate, manage, conduct, or maintain an outpatient setting in this state, unless the setting is one of the following:

“...”

“(g) An outpatient setting accredited by an accreditation agency approved by the division pursuant to this chapter.

“...”

FACTUAL SUMMARY

10. In 2015 and 2016, Respondent worked as a physician and surgeon under his business “Richard Hodnett, M.D., Incorporated,” through which he worked as an independent contractor for Beverly Hills Physicians, South Bay Surgical Center Group, and Gold Med Surgery Center. Respondent routinely performed outpatient surgeries at clinics in Thousand Oaks, Encino, Torrance, and Beverly Hills. Respondent did not have any employees through his business, although he regularly worked with medical assistants at each location.

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11. Respondent regularly performs surgery at the Thousand Oaks Surgical Center associated with Beverly Hills Physicians, which is located at 115 Jensen Court, Suite 200, in Thousand Oaks, California. However, this location is not and has not previously been accredited.

12. Respondent also regularly performs surgery at South Bay Surgical Center Group, which is located at 3445 Pacific Coast Highway, Suite 240, in Torrance, California. This location is accredited through the Accreditation Association for Ambulatory Health Care, Inc. However, this facility’s accreditation was denied on March 26, 2012.

13. Respondent also regularly performs surgery at the Gold Med Surgery Center, which is located at 16311 Ventura Boulevard, Suite 1010, in Encino, California. However, this location is not and has not previously been accredited.

**Patient A**

14. Respondent first visited with Patient A on May 30, 2015. Patient A presented to Respondent seeking an abdominoplasty evaluation and operative planning. Respondent evaluated Patient A and recommended abdominoplasty, liposuction, and pubic lift. Patient A was then referred for pre-surgical clearance consultation. Patient A proceeded to visit with her primary care physician and was ultimately cleared for surgery. Patient A’s primary care physician noted that she was “low risk…pending result of blood work and evaluation for diabetes.” Respondent later received Patient A’s surgical clearance and lab work.

15. Patient A returned to Respondent for a pre-operative history and physical examination at the Thousand Oaks location for Beverly Hills Physicians on July 15, 2015. Respondent diagnosed Patient A with abdominal panniculus, pubic ptosis, and lipodystrophy of

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1 The patient herein is referred to as Patient A to protect her privacy.

2 Abdominoplasty, also known as a “tummy tuck,” is a surgical procedure in which excess fat and skin is removed by a surgeon in order to tighten and restore weakened or separated muscles in the abdominal wall in order to create an abdominal profile that is smoother and firmer. Surgical complications can include infection, bleeding under the skin flap, or blood clots. A patient with poor circulation, diabetes, or heart, lung, or liver disease may be at increased risk for surgical complications.

3 Panniculus is a medical term describing a dense layer of fatty tissue growth consisting of subcutaneous fat in the lower abdominal area.

4 Lipodystrophy is a medical term describing abnormal accumulation or distribution of fat tissue.
the flanks, inner thighs, lower back, and arms. That same day, Respondent performed an extended abdominoplasty, pubic lift, and suction-assisted lipectomy\(^5\) of the flanks, inner thighs, lower back, and arms. Patient A was placed under general anesthesia for the procedure. During surgery, Respondent placed two Jackson-Pratt (JP) drains\(^6\) in the patient’s abdomen and sutured them into position. The surgery was completed and Patient A was discharged home with an abdominal binder and post-operative instructions that same day.

16. Patient A was seen by Respondent for a post-operative visit on July 16, 2015. Respondent noted that the JP drains weren’t working well. Patient A was very swollen and experiencing pain in her left lower quadrant. Respondent adjusted the drains and instructed Patient A to follow up with him in five days.

17. On July 22, 2015, Patient A returned to Respondent’s office for a scheduled follow up appointment. Patient A was seen by a medical assistant employed by Beverly Hills Physicians, J.C.,\(^7\) while Respondent was not in the office. Patient A and her daughter noted that the wound site(s) appeared black and necrotic, while J.C. noted blisters around the incision. Although Respondent was absent and there was no other physician in the office that day, J.C. proceed to place new dressings on the JP drains, advised the patient to keep doing “lipo massages,” and

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\(^5\) Suction lipectomy, also known as “liposuction,” is a surgical procedure involving the surgical removal of fat tissue from the abdomen. This procedure may be done using general anesthesia, local anesthesia, or a local anesthetic with sedation. The operation involves removing excess fat tissue by inserting a narrow metal tube called a *cannula* through a small incision in the skin and applying suction. The tube has one or several openings close to the tip: By passing the instrument forward and backward as suction is applied, fat tissue is sheared off, and fat globules pass into the tube. During the procedure, intravenous fluids are given to replace body fluids that are lost.

\(^6\) A Jackson-Pratt (JP) drain is a closed-suction medical device that is commonly used as a post-operative drain for collecting bodily fluids from surgical sites.

The device consists of an internal drain connected to a grenade-shaped bulb via plastic tubing. The purpose of a JP drain is to prevent fluid (blood or other) build-up in a closed space, which may cause either disruption of the wound and the healing process or become an infected abscess, with either scenario possibly requiring a formal drainage and/or repair procedure. If the JP drainage tubing becomes clogged or otherwise clotted off, the benefits are not realized from drainage.

\(^7\) J.C. is referred to by her initials to protect her privacy.
applied Silvadene⁸ to the site of several blisters on Patient A's skin. J.C. also recommend a
“betadine and sugar” procedure for Patient A, which involved the mixing of betadine antiseptic
solution and sugar together. J.C. instructed Patient A to pour it over the wound in order to “eat
away at bad tissue and make good tissue come forward.” Patient A followed J.C.’s advice until
her next visit with Respondent the following month. Meanwhile, J.C. created a visit note that
Respondent later reviewed and signed in Patient A’s medical record.

Respondent noted that Patient A was developing an eschar⁹ in the inferior abdominal flap.
Respondent’s plan was to manage the eschar by “watching it,” given that there was no
surrounding cellulitis, until the eschar opened up.

19. On August 4, 2015, Patient A was seen by a nurse practitioner who applied new
dressings to the JP drain sites. The nurse practitioner created a visit note that Respondent
reviewed, but did not sign in Patient A’s certified medical record.

20. Patient A was seen again by Respondent on August 7, 2015. Respondent diagnosed
Patient A with eschar of the lower abdomen noting that the eschar was demarcated and starting to
separating. At that point, Respondent recommend surgery for debridement that day. Respondent
conducted a pre-operative history and physical examination. Patient A was again placed under
general anesthesia, the eschar was removed, and Respondent proceed to debride the necrotic
tissue. During the procedure, Respondent removed the JP drains from Patient A’s abdomen.
Patient A was discharged home that same day.

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⁸ Silver sulfadiazine, sold under the brand “Silvadene,” is a topical antibiotic used in partial
thickness and full thickness burns to prevent infection.

⁹ Eschar is dead tissue found in a full-thickness wound. Eschar may occur after a patient sustains
a burn injury, gangrenous ulcer, fungal infection, necrotizing fasciitis, spotted fevers, and exposure to
cutaneous anthrax. Blood flow in the tissue under the eschar is generally poor and the wound is therefore
susceptible to infection. If the eschar becomes unstable (wet, draining, loose, boggy, edematous, red) it
should be debrided according to clinic or facility protocol.
21. Respondent had a post-surgical visit with Patient A on August 10, 2015. Respondent carried out wound closure therapy by placement of a vacuum-assisted closure. Respondent also recommended hyperbaric oxygen treatment for Patient A and made arrangements for her to receive treatment at Kaiser Permanente. However, Kaiser Permanente did not expeditiously approve the hyperbaric oxygen treatment and, as such, Respondent arranged for Patient A to receive five hyperbaric oxygen treatments at 2.4 atmospheres for 90 minutes apiece at the Hyperbaric Center in Camarillo.

22. On August 12, 2015, the vacuum-assisted closure was removed in preparation for hyperbaric oxygen treatment. However, Patient A encountered difficulty obtaining the hyperbaric oxygen treatments through Kaiser Permanente. Respondent arranged for five additional treatments at the Hyperbaric Center in Camarillo.

23. On September 8, 2015, Respondent was notified that Patient A was transferring her wound healing care from Respondent to Kaiser Permanente. Patient A’s abdomen was subsequently noted to be necrotic and that bowel was exposed in the wound.

Patient B


25. Patient B returned to Respondent for a pre-operative history and physical examination at the South Bay Surgical Center Group on May 10, 2015. That same day, Respondent performed an excision of Patient B’s gynecomastia and suction-assisted lipectomy of the chest. Patient B

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10 Vacuum-assisted closure is a therapeutic technique that utilizes a vacuum dressing. During the treatment, a sealed wound dressing connected to a vacuum pump decreases air pressure on the wound, which can help the wound heal more quickly.

11 The patient herein is referred to as Patient B to protect his privacy.

12 Gynecomastia is an endocrine system disorder in which a non-cancerous increase in the size of male breast tissue occurs. Gynecomastia is thought to be caused by an altered ratio of estrogens to androgens mediated by an increase in estrogen production, a decrease in androgen production, or a combination of these two factors.
was placed under general anesthesia for the procedure. During the procedure, Respondent made an incision around the areola and removed a firm area of fatty tissue beneath the bland. Dressings were applied post-operatively and Patient B was discharged home the same day.

26. Patient B was seen by Respondent for a post-operative visit on May 17, 2015. Respondent noted “perfect result” in Patient B’s medical record and instructed him to return in one week. Patient B returned to visit with Respondent on May 26, 2015. Patient B was seen by a registered nurse, his dressing was re-applied, and he was instructed to return on May 31, 2015. Patient B was seen by Respondent again on July 6, 2015. There were no post-surgical complications noted and, as such, Patient B was told to follow up with Respondent as needed.

27. Some time between July 2015 and September 2015, Patient B returned to Respondent’s care complaining of “little bumps” on his chest near the surgical sites. Respondent counseled Patient B about the “higher risk of problems” with a second procedure, but Patient B insisted on a revision surgery. Patient B was referred for medical clearance for chest surgery by an internist prior to the revision surgery, which he received on September 28, 2015. Consequently, Respondent scheduled Patient B for revision surgery.

28. On November 15, 2015, Patient B underwent a second surgery with Respondent. Respondent diagnosed Patient B with a bilateral breast mass under the nipple on both sides of the chest. Patient B was placed under general anesthesia for the procedure and Respondent proceeded to excise the masses from Patient B’s chest. Patient B was discharged home that day.

29. Patient B was seen post-operatively by Respondent on November 19, 2015. Respondent noted a slight bruise to Patient B’s right upper chest and recommended a follow up appointment in one week. Approximately one week after this appointment, however, Patient B called Respondent complaining of swelling on his right side. Although Respondent initially recommended that Patient B go to an emergency room, he agreed to treat Patient B.

30. On November 30, 2015, Patient B underwent a third surgery with Respondent. Respondent diagnosed Patient B with a hematoma on his right side. Patient B was placed under anesthesia for the procedure. During the procedure, Respondent made an incision around the areola and removed a firm area of fatty tissue beneath the bland. Dressings were applied post-operatively and Patient B was discharged home the same day.

13 A hematoma is a solid swelling of clotted blood within the tissues of the human body. A hematoma is typically caused by an injury to the wall of a blood vessel, prompting blood to seep out of the blood vessel into the surrounding tissues.
general anesthesia for the procedure and Respondent proceeded to make an incision and drain the hematoma. Respondent also placed a drain in Patient B’s chest for control “oozing.” Patient B was discharged home that day.

31. Patient B was seen by Respondent for a follow up visit on December 6, 2015. The drain was removed and Respondent told Patient B to return in one week. Patient B was seen again on December 13, 2015. However, Patient B discontinued treatment with Respondent after this final visit. After ending care with Respondent, Patient B complained of loss of areolar tissue (nipple) as a result of the hematoma.

**STANDARDS OF CARE**

32. **Diagnosis of a Non-Functioning Wound Drain.** The community standard of care in medical practice in the State of California is to diagnose a non-functioning wound drain attributable to a drain blockage in a timely manner and to immediately remove the non-functioning wound drain.

33. **Performing Liposuction and Abdominoplasty Simultaneously.** The community standard of care in medical practice in the State of California is to perform surgery in such a manner to preserve the integrity of the abdominal wall tissues including muscle and peritoneum. Performing liposuction and abdominoplasty simultaneously in an overlapping area can cause tissue necrosis and wound separation due to vascular compromise.

34. **Transfer of Post-Surgical Complication Management.** The community standard of care in medical practice in the State of California is to recognize the depth of necrosis, especially the exposure of bowel. It is also the community standard of care in medical practice in the State of California to continue the maintenance of post-surgical complication management until it exceeds the training and experience of the operating surgeon. The transfer of complication management to another physician should only be done as a last resort.

35. **Differentiating Gynecomastia Caused by Fat Tissue and Glandular Tissue.** The community standard of care in medical practice in the State of California is for the operating surgeon to differentiate between gynecomastia caused by fatty tissue only and gynecomastia that is caused by a combination of fat and glandular tissue. Fat tissue can readily be removed with
liposuction, whereas glandular breast tissue is much firmer and non-responsive to liposuction and may require an open technique to excise firm breast tissue.

36. Premature Revision Surgery. The community standard of care in medical practice in the State of California is to revise surgery when primary hearing is near enough to completion in order to reduce the chance of bleeding from immature healing tissue vessels. This decision must be made by the surgeon based upon healing progress and not by patient pressure.

FIRST CAUSE FOR DISCIPLINE
(Gross Negligence)

37. Respondent’s license is subject to disciplinary action under Section 2234, subdivision (b) of the Code, in that Respondent was grossly negligent in his care and treatment of Patients A and B. The circumstances are as follows:

38. Complainant refers to and, by this reference, incorporates paragraphs 10 through 36 above, as though fully set forth herein.

39. The following acts and omissions, considered individually and collectively, constitute gross negligence in Respondent’s practice as a physician and surgeon:

A. Failing to timely recognize and remedy a blockage in Patient A’s JP drains, which can contribute to tissue necrosis.

B. Simultaneously performing liposuction and abdominoplasty upon Patient A in an overlapping area of the body, which can cause tissue necrosis and wound separation due to vascular compromise.

C. Failing to differentiate fat tissue from breast tissue as the main cause of Patient B’s gynecomastia, which resulted in Respondent’s use of liposuction only, as opposed to an open technique to excise firm breast tissue.

SECOND CAUSE FOR DISCIPLINE
(Repeated Negligent Acts)

40. Respondent’s license is further subject to disciplinary action under Section 2234, subdivision (c) of the Code, in that Respondent committed repeated negligent acts during his care and treatment of Patients A and B. The circumstances are as follows:
41. Complainant refers to and, by this reference, incorporates paragraphs 10 through 36 above, as though fully set forth herein.

42. The following acts and omissions, considered individually and collectively, constitute repeated negligent acts in Respondent's practice as a physician and surgeon:

A. Failing to timely recognize and remedy a blockage in Patient A's JP drains, which can contribute to tissue necrosis.

B. Simultaneously performing liposuction and abdominoplasty upon Patient A in an overlapping area of the body, which can cause tissue necrosis and wound separation due to vascular compromise.

C. Transferring the management of Patient A's post-surgical complications to other physicians while the wound healing process was still in its early phase.

D. Failing to differentiate fat tissue from breast tissue as the main cause of Patient B's gynecomastia, which resulted in Respondent's use of liposuction only, as opposed to an open technique to excise firm breast tissue.

E. Prematurely re-entering Patient B's operative site(s) resulting in bleeding, compromised blood flow, and necrosis of breast tissue.

THIRD CAUSE FOR DISCIPLINE

(Failure to Supervise Medical Assistant)

43. By reason of the facts set forth in paragraph 17 above, Respondent's license is further subject to disciplinary action under Section 2069 of the Code, in that Respondent failed to properly supervise medical assistant J.C. in the care and treatment of Patient A.

44. Respondent's acts and/or omissions as set forth in paragraph 17 above, whether proven individually, jointly, or in any combination thereof, constitutes Respondent's failure to properly supervise medical assistant J.C. in the care and treatment of Patient A, in violation of Section 2069 of the Code.

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(RICHARD MCINNIS HODNETT, M.D.) ACCUSATION NO. 800-2016-020630
FOURTH CAUSE FOR DISCIPLINE
(Unprofessional Conduct)

45. By reason of the facts set forth in paragraph 10 through 36 above, Respondent is subject to disciplinary action under Section 2234, subdivision (a), and Section 2216 of the Code, in that Respondent has engaged in unprofessional conduct based upon his gross negligence in the care and treatment of Patients A and B, repeated negligent acts in the care and treatment of Patients A and B, his failure to supervise medical assistant J.C. in the care and treatment of Patient A, and his performance of procedures upon Patients A and B in unaccredited outpatient settings while using general anesthesia.

46. Respondent’s acts and/or omissions as set forth in paragraphs 10 through 36 above, whether proven individually, jointly, or in any combination thereof, constitute Respondent’s unprofessional conduct based upon his gross negligence in the care and treatment of Patients A and B, repeated negligent acts in the care and treatment of Patients A and B, his failure to supervise medical assistant J.C. in the care and treatment of Patient A, and his performance of procedures upon Patients A and B in unaccredited outpatient settings using general anesthesia, pursuant to Section 2234, subdivision (a), and Section 2216 of the Code.
PRAYER

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

1. Revoking or suspending Physician's and Surgeon's Certificate Number C 51707 issued to Richard McInnis Hodnett, M.D.;

2. Revoking, suspending or denying approval of his authority to supervise physician assistants pursuant to Section 3527 of the Code, and advanced practice nurses;

3. If placed on probation, ordering Richard McInnis Hodnett, M.D. to pay the Board the costs of probation monitoring; and

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

DATED: November 29, 2018

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