

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

**In the Matter of the Accusation Against:** )

**LEANDRO GULAPA GATUS, M.D.** )

**Case No. 05-2011-216703**

**Physician's and Surgeon's  
Certificate No. A 45231** )

**Respondent** )

\_\_\_\_\_ )

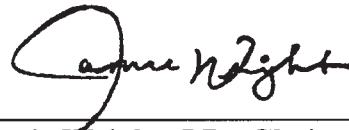
**DECISION AND ORDER**

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

This Decision shall become effective at 5:00 p.m. on October 29, 2015.

IT IS SO ORDERED: September 29, 2015.

**MEDICAL BOARD OF CALIFORNIA**



\_\_\_\_\_  
**Jamie Wright, J.D., Chair  
Panel A**

1 KAMALA D. HARRIS  
Attorney General of California  
2 JUDITH T. ALVARADO  
Supervising Deputy Attorney General  
3 RICHARD D. MARINO  
Deputy Attorney General  
4 State Bar No. 90471  
California Department of Justice  
5 300 So. Spring Street, Suite 1702  
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7

*Attorneys for Complainant*

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 **LEANDRO GULAPA GATUS, M.D.**  
13 **4731 Conchita Way**  
**Tarzana, CA 91356**  
14 **Physician's and Surgeon's Certificate No. A**  
15 **45231**  
16 Respondent.

Case No. 05-2011-216703

OAH No. 2014010827

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

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

22 **PARTIES**

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

27  
28 //







1 of marijuana.

2 2. CONTROLLED SUBSTANCES - SURRENDER OF DEA PERMIT. Respondent is  
3 prohibited from practicing medicine until Respondent provides documentary proof to the Board  
4 or its designee that Respondent's DEA permit has been surrendered to the Drug Enforcement  
5 Administration for cancellation, together with any state prescription forms and all controlled  
6 substances order forms. Thereafter, Respondent shall not reapply for a new DEA permit without  
7 the prior written consent of the Board or its designee.

8 3. PRESCRIBING PRACTICES COURSE. Within 60 calendar days of the effective  
9 date of this Decision, Respondent shall enroll in a course in prescribing practices equivalent to the  
10 Prescribing Practices Course at the Physician Assessment and Clinical Education Program,  
11 University of California, San Diego School of Medicine (Program), approved in advance by the  
12 Board or its designee. Respondent shall provide the program with any information and documents  
13 that the Program may deem pertinent. Respondent shall participate in and successfully complete  
14 the classroom component of the course not later than six (6) months after Respondent's initial  
15 enrollment. Respondent shall successfully complete any other component of the course within  
16 one (1) year of enrollment. The prescribing practices course shall be at Respondent's expense  
17 and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of  
18 licensure.

19 A prescribing practices course taken after the acts that gave rise to the charges in the  
20 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board  
21 or its designee, be accepted towards the fulfillment of this condition if the course would have  
22 been approved by the Board or its designee had the course been taken after the effective date of  
23 this Decision.

24 Respondent shall submit a certification of successful completion to the Board or its  
25 designee not later than 15 calendar days after successfully completing the course, or not later than  
26 15 calendar days after the effective date of the Decision, whichever is later.

27 4. MEDICAL RECORD KEEPING COURSE. Within 60 calendar days of the effective  
28 date of this Decision, Respondent shall enroll in a course in medical record keeping equivalent to

1 the Medical Record Keeping Course offered by the Physician Assessment and Clinical Education  
2 Program, University of California, San Diego School of Medicine (Program), approved in  
3 advance by the Board or its designee. Respondent shall provide the program with any information  
4 and documents that the Program may deem pertinent. Respondent shall participate in and  
5 successfully complete the classroom component of the course not later than six (6) months after  
6 Respondent's initial enrollment. Respondent shall successfully complete any other component of  
7 the course within one (1) year of enrollment. The medical record keeping course shall be at  
8 Respondent's expense and shall be in addition to the Continuing Medical Education (CME)  
9 requirements for renewal of licensure.

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

15 Respondent shall submit a certification of successful completion to the Board or its  
16 designee not later than 15 calendar days after successfully completing the course, or not later than  
17 15 calendar days after the effective date of the Decision, whichever is later.

18 5. PROFESSIONALISM PROGRAM (ETHICS COURSE). Within 60 calendar days of  
19 the effective date of this Decision, Respondent shall enroll in a professionalism program, that  
20 meets the requirements of Title 16, California Code of Regulations (CCR) section 1358.

21 Respondent shall participate in and successfully complete that program. Respondent shall  
22 provide any information and documents that the program may deem pertinent. Respondent shall  
23 successfully complete the classroom component of the program not later than six (6) months after  
24 Respondent's initial enrollment, and the longitudinal component of the program not later than the  
25 time specified by the program, but no later than one (1) year after attending the classroom  
26 component. The professionalism program shall be at Respondent's expense and shall be in  
27 addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

28 A professionalism program taken after the acts that gave rise to the charges in the



1 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board  
2 or its designee, be accepted towards the fulfillment of this condition if the program would have  
3 been approved by the Board or its designee had the program been taken after the effective date of  
4 this Decision.

5 Respondent shall submit a certification of successful completion to the Board or its  
6 designee not later than 15 calendar days after successfully completing the program or not later  
7 than 15 calendar days after the effective date of the Decision, whichever is later.

8 6. SOLO PRACTICE PROHIBITION. Respondent is prohibited from engaging in the  
9 solo practice of medicine. Prohibited solo practice includes, but is not limited to, a practice  
10 where: 1) Respondent merely shares office space with another physician but is not affiliated for  
11 purposes of providing patient care, or 2) Respondent is the sole physician practitioner at that  
12 location.

13 If Respondent fails to establish a practice with another physician or secure employment in  
14 an appropriate practice setting within 60 calendar days of the effective date of this Decision,  
15 Respondent shall receive a notification from the Board or its designee to cease the practice of  
16 medicine within three (3) calendar days after being so notified. The Respondent shall not resume  
17 practice until an appropriate practice setting is established.

18 If, during the course of the probation, the Respondent's practice setting changes and the  
19 Respondent is no longer practicing in a setting in compliance with this Decision, the Respondent  
20 shall notify the Board or its designee within 5 calendar days of the practice setting change. If  
21 Respondent fails to establish a practice with another physician or secure employment in an  
22 appropriate practice setting within 60 calendar days of the practice setting change, Respondent  
23 shall receive a notification from the Board or its designee to cease the practice of medicine within  
24 three (3) calendar days after being so notified. The Respondent shall not resume practice until an  
25 appropriate practice setting is established.

26 7. NOTIFICATION. Within seven (7) days of the effective date of this Decision, the  
27 Respondent shall provide a true copy of this Decision and Accusation to the Chief of Staff or the  
28 Chief Executive Officer at every hospital where privileges or membership are extended to



1 Respondent, at any other facility where Respondent engages in the practice of medicine,  
2 including all physician and locum tenens registries or other similar agencies, and to the Chief  
3 Executive Officer at every insurance carrier which extends malpractice insurance coverage to  
4 Respondent. Respondent shall submit proof of compliance to the Board or its designee within 15  
5 calendar days.

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

7 8. SUPERVISION OF PHYSICIAN ASSISTANTS. During probation, Respondent is  
8 prohibited from supervising physician assistants.

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

12 10. QUARTERLY DECLARATIONS. Respondent shall submit quarterly declarations  
13 under penalty of perjury on forms provided by the Board, stating whether there has been  
14 compliance with all the conditions of probation.

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

17 11. GENERAL PROBATION REQUIREMENTS.

18 Compliance with Probation Unit

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

21 Address Changes

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

27 Place of Practice

28 Respondent shall not engage in the practice of medicine in Respondent's or patient's place

1 of residence, unless the patient resides in a skilled nursing facility or other similar licensed  
2 facility.

3 License Renewal

4 Respondent shall maintain a current and renewed California physician's and surgeon's  
5 license.

6 Travel or Residence Outside California

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

10 In the event Respondent should leave the State of California to reside or to practice  
11 Respondent shall notify the Board or its designee in writing 30 calendar days prior to the dates of  
12 departure and return.

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

16 13. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or  
17 its designee in writing within 15 calendar days of any periods of non-practice lasting more than  
18 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is  
19 defined as any period of time Respondent is not practicing medicine in California as defined in  
20 Business and Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month  
21 in direct patient care, clinical activity or teaching, or other activity as approved by the Board. All  
22 time spent in an intensive training program which has been approved by the Board or its designee  
23 shall not be considered non-practice. Practicing medicine in another state of the United States or  
24 Federal jurisdiction while on probation with the medical licensing authority of that state or  
25 jurisdiction shall not be considered non-practice. A Board-ordered suspension of practice shall  
26 not be considered as a period of non-practice.

27 In the event Respondent's period of non-practice while on probation exceeds 18 calendar  
28 months, Respondent shall successfully complete a clinical training program that meets the criteria

1 of Condition 18 of the current version of the Board’s “Manual of Model Disciplinary Orders and  
2 Disciplinary Guidelines” prior to resuming the practice of medicine.

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

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

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

8 14. COMPLETION OF PROBATION. Respondent shall comply with all financial  
9 obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the  
10 completion of probation. Upon successful completion of probation, Respondent’s certificate shall  
11 be fully restored.

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

19 16. LICENSE SURRENDER. Following the effective date of this Decision, if  
20 Respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy  
21 the terms and conditions of probation, Respondent may request to surrender his or her license.  
22 The Board reserves the right to evaluate Respondent’s request and to exercise its discretion in  
23 determining whether or not to grant the request, or to take any other action deemed appropriate  
24 and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent  
25 shall within 15 calendar days deliver Respondent’s wallet and wall certificate to the Board or its  
26 designee and Respondent shall no longer practice medicine. Respondent will no longer be subject  
27 to the terms and conditions of probation. If Respondent re-applies for a medical license, the  
28 application shall be treated as a petition for reinstatement of a revoked certificate.

1 17. PROBATION MONITORING COSTS. Respondent shall pay the costs associated  
2 with probation monitoring each and every year of probation, as designated by the Board, which  
3 may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of  
4 California and delivered to the Board or its designee no later than January 31 of each calendar  
5 years.

6 ACCEPTANCE

7 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully  
8 discussed it with my attorney, Henry Lewin, Esq.. I understand the stipulation and the effect it  
9 will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement and  
10 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the  
11 Decision and Order of the Medical Board of California.

12  
13 DATED: 8/20/15 Leandro J. Gatus, M.D.  
14 LEANDRO GULAPA GATUS, M.D.  
15 Respondent

16 I have read and fully discussed with Respondent LEANDRO GULAPA GATUS, M.D. the  
17 terms and conditions and other matters contained in the above Stipulated Settlement and  
18 Disciplinary Order. I approve its form and content.

19 DATED: August 28, 2015 Henry Lewin  
20 HENRY LEWIN, Esq.  
21 Attorney for Respondent  
22  
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ENDORSEMENT

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

Dated: *August 28, 2015*

Respectfully submitted,

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



RICHARD D. MARINO  
Deputy Attorney General

Attorneys for Complainant

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**Exhibit A**

**Accusation No. 05-2011-216703**

1 KAMALA D. HARRIS  
Attorney General of California  
2 E. A. JONES III  
Supervising Deputy Attorney General  
3 RICHARD D. MARINO  
Deputy Attorney General  
4 California Department of Justice  
State Bar No. 90471  
5 300 So. Spring Street, Suite 1702  
Los Angeles, CA 90013  
6 Telephone: (213) 897-8644  
Facsimile: (213) 897-9395  
7 E-mail: [Richard.Marino@doj.ca.gov](mailto:Richard.Marino@doj.ca.gov)

FILED  
STATE OF CALIFORNIA  
MEDICAL BOARD OF CALIFORNIA  
SACRAMENTO October 15, 2012  
BY                      ANALYST

8 *Attorneys for Complainant*

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

12 In the Matter of the Accusation Against:  
13 **LEANDRO GULAPA GATUS, M.D.**  
14 **4731 Conchita Way**  
**Tarzana, CA 91356**  
15 **Physician's and Surgeon's Certificate No. A**  
**45231**  
16 Respondent.

Case No. 05-2011-216703

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

17  
18  
19 Complainant alleges:

20 **PARTIES**

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

24 2. On or about August 22, 1988, the Medical Board of California issued Physician's and  
25 Surgeon's Certificate Number A 45231 to LEANDRO GULAPA GATUS, M.D. (Respondent).  
26 The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the  
27 charges brought herein and will expire on February 28, 2014, unless renewed.

28 //



1 **JURISDICTION**

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

5 4. Section 2220 of the Code empowers Board with the responsibility of enforcing the  
6 provisions of the Medical Practice Act as to holders of physician's and surgeon's certificates.

7 5. Section 2227 of the Code provides:

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

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

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

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

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

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

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

28 //

1           6.           Section 2234 of the Code provides:

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

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

7                   "(b) Gross negligence.

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

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

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

18                   "(d) Incompetence.

19                   "(e) The commission of any act involving dishonesty or corruption which is  
20          substantially related to the qualifications, functions, or duties of a physician and surgeon.

21                   "(f) Any action or conduct which would have warranted the denial of a certificate.

22                   "(g) The practice of medicine from this state into another state or country without  
23          meeting the legal requirements of that state or country for the practice of medicine. Section  
24          2314 shall not apply to this subdivision. This subdivision shall become operative upon the  
25          implementation of the proposed registration program described in Section 2052.5.

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

1 subject of an investigation by the board."

2 7. Section 2238 of the Code provides:

3 AA violation of any federal statute or federal regulation or any of the statutes or  
4 regulations of this state regulating dangerous drugs or controlled substances constitutes  
5 unprofessional conduct.@

6 8. Section 2241 of the Code, in pertinent part, provides:

7 "(a) . . .

8 "(b) A physician and surgeon may prescribe, dispense, or administer prescription  
9 drugs or prescription controlled substances to an addict for purposes of maintenance on, or  
10 detoxification from, prescription drugs or controlled substances only as set forth in  
11 subdivision (c) or in Sections 11215, 11217, 11217.5, 11218, 11219, and 11220 of the  
12 Health and Safety Code. Nothing in this subdivision shall authorize a physician and  
13 surgeon to prescribe, dispense, or administer dangerous drugs or controlled substances to a  
14 person he or she knows or reasonably believes is using or will use the drugs or substances  
15 for a nonmedical purpose.

16 "(c) . . . ."

17 9. Section 2242 of the Code, in pertinent part, provides:

18 "(a) Prescribing, dispensing, or furnishing dangerous drugs as defined in Section 4022  
19 without an appropriate prior examination and a medical indication, constitutes  
20 unprofessional conduct.

21 ". . . ."

22 10. Section 2266 of the Code provides:

23 AThe failure of a physician and surgeon to maintain adequate and accurate records  
24 relating to the provision of services to their patients constitutes unprofessional conduct.@

25 11. Section 725 of the Code provides:

26 "Repeated acts of clearly excessive prescribing, furnishing, dispensing, or  
27 administering of drugs or treatment, repeated acts of clearly excessive use of diagnostic  
28 procedures, or repeated acts of clearly excessive use of diagnostic or treatment facilities as

1 determined by the standard of the community of licensees is unprofessional conduct for a  
2 physician and surgeon, dentist, podiatrist, psychologist, physical therapist, chiropractor,  
3 optometrist, speech-language pathologist, or audiologist.

4 “(b) Any person who engages in repeated acts of clearly excessive prescribing or  
5 administering of drugs or treatment is guilty of a misdemeanor and shall be punished by a  
6 fine of not less than one hundred dollars (\$100) nor more than six hundred dollars (\$600),  
7 or by imprisonment for a term of not less than 60 days nor more than 180 days, or by both  
8 that fine and imprisonment.

9 “(c) A practitioner who has a medical basis for prescribing, furnishing, dispensing, or  
10 administering dangerous drugs or prescription controlled substances shall not be subject to  
11 disciplinary action or prosecution under this section.

12 “(d) No physician and surgeon shall be subject to disciplinary action pursuant to this  
13 section for treating intractable pain in compliance with Section 2241.5.”

14 12. Health and Safety Code section 11152 provides:

15 “No person shall write, issue, fill, compound, or dispense a prescription that does not  
16 conform to this division.”

17 13. Health and Safety Code section 11153, in relevant part, provides:

18 “(a) A prescription for a controlled substance shall only be issued for a legitimate  
19 medical purpose by an individual practitioner acting in the usual course of his or her  
20 professional practice. The responsibility for the proper prescribing and dispensing of  
21 controlled substances is upon the prescribing practitioner, but a corresponding  
22 responsibility rests with the pharmacist who fills the prescription. Except as authorized by  
23 this division, the following are not legal prescriptions: (1) an order purporting to be a  
24 prescription which is issued not in the usual course of professional treatment or in  
25 legitimate and authorized research; or (2) an order for an addict or habitual user of  
26 controlled substances, which is issued not in the course of professional treatment or as part  
27 of an authorized narcotic treatment program, for the purpose of providing the user with  
28 controlled substances, sufficient to keep him or her comfortable by maintaining customary

1 use.

2 “ . . . .”

3 14. Health and Safety Code section 11155 provides:

4 “Any physician, who by court order or order of any state or governmental agency, or  
5 who voluntarily surrenders his controlled substance privileges, shall not possess,  
6 administer, dispense, or prescribe a controlled substance unless and until such privileges  
7 have been restored, and he has obtained current registration from the appropriate federal  
8 agency as provided by law.”

9 **CONTROLLED SUBSTANCES AND OTHER DANGEROUS DRUGS**

10 15. **Norco** (Hydrocodone Bitartrate and Acetaminophen): A Schedule III controlled  
11 substance pursuant to Health and Safety Code section 11056 and a dangerous drug pursuant  
12 Business and Professions Code section 4022 primarily used to treat and manage pain.

13 16. **Xanax (Alprazolam)**: A Schedule IV controlled substance pursuant to Health and  
14 Safety Code section 11057 and a dangerous drug pursuant to Business and Professions Code  
15 section 4022 primarily used to treat and manage anxiety.

16 17. **Oxycontin (Oxycodone Hydrochloride)**: A Schedule II controlled substance  
17 pursuant to Health and Safety Code section 11055, subdivision (b)(1)(M), and a dangerous drug  
18 pursuant to Business and Professions Code section 4022 primarily used to treat and manage pain.

19 18. **Methadone HCL**: A Schedule III controlled substance pursuant to Health and Safety  
20 Code section 11056 and a dangerous drug pursuant Business and Professions Code section 4022  
21 primarily used to treat opiate addiction.

22 19. **Suboxone**: A Schedule III controlled substance pursuant to Health and Safety Code  
23 section 11055 and a dangerous drug pursuant Business and Professions Code section 4022  
24 primarily used to treat opiate addiction.

25 20. **Soma (Carisoprodol)**: A Schedule III controlled substance pursuant to Health and  
26 Safety Code section 11056 and a dangerous drug pursuant Business and Professions Code section  
27 4022 primarily used to treat pain and manage pain.

28 21. **Klonopin (Clonazepam)**: A Schedule IV controlled substance pursuant to Health and

1 Safety Code section 11057 and a dangerous drug pursuant to Business and Professions Code  
2 section 4022 primarily used to treat and manage anxiety.

3 22. **Seroquel**: A dangerous drug pursuant to Business and Professions Code section 4022  
4 primarily used to treat bipolar disorder.

5 23. **Celexa (citalopram hydrobromide)**: A dangerous drug pursuant to Business and  
6 Professions Code section 4022 primarily used to treat depression.

7 24. **Roxicodone (Oxycodone Hydrochloride)**: A Schedule II controlled substance  
8 pursuant to Health and Safety Code section 11055 and a dangerous drug pursuant to Business and  
9 Professions Code section 4022 primarily used to treat and manage pain.

#### 10 **PRIOR DISCIPLINARY HISTORY**

11 25. Effective August 11, 2000, *In the Matter of the Accusation Against Leandro Gatus,*  
12 *M.D.*, MBC Case No. 05-1997-81247, the Medical Board of California, pursuant to a Stipulated  
13 Settlement and Disciplinary Order, issued its Decision and Order, a copy of which is hereto  
14 attached as Exhibit A, revoking Respondent's Physician's and Surgeon's Certificate No. A45231.  
15 The Board then stayed the revocation and placed Respondent on probation, with terms and  
16 conditions, for two years. Respondent successfully completed probation and his Physician and  
17 Surgeon's Certificate No. 05-1997-81247, was fully restored as of August 11, 2002.

#### 18 **FIRST CAUSE FOR DISCIPLINE**

##### 19 **(Prescribing Without Performing Appropriate Prior Examination)**

20 26. Respondent is subject to disciplinary action under Business and Professions Code  
21 section 2242 for prescribing controlled substances and other dangerous drugs without performing  
22 a physical examination and/or without medical indication, as follows:

##### 23 **Patient M.Z.<sup>1</sup>**

24 A. On or about July 4, 2011, M.Z., who was 46 years old, died at his home  
25 from an overdose of prescription pain medication.

26 <sup>1</sup> In order to protect the individuals' rights of privacy, all persons referenced in this  
27 pleading other than Respondent are identified by initials only. The true names of these  
28 individuals are known to Respondent and will be provided to him upon his timely request for  
discovery.



1 B. M.Z. was a known opiate addict and prescription drug abuser. Between  
2 2009 and 2011, M.Z. received prescriptions for treatment of opiate addiction, pain, and  
3 anxiety from Respondent and two other California licensed physicians and surgeons, J.W.  
4 and W.J.

5 C. On June 30, 2011, four days prior to his death, M.Z. received from  
6 Respondent the following pain treatment prescription: Soma (carisprodol), 30 tablets, 350  
7 milligrams (mg); and, the following anti-anxiety medication: Klonopin (clonazepam) 90  
8 tablets, 1 mg. Also, on June, 30, 2011, M.Z. received the following anti-anxiety medication  
9 from J.W.: Klonopin (clonazepam), 60 tablets, 1 mg. On June 23, 11 days prior to his  
10 death, M.Z., received form W.J. the following opiate addiction prescription: Suboxone, 8  
11 tablets, 2 mg.

12 D. On or about and between January 2009 and June 2011, a period of 30  
13 months, M.Z. received 45 prescriptions for clonazepam.

14 E. On or about and between January 2009 and June 2011, a period of 30  
15 months, M.Z. received 30 prescriptions for hydrocoone.

16 F. On or about and between January 2009 and June 2011, a period of 30  
17 months, M.Z. received 24 prescriptions for methadone HCL, a controlled substance used to  
18 treat opiate addiction.

19 G. On or about and between January 2009 and June 2011, a period of 30  
20 months, M.Z. received 7 prescriptions for alprazolam, an anti-anxiety medication.

21 H. On or about and between January 2009 and June 2011, a period of 30  
22 months, M.Z. received 20 prescriptions for suboxone, a controlled substance used to treat  
23 opiate addition.

24 I. On or about and between January 2009 and June 2011, Respondent failed  
25 to perform or, in the alternative, failed to document that he performed regular physical  
26 examinations prior to prescribing controlled substances and other dangerous drugs, as  
27 hereinabove described in paragraph 25, subparagraphs A through H, above. As a  
28 consequence, prescriptions written by Respondent for Patient M.Z. between January 2009



1 and June 2011 were without substantiated medical indication.

2 **Patient J.G.**

3 J. J.G., addicted to prescription medications for a number of years,  
4 presented to Respondent for the purpose of obtaining prescription pain medication.<sup>2</sup> On  
5 May 13, 2009, she presented with “chronic knee pain/detached quad muscle, chronic back  
6 pain.” At that time, J.G. was taking roxicodone and oxycodone. Respondent continued the  
7 same prescriptions for J.G. but did not contact J.G.’s prior treating physician(s).

8 K. On or about August 25, 2009, Respondent began prescribing Soma to J.G.  
9 However, Respondent did not advise J.G. of the risks associated with taking Soma or, in the  
10 alternative, did not record that he did so in the patient’s records.

11 L. In September 2009, Respondent was notified that J.G. was having  
12 multiple pain medication prescriptions from Respondent and “at least [two] other  
13 physicians . . . in at least [three] different pharmacies in a 3-month period.”<sup>3</sup>

14 M. Respondent next saw J.G. on October 27, 2009, at which time he  
15 prescribed roxicodone, 10 mg, 90 tablets, and Soma, 350 mg, 30 tablets. A CURES report  
16 showed that J.G. obtained prescription medications, including Roxicodone, from another  
17 provider at or about the same time.

18 N. J.G. next saw Respondent on July 8, 15, 20; August 3 and 19; and,  
19 September 9, 2010. During those visits, Respondent prescribed Roxicodone, 10 mg, 15  
20 tablets; Norco, 350 mg., 30 tablets; Soma, 350 mg, 30 tablets; Roxicodone, 15 mg, 15  
21 tablets; Roxicodone, 30 mg, 60 tablets; Norco, 350 mg, 30 tablets; Xanax, 1 mg, 15 tablets;  
22 soma, 325 mg, 30 tablets; Xanax, 1 mg, 15 tablets; Soma, 325 mg, 30 tablets; and, Xanax 2  
23 mg, 30 tablets. Respondent’s records for these six (6) office visits did not contain any  
24 information with regard, among other things, to the frequency of the prescriptions, the  
25 changes in dosage, and whether J.G. was counseled regarding the effects of taking these

26 <sup>2</sup> Respondent first saw J.G, a gymnast, during 2003, when she underwent dual knee  
27 surgery;  
28 <sup>3</sup> According to Respondent’s medical records, he advised J.G. that she would be  
terminated if she continued “doctor shopping.”

1 medications in concert.

2 O. Respondent next saw J.G. on October 19, 2010, at which time  
3 Respondent again wrote prescriptions for Norco, 325 mg, 30 tablets; Xanax, 2 mg, 30  
4 tablets; and, Soma, 325 mg, 30 tablets. Respondent's medical records for this visit did not  
5 show that Respondent conducted a physical examination. However, during an interview  
6 with representatives from the Medical Board of California, conducted about one year later,  
7 Respondent stated that he performed a physical examination on October 19, 2010.

8 P. Respondent continued to see J.G. from October 2010 until February 2012  
9 during which time he continued to write prescriptions for Soma, Norco, and Xanax.

10 Q. Between October 2011 and February 2012, J.G. continued to obtain pain  
11 medication from other medical providers as evidenced by CURES reports for that period of  
12 time.

13 R. On February 28, 2012, J.G. was found dead from a drug overdose at her  
14 apartment. The autopsy report, in part, read:

15 "Toxicological testing detected a toxic level of hydrocodone, therapeutic levels  
16 of alprazolam and acetaminophen, and low to trace levels of doxylamine,  
17 carisoprodol, meprobamate . . . , dihydrocodeine . . . , and naproxen. . . [C]ause of  
18 death is mixed medication (hydrocodone, alprazolam, doxylamine, and carisoprodol)  
19 intoxication, and the manner of death is accident."

20 S. On or about and between May 2009 and February 2012, Respondent  
21 failed to perform or, in the alternative, failed to document that he performed regular  
22 physical examinations prior to prescribing controlled substances and other dangerous drugs,  
23 as hereinabove described in paragraph 25, subparagraphs J through R, above. As a  
24 consequence, prescriptions written by Respondent for Patient J.G. between May 2009 and  
25 February 2012 were without substantiated medical indication.

26 **Patient J.C.**

27 T. On July 6, 2010, J.C., then 64 years old, presented to Respondent for  
28 "pain back hip knee." At the initial visit, J.C. completed an intake questionnaire in which

1 he wrote that he took Oxycodone, Xanax and Soma.

2 U. At the time, J.C. was under the care of a number of physicians and  
3 surgeons for a variety of medical issues. According to Respondent's medical records, J.C.  
4 had been taking pain medications for 15 years.

5 V. During that first visit, Respondent prescribed Oxycontin, 80 mg, 60  
6 tablets; Soma, 350 mg, 60 tablets; and, Xanax, 2 mg, 30 tablets. Respondent did not review  
7 J.C.'s medical records from other providers and did not review J.C.'s prescription history  
8 prior to writing the Oxycontin, Soma and Xanax prescriptions or, in the alternative, did not  
9 record that he had done so in the patient's medical records.

10 W. On July 29, 2010, J.C. had a prescription for hydrocodone, 80 mg, 60  
11 tablets, written by a dentist filled.

12 X. Respondent next saw J.C. on September 9, 2010, at which time he again  
13 prescribed Xanax, 2 mg, 30 tablets and Oxycontin, 80 mg, 60 tablets. Respondent's  
14 progress note was brief and did not explain where J.C. obtained prescription medications, if  
15 any, during three months since last visiting Respondent.

16 Y. Respondent next saw J.C. on October 18, 2010, at which time Respondent  
17 prescribed Roxycodone, 30 mg, 90 tablets; Xanax, 2 mg, 30 tablets; and, Soma, 350 mg, 60  
18 tablets. Respondent referred J.C. to an internist based on the patient's elevated vital signs.

19 Z. A CURES report showed that J.C. filled prescriptions for Xanax and  
20 Hydrocodone, written by another physician and surgeon, two days later.

21 AA. Respondent continued to see J.C. on a monthly basis over the next 25  
22 months. On each occasion, Respondent renewed the prescriptions he had been writing for  
23 J.C.<sup>4</sup> Although Respondent conducted a physical examination at J.C.'s initial visit,  
24 Respondent did not reexamine or record that he had reexamined the patient during the  
25 ensuing two years of treatment.

26  
27  
28 <sup>4</sup> At some point, Respondent started prescribing Ambien in lieu of Xanax.

1 **SECOND CAUSE FOR DISCIPLINE**

2 **(Prescribing To Known Addicts)**

3 27. Respondent is subject to disciplinary action Business and Professions Code section  
4 2241, in that Respondent prescribed controlled substances and other dangerous drugs to persons  
5 he knew or should have known were drug addicts, as follows:

6 A. Complainant refers to and, by this reference incorporates paragraph 25, above,  
7 as though fully set forth.

8 **THIRD CAUSE FOR DISCIPLINE**

9 **(Excessive Prescribing)**

10 28. Respondent is subject to disciplinary action pursuant to Business and Professions  
11 Code section 725 for excessively prescribing controlled substances and other dangerous drugs to  
12 patients, as follows:

13 A. Complainant refers to and, by this reference incorporates paragraph 25, above,  
14 as though fully set forth.

15 **FOURTH CAUSE FOR DISCIPLINE**

16 **(Violation of Drug Laws)**

17 29. Respondent is subject to disciplinary action pursuant to Business and Professions  
18 Code section 2238, in connection with Business and Professions Code sections 725, 2241 and  
19 2242 and Health and Safety Code sections 11152, 11153 and 11155, as follows:

20 A. Complainant refers to and, by this reference incorporates paragraph 25, above,  
21 as though fully set forth.

22 **FIFTH CAUSE FOR DISCIPLINE**

23 **(Gross Negligence)**

24 30. Respondent is subject to disciplinary action Business and Professions Code section  
25 2234, subdivision (b), in that Respondent was grossly negligent during his care, treatment and  
26 management of patients M.Z., J.G., and J.C., as follows:

27 A. Complainant refers to and, by this reference incorporates paragraph 25, above,  
28 as though fully set forth.

1           B.    The following acts and omissions, considered individually and collectively,  
2           constitute extreme departures from the applicable standard of care as to all patients..

3                   1)    Respondent did not take a complete medical history of the patients  
4                   for whom he prescribed controlled substances and other dangerous drugs.

5                   2)    Respondent did not perform a complete physical examination on  
6                   the patients for whom he prescribed controlled substances and other dangerous drugs  
7                   or, in the alternative, continued to prescribed pain medications to patients for years  
8                   without ever conducting a follow-up physical examination.

9                   3)    Respondent did not devise a treatment plan for the patients for  
10                  whom he prescribed controlled substances and other dangerous drugs.

11                  4)    Respondent did not discuss the risks and benefits of controlled  
12                  substances and other dangerous drugs with patients before prescribing same.

13                  5)    Respondent did not review the treatment, if any, rendered by others  
14                  to the patients for whom he prescribed controlled substances and other dangerous  
15                  drugs.

16                  6)    Respondent did not consider referring patients for whom he  
17                  prescribed controlled substances and other dangerous drugs to specialists in pain  
18                  management.

19                  7)    Respondent failed to keep adequate and accurate medical records in  
20                  that the records did not contain an adequate history and physical, treatment plan with  
21                  objectives, progress of treatment, informed consent, appropriate follow-up care and/or  
22                  referrals to specialists.

23                  8)    Respondent prescribed controlled substances and other dangerous  
24                  drugs to individuals he reasonably suspected or should have reasonably suspected  
25                  were addicts or otherwise dependent on controlled substances and other dangerous  
26                  drugs.

27                  9)    Respondent did not utilize CURES reports to determine whether  
28                  patients were obtaining pain medications from other providers at the same time the

1 patients were obtaining pain medication prescriptions from Respondent or if the  
2 patients were obtaining pain medications prescriptions from other providers when the  
3 patients went months without seeing Respondent.

4 C. As to Patient M.Z., “[Respondent] did document an adequate history and  
5 physical examination of [M.Z.], who had a history of Bipolar Disorder, severe  
6 intractable pain and a history of opiate dependence . . . [but his failure to] document  
7 an adequate initial psychiatric evaluation, which would include a psychiatric history,  
8 history of psychiatric treatment, substance abuse history, psychiatric review of  
9 symptoms, social history, and a mental status examination . . . is an extreme departure  
10 from [the applicable standard] of care.”

11 D. As to Patient M.Z., “[t]here were no prior medical records or documented  
12 contact with a prior health care provider, establishing the diagnosis of chronic pain  
13 condition and prior use of Methadone, before [Respondent] started prescribing  
14 Methadone to a patient with a history of chronic pain, Bipolar Disorder, and history  
15 of opiate dependence.” This and the “multiple instances . . . [of] inadequate  
16 monitoring of Methadone . . . [are] . . . extreme departure[s] [from the applicable]  
17 standard of care.”

18 E. As to Patient M.Z., “[Respondent] did not adequately document the  
19 progress/treatment response of the symptoms of Bipolar Disorder and anxiety in the  
20 treatment of [M.Z.], who ha[d] a history of opiate dependency. There were multiple  
21 instances . . . of inadequate monitoring of Klonopin , . . [and] no medical record  
22 documentation of informed consent for the psychiatric medications[,]” all of which  
23 constitute an extreme departure from the applicable standard of care.

24 F. As to Patient J.G., the lack “of medical records or documentation from  
25 another health care provider establishing a chronic pain condition and treatment  
26 before [Respondent] started prescribing . . . high dose narcotic pain medication . . . is  
27 an extreme departure [from the applicable] standard of care.”

28 G. As to Patient J.G., “[t]he lack of adequate documentation, for a patient

1 with a history of chronic pain and history of doctor shopping/overuse of pain  
2 medications, of: (1) the progress of treatment of chronic pain and anxiety; (2) lack of  
3 documentation of [J.G.]’s overuse of addictive medications as a problem; (3) lack of  
4 informed consent for the addictive medications being prescribed; (4) lack of  
5 documentation of using CURES to monitor [J.G.]’s prescription of narcotic pain  
6 medications and other controlled substances . . . from other health care providers or to  
7 contact the pharmacies he was using to inquire whether [J.G.] was receiving similar  
8 medications from other doctors; and [,] (5) the lack of documentation of approval of  
9 refills . . . is an extreme departure from the [applicable] standard of care.”

10 H. As to Patient J.C., “[f]or a 64 year old patient with a history of chronic  
11 pain and anxiety and [other medical issues] who is being treated with chronic narcotic  
12 pain medication and benzodiazepines, (1) the lack of adequate documentation of the  
13 progress of treatment of the symptoms of chronic pain and anxiety with narcotic pain  
14 medications and benzodiazepines in many of the progress notes; and (2) the lack of  
15 documentation of informed consent for the risks and benefits of the addictive  
16 medications—narcotic pain medications, *e.g.*, Oxycontin, Roxicodone . . . is an  
17 extreme departure from the [applicable] standard of care.”

## 18 SIXTH CAUSE FOR DISCIPLINE

### 19 (Repeated Negligent Acts)

20 31. Respondent is subject to disciplinary action pursuant to Business and Professions  
21 Code section 2234, subdivision (c), in that Respondent was repeatedly negligent during his care,  
22 treatment and management of Patients M.Z., J.G., and J.C., as follows:

23 A. Complainant refers to and, by this reference incorporates paragraph 25, above,  
24 as though fully set forth.

25 B. Complainant refers to and, by this reference incorporates paragraph 27,  
26 subparagraphs C through H, inclusive, above, as though fully set forth.

27 C. The following acts and omission constitute departures from the applicable  
28 standard of care as to all patients.



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1) Respondent did not take a complete medical history of the patients for whom he prescribed controlled substances and other dangerous drugs.

2) Respondent did not perform a complete physical examination on the patients for whom he prescribed controlled substances and other dangerous drugs.

3) Respondent did not devise a treatment plan for the patients for whom he prescribed controlled substances and other dangerous drugs.

4) Respondent did not discuss the risks and benefits of controlled substances and other dangerous drugs with patients before prescribing same.

5) Respondent did not review the treatment, if any, rendered by others to the patients for whom he prescribed controlled substances and other dangerous drugs.

6) Respondent did not consider referring patients for whom he prescribed controlled substances and other dangerous drugs to specialists in pain management.

7) Respondent failed to keep adequate and accurate medical records in that the records did not contain an adequate history and physical, treatment plan with objectives, progress of treatment, informed consent, appropriate follow-up care and/or referrals to specialists.

8) Respondent prescribed controlled substances and other dangerous drugs to individuals he reasonably suspected or should have reasonably suspected were addicts or otherwise dependent on controlled substances and other dangerous drugs.

9) Respondent did not utilize CURES reports to determine whether patients were obtaining pain medications from other providers at the same time the patients were obtaining pain medication prescriptions from Respondent or if the patients were obtaining pain medications prescriptions from other providers when the patients went months without seeing Respondent.

1 D. As to Patient M.Z., “[t]he lack of documentation to attempt to obtain  
2 psychiatric records or to contact the other current treating psychiatrist(s) is a simple  
3 departure from the standard of care.

4 E. As to Patient J.C., “[t]he lack of documentation . . . of a release of health  
5 care information form to obtain treatment records from the patient’s current health care  
6 providers . . . and the lack of copies of medical records or documented contact by  
7 [Respondent] with [J.C.]’s primary care physician and orthopedic surgeon, is a simple  
8 departure from the [applicable] standard of care . . . .”

9 **SEVENTH CAUSE FOR DISCIPLINE**

10 **(Incompetence)**

11 32. Respondent is subject to disciplinary action under Business and Professions Code  
12 section 2234, subdivision (d), in that he was incompetent during his care, treatment and  
13 management of patients, as follows:

14 A. Complainant refers to and, by this reference incorporates paragraph 25, above,  
15 as though fully set forth.

16 B. Complainant refers to and, by this reference incorporates paragraph 27,  
17 subparagraphs C through H, inclusive, above, as though fully set forth.

18 C. Complainant refers to and, by this reference incorporates paragraph 28,  
19 subparagraphs C, D and E, above, as though fully set forth.

20 **EIGHTH CAUSE FOR DISCIPLINE**

21 **(Dishonest or Corrupt Acts)**

22 33. Respondent is subject to disciplinary action pursuant to Business and Professions  
23 Code section 2234, subdivision (e), in that he committed dishonest or corrupt acts while caring  
24 for, treating and managing patients, as follows:

25 A. Complainant refers to and, by this reference incorporates paragraph 25, above,  
26 as though fully set forth.

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**NINTH CAUSE FOR DISCIPLINE**

**(Failure to Maintain Adequate and Accurate Medical Records)**

34. Respondent is subject to disciplinary action pursuant to Business and Professions Code section 2266 in that he failed to maintain adequate and accurate records pertaining to the provision of medical services to Patients M.Z., J.G., and J.C., as follows:

A. Complainant refers to and, by this reference incorporates paragraph 25, above, as though fully set forth.

**TENTH CAUSE FOR DISCIPLINE**

**(Unprofessional Conduct)**

35. Respondent is subject to disciplinary action pursuant to Business and Professions Code section 2234, generally, in that he was grossly negligent during his care, treatment and management of Patients M.Z. J.G., and J.C., as follows:

A. Complainant refers to and, by this reference incorporates paragraph 31, above, as though fully set forth.

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**PRAYER**

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

1. Revoking or suspending Physician's and Surgeon's Certificate Number A 45231, issued to Leandro Gulapa Gatus, M.D.

2. Revoking, suspending or denying approval of Leandro Gulapa Gatus, M.D.'s authority to supervise physician assistants, pursuant to Business and Professions Code section 3527;

3. Ordering Leandro Gulapa Gatus, M.D., if placed on probation, to pay the Medical Board of California the costs of probation monitoring; and

4. Taking such other and further action as deemed necessary, and appropriate.

DATED: October 15, 2013



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

*Complainant*

# EXHIBIT A

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

In the Matter of the Accusation )  
Against: )  
LEANDRO GATUS, M.D.. )  
Physician's and Surgeon's )  
Certificate #A-45231 )  
Respondent. )

File No: 05-1997-81247

DECISION AND ORDER

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

This Decision shall become effective at 5:00 p.m. on August 11, 2000.

IT IS SO ORDERED July 12, 2000

MEDICAL BOARD OF CALIFORNIA



Ira Lubell, M.D.  
Chair, Panel A  
Division of Medical Quality

1 Bill Lockyer, Attorney General  
of the State of California  
2 RICHARD D. MARINO (State Bar No. 90471)  
Deputy Attorney General  
3 California Department of Justice  
300 South Spring Street, Suite 5212  
4 Los Angeles, California 90013-1233  
Telephone: (213) 897-8644  
5  
Attorneys for Complainant  
6  
7

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

11 In the Matter of the Accusation ) Case No. 05-1997-81247  
Against: ) OAH No. L-2000010507  
12 )  
LEANDRO G. GATUS, M.D. ) **STIPULATED SETTLEMENT AND**  
13 4731 Conchita Way ) **DISCIPLINARY ORDER**  
Tarzana, Ca. 91356 )  
14 )  
Physician and Surgeon's Certificate )  
15 No. A 45231, )  
16 Respondent. )

17  
18 **IT IS HEREBY STIPULATED AND AGREED** by and between the  
19 parties to the above-entitled proceedings that the following  
20 matters are true:

21 1. An Accusation in case number 05-1997-81247 was filed  
22 with the Division of Medical Quality, Medical Board of California,  
23 Department of Consumer Affairs (hereinafter the "Division") on  
24 December 1, 1999, and is currently pending against LEANDRO G.  
25 GATUS, M.D. ("respondent").

26 2. The Accusation, together with all statutorily  
27 required documents, was duly served on the respondent on or about



1 December 1, 1999, and respondent filed his Notice of Defense  
2 contesting the Accusation on or about December 8, 1999. A copy of  
3 Accusation No. 05-1997-81247 is attached as Exhibit "1" and hereby  
4 incorporated by reference as if fully set forth.

5           3. Complainant, Ron Joseph, is the Executive Director of  
6 the Medical Board of California ("Complainant") and brought this  
7 action solely in his official capacity. The Complainant is  
8 represented by the Attorney General of California, Bill Lockyer, by  
9 and through Deputy Attorney General Richard D. Marino.

10           4. At all times relevant herein, respondent has been  
11 licensed by the Medical Board of California under Physician and  
12 Surgeon's Certificate No. A 45231.

13           5. Respondent is representing himself in this matter *in*  
14 *propria persona*.

15           6. Respondent has fully read the charges contained in  
16 Accusation No. 05-94-40204. Respondent is fully aware of his legal  
17 rights and the effects of this Stipulated Settlement and  
18 Disciplinary Order.

19           7. Respondent understands the nature of the charges  
20 alleged in the Accusation and that, if proven at hearing, the  
21 charges and allegations would constitute cause for imposing  
22 discipline upon his Physician and Surgeon's Certificate.  
23 Respondent is fully aware of his right to a hearing on the charges  
24 contained in the Accusation, his right to confront and cross-  
25 examine witnesses against him, his right to the use of subpoenas to  
26 compel the attendance of witnesses and the production of documents  
27 in both defense and mitigation of the charges, his right to

1 reconsideration, court review and any and all other rights accorded  
2 by the California Administrative Procedure Act and other applicable  
3 laws.

4           8.    Respondent knowingly, intelligently, voluntarily and  
5 irrevocably waives and gives up each of these rights.

6           9.    Respondent admits the truth of paragraphs 1 through  
7 5, inclusive, of Accusation No. 05-1997-81247, and agrees that he  
8 has thereby subjected his Physician and Surgeon's Certificate to  
9 disciplinary action under Business and Professions Code section  
10 2236 for having a sustained a criminal conviction for an offense  
11 substantially related to the qualifications, functions or duties of  
12 a physician and surgeon--namely, driving with a blood alcohol level  
13 greater than .08 percent, in violation of Vehicle Code section  
14 23152, subdivision (B). Respondent agrees to be bound by the  
15 Division's Disciplinary Order as set forth below.

16           10. The admissions made by respondent herein are for the  
17 purpose of this proceeding and any other proceedings in which the  
18 Division of Medical Quality, Medical Board of California, or other  
19 professional licensing agency is involved, and shall not be  
20 admissible in any other criminal or civil proceedings.

21           11. Based on the foregoing admissions and stipulated  
22 matters, the parties agree that the Division shall, without further  
23 notice or formal proceeding, issue and enter the following order:

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1 DISCIPLINARY ORDER

2 IT IS HEREBY ORDERED that Physician and Surgeon's  
3 Certificate No. A 45231 issued to LEANDRO G. GATUS, M.D. is  
4 revoked. However, the revocation is stayed and respondent is  
5 placed on probation for two (2) years on the following terms and  
6 conditions. Within 15 days after the effective date of this  
7 decision the respondent shall provide the Division, or its  
8 designee, proof of service that respondent has served a true copy  
9 of this decision on the Chief of Staff or the Chief Executive  
10 Officer at every hospital where privileges or membership are  
11 extended to respondent or where respondent is employed to practice  
12 medicine and on the Chief Executive Officer at every insurance  
13 carrier where malpractice insurance coverage is extended to  
14 respondent.

15 1. ALCOHOL - ABSTAIN FROM USE Respondent shall abstain  
16 completely from the use of alcoholic beverages.

17 2. BIOLOGICAL FLUID TESTING Respondent shall immediately  
18 submit to biological fluid testing, at respondent's cost, upon the  
19 request of the Division or its designee.

20 3. TWELVE STEP PROGRAM Within thirty (30) days from the  
21 effective date of this decision, respondent shall enroll and  
22 participate in an Alcoholics Anonymous or similar 12-Step recovery  
23 program until the Division or its designee determines that the  
24 respondent's participation in such a program is no longer necessary  
25 or until the termination of probation whichever occurs first.  
26 Quitting the program without permission or failing to attend the  
27 program on a regular basis shall constitute a violation of

1 probation by respondent.

2           4.    ETHICS COURSE           Within sixty (60) days of the  
3 effective date of this decision, respondent shall enroll in a  
4 course in Ethics approved in advance by the Division or its  
5 designee, and shall successfully complete the course during the  
6 first year of probation.

7           5.    OBEY ALL LAWS       Respondent shall obey all federal,  
8 state and local laws, all rules governing the practice of medicine  
9 in California, and remain in full compliance with any court ordered  
10 criminal probation, payments and other orders.

11           6.    QUARTERLY REPORTS   Respondent shall submit quarterly  
12 declarations under penalty of perjury on forms provided by the  
13 Division, stating whether there has been compliance with all the  
14 conditions of probation.

15           7.    PROBATION SURVEILLANCE PROGRAM COMPLIANCE   Respondent  
16 shall comply with the Division's probation surveillance program.  
17 Respondent shall, at all times, keep the Division informed of his  
18 business and residence addresses which shall both serve as  
19 addresses of record.   Changes of such addresses shall be  
20 immediately communicated in writing to the Division.   Under no  
21 circumstances shall a post office box serve as an address of  
22 record.

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

27           8.    INTERVIEW WITH THE DIVISION, ITS DESIGNEE OR ITS DESIGNATED

1 PHYSICIAN(S) Respondent shall appear in person for interviews with  
2 the Division, its designee or its designated physician(s) upon  
3 request at various intervals and with reasonable notice.

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

19 10. COMPLETION OF PROBATION Upon successful completion of  
20 probation, respondent's certificate shall be fully restored.

21 11. VIOLATION OF PROBATION If respondent violates  
22 probation in any respect, the Division, after giving respondent  
23 notice and the opportunity to be heard, may revoke probation and  
24 carry out the disciplinary order that was stayed. If an accusation  
25 or petition to revoke probation is filed against respondent during  
26 probation, the Division shall have continuing jurisdiction until  
27 the matter is final, and the period of probation shall be extended

1 until the matter is final.

2           12. COST RECOVERY The respondent is hereby ordered to  
3 reimburse the Division the amount of \$4,000, in 12 equal  
4 installments during the first year of probation, for its  
5 investigative and prosecution costs. The first installment is due  
6 within thirty (30) days of the effective date of this decision and  
7 each subsequent installment every thirty (30) days thereafter.  
8 Failure to reimburse the Division's cost of investigation and  
9 prosecution shall constitute a violation of the probation order,  
10 unless the Division agrees in writing to payment by an alternate  
11 installment plan because of financial hardship. The filing of  
12 bankruptcy by the respondent shall not relieve the respondent of  
13 his responsibility to reimburse the Division for its investigative  
14 and prosecution costs.

15           13. PROBATION COSTS Respondent shall pay the costs  
16 associated with probation monitoring each and every year of  
17 probation, which are currently set at \$2,304, but may be adjusted  
18 on an annual basis. Such costs shall be payable to the Division of  
19 Medical Quality and delivered to the designated probation  
20 surveillance monitor at the beginning of each calendar year.  
21 Failure to pay costs within 30 days of the due date shall  
22 constitute a violation of probation.

23           14. LICENSE SURRENDER Following the effective date of  
24 this decision, if respondent ceases practicing due to retirement,  
25 health reasons or is otherwise unable to satisfy the terms and  
26 conditions of probation, respondent may voluntarily tender his  
27 certificate to the Board. The Division reserves the right to

1 evaluate the respondent's request and to exercise its discretion  
2 whether to grant the request, or to take any other action deemed  
3 appropriate and reasonable under the circumstances. Upon formal  
4 acceptance of the tendered license, respondent will not longer be  
5 subject to the terms and conditions of probation.

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CONTINGENCY

This Stipulated Settlement and Disciplinary Order shall be subject to the approval of the Division of Medical Quality. Respondent understands and agrees that Board staff and counsel for complainant may communicate directly with the Division regarding this Stipulated Settlement and Disciplinary Order, without notice to or participation by respondent or his counsel. If the Division fails to adopt this stipulation as its Order, the stipulation shall be of no force or effect, it shall be inadmissible in any legal action between the parties, and the Division shall not be disqualified from further action in this matter by virtue of its consideration of this stipulation.

ACCEPTANCE

I have read the above Stipulated Settlement and Disciplinary Order. I understand the effect this Stipulated Settlement and Disciplinary Order will have on my Physician and Surgeon's Certificate, and agree to be bound thereby. I enter this stipulation freely, knowingly, intelligently and voluntarily.

DATED: 2-17-2000.

  
LEANDRO G. GATUS, M.D.  
Respondent



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ENDORSEMENT

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

DATED: March 14, 2000 .

BILL LOCKYER, Attorney General  
of the State of California



RICHARD D. MARINO  
Deputy Attorney General

Attorneys for Complainant

Exhibit: Accusation

shell.stp [1197 rev]

**EXHIBIT 1**

**Accusation No. 05-1997-81247**

FILED  
STATE OF CALIFORNIA  
MEDICAL BOARD OF CALIFORNIA  
SACRAMENTO Dec. 1 1999  
BY Allen & Associates ASSOCIATE

1 Bill Lockyer, Attorney General  
of the State of California  
2 RICHARD D. MARINO (State Bar No. 90471)  
Deputy Attorney General  
3 California Department of Justice  
300 South Spring Street, Suite 5212  
4 Los Angeles, California 90013-1233  
Telephone: (213) 897-8644  
5  
6 Attorneys for Complainant  
7

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

11 In the Matter of the Accusation ) Case No. 05-1997-81247  
Against: )  
12 )  
13 LEANDRO G. GATUS, M.D. ) **ACCUSATION**  
4731 Conchita Way )  
Tarzana, Ca. 91356 )  
14 )  
Physician and Surgeon's Certificate )  
15 No. A 45231, )  
16 )  
Respondent. )  
17

18 The Complainant alleges:

19 **PARTIES**

20 1. Complainant, Ron Joseph, is the Executive Director  
21 of the Medical Board of California, Department of Consumer Affairs,  
22 State of California (hereinafter "Board") and brings this  
23 accusation solely in his official capacity.

24 2. On or about August 22, 1988, Physician and Surgeon's  
25 Certificate No. A 45231 was issued by the Board to LEANDRO G.  
26 GATUS, M.D. (hereinafter "respondent"), and at all times relevant  
27 to the charges brought herein, this license has been in full force

1 and effect. Unless renewed, it will expire on February 28, 2000.

2 **JURISDICTION**

3 3. This accusation is brought before the Board's  
4 Division of Medical Quality (hereinafter "Division"), under the  
5 authority of the following sections of the California Business and  
6 Professions Code (hereinafter "Code"):

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

13 B. Section 2234 provides that unprofessional  
14 conduct includes, but is not limited to, the following:

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

18 "(b) Gross negligence.

19 "(c) Repeated negligent acts.

20 "(d) Incompetence.

21 "(e) The commission of any act involving dishonesty  
22 or corruption which is substantially related to the  
23 qualifications, functions, or duties of a physician and  
24 surgeon.

25 "(f) Any action or conduct which would have  
26 warranted the denial of a certificate.

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C. Section 2236 of the Code provides:

"(a) The conviction of any offense substantially related to the qualifications, functions, or duties of a physician and surgeon constitutes unprofessional conduct within the meaning of this chapter. The record of conviction shall be conclusive evidence only of the fact that the conviction occurred.

"(b) The district attorney, city attorney, or other prosecuting agency shall notify the Division of Medical Quality of the pendency of an action against a licensee charging a felony or misdemeanor immediately upon obtaining information that the defendant is a licensee. The notice shall identify the licensee and described the crimes charged and the facts alleged. The prosecuting agency shall also notify the clerk of the court in which the action is pending that the defendant is a licensee, and the clerk shall record prominently in the file that the defendant holds a license as a physician and surgeon.

"(c) The clerk of the court in which a licensee is convicted of a crime shall, within 48 hours after the conviction, transmit a certified copy of the record of conviction to the board. The division may inquire into the circumstances surrounding the commission of a crime in order to fix the degree of discipline or to determine if the conviction is of an offense substantially related to the qualifications, functions,

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or duties of a physician and surgeon.

"(d) A plea or verdict of guilty or a conviction after a plea of nolo contendere is deemed to be a conviction within the meaning of this section and Section 2236.1. The record of conviction shall be conclusive evidence of the fact that the conviction occurred.

D. Section 2239 of the Code provides:

"(a) The use or prescribing for or administering to himself or herself, of any controlled substance; or the use of any of the dangerous drugs specified in Section 4211, or of alcoholic beverages, to the extent, or in such a manner as to be dangerous or injurious to the licensee, or to any other person or to the public, or to the extent that such use impairs the ability of the licensee to practice medicine safely or more than one misdemeanor or any felony involving the use, consumption, or self-administration of any of the substances referred to in this section, or any combination thereof, constitutes unprofessional conduct. The record of the conviction is conclusive evidence of such unprofessional conduct.

"(b) A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this section. The Division of Medical Quality may order discipline of the licensee in accordance with Section 2227 or the

1 Division of Licensing may order the denial of the license  
2 when the time for appeal has elapsed or the judgment of  
3 conviction has been affirmed on appeal or when an order  
4 granting probation is made suspending imposition of  
5 sentence, irrespective of a subsequent order under the  
6 provisions of Section 1203.4 of the Penal Code allowing  
7 such person to withdraw his or her plea of guilty and to  
8 enter a plea of not guilty, or setting aside the verdict  
9 of guilty, or dismissing the accusation, complaint,  
10 information, or indictment."

11 E. Section 490 of the Code provides:

12 "A board may suspend or revoke a license on the  
13 ground that the licensee has been convicted of a crime,  
14 if the crime is substantially related to the  
15 qualifications, functions, or duties of the business or  
16 profession for which the license was issued . A  
17 conviction within the meaning of this section means a  
18 plea or verdict of guilty or a conviction following a  
19 plea of nolo contendere. Any action which a board is  
20 permitted to take following the establishment of a  
21 conviction may be taken when the time for appeal has  
22 elapsed, or the judgment of conviction has been affirmed  
23 on appeal, or when an order granting probation is made  
24 suspending the imposition of sentence, irrespective of a  
25 subsequent order under the provisions of Section 1203.4  
26 of the Penal Code."

27 F. Section 820 of the Code provides:

1                   "Whenever it appears that any person holding a  
2 license, certificate or permit under this division or  
3 under any initiative act referred to in this division may  
4 be unable to practice his or her profession safely  
5 because the licentiate's ability to practice is impaired  
6 due to mental illness, or physical illness affecting  
7 competency, the licensing agency may order the licentiate  
8 to be examined by one or more physicians and surgeons or  
9 psychologists designated by the agency. The report of  
10 the examiners shall be made available to the licentiate  
11 and may be received as direct evidence in proceedings  
12 conducted pursuant to Section 822.

13                   G. Section 821 of the Code provides:

14                   "The licentiate's failure to comply with an  
15 order issued under Section 820 shall constitute grounds  
16 for the suspension or revocation of the licentiate's  
17 certificate or license. "

18                   H. Section 822 of the Code provides:

19                   "If a licensing agency determines that its  
20 licentiate's ability to practice his or her profession  
21 safely is impaired because the licentiate is mentally  
22 ill, or physically ill affecting competency, the  
23 licensing agency may take action by any one of the  
24 following methods:

25                   "(a) Revoking the licentiate's certificate or  
26 license.

27                   "(b) Suspending the licentiate's right to



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practice.

"(c) Placing the licentiate on probation.

"(d) Taking such other action in relation to the licentiate as the licensing agency in its discretion deems proper.

"The licensing agency shall not reinstate a revoked or suspended certificate or license until it has received competent evidence of the absence or control of the condition which caused its action and until it is satisfied that with due regard for the public health and safety the person's right to practice his or her profession may be safely reinstated."

I. Section 826 of the Code provides:

"The proceedings under Sections 821 and 822 shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code [Administrative Procedure Act], and the licensing agency and the licentiate shall have all the rights and powers granted therein."

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

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REIMBURSEMENT FOR MEDI-CAL CLAIMS

4. Section 14124.12 of the Welfare and Institutions Code provides:

"(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.

". . . ."

1 FIRST CAUSE FOR DISCIPLINE

2 (Criminal Conviction--

3 Driving With Greater Than .08 Percent Blood Alcohol Level)

4 5. Respondent Leandro G. Gatus, M.D., is subject to  
5 disciplinary action under sections 490, generally, and 2236,  
6 specifically, of the Business and Professions Code in that  
7 respondent has sustained a conviction for driving a motor vehicle  
8 while having blood alcohol content of .08 percent or greater, in  
9 violation of Vehicle Code section 23152, subdivision (B), a  
10 misdemeanor and a crime substantially related to the  
11 qualifications, functions and duties of a respondent's licensure.  
12 The facts and circumstances underlying respondent's conviction are  
13 as follows:

14 A. On or about January 3, 1994, in the matter  
15 entitled *The People of the State of California v. Leandro*  
16 *Gulapa Gatus*, Misdemeanor Complaint No. 93D05510, Los Angeles  
17 County Municipal Court, Van Nuys Judicial District, respondent  
18 was charged, in Count 1, with driving under the influence of  
19 alcohol or drugs, a misdemeanor and violation of Vehicle Code  
20 section 22152, subdivision (a), and in Count 2, with driving  
21 with greater than .08 percent blood alcohol. Respondent had  
22 been stopped for suspicion of drunk driving on December 10,  
23 1993, and arrested for each of the charged offenses when he  
24 thereafter failed to pass the field sobriety test or was found  
25 to have a blood alcohol level greater than .08 percent.  
26 Respondent entered not guilty pleas to both charges.

27 B. On or about February 10, 1994, pursuant to a

1 negotiated plea agreement, respondent changed his previously  
2 entered not guilty plea to the charge set forth in Count 2 of  
3 the complaint--namely, driving with a blood alcohol level  
4 greater than .08 percent--to *nolo contendere*. Proceedings  
5 were suspended. Respondent was placed on summary probation  
6 for 36 months with certain terms and conditions including,  
7 among others, that respondent complete an alcohol and drug  
8 education program and pay a \$390 fine. Thereafter, the  
9 driving under the influence charge in Count 1 was dismissed in  
10 the furtherance of justice.

11 C. On or about April 11, 1994, respondent failed  
12 to appear before the court or, in the alternative, to file  
13 with the court proof of having completed the alcohol and drug  
14 education program. A bench warrant for respondent in the  
15 amount of \$15,000 was issued by the Court.

16 D. On or about May 17, 1994, respondent appeared  
17 with proof of having completed the alcohol and drug education  
18 program. Proceedings were terminated and the bench warrant  
19 was recalled.

20 E. Respondent's December 1993 arrest was not his  
21 first.

22 (1) On or about November 4, 1987,  
23 respondent was found to be in possession of a  
24 stolen .357 Magnum revolver during a police  
25 investigation of his wife's report of domestic  
26 violence.

27 (2) On that date, respondent and his

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wife engaged in a heated dispute that escalated into a physical altercation when respondent struck his wife across her right cheek.

(3) The police were called. Upon their arrival, they observed that respondent's wife right cheek reddened and swollen.

(4) Upon asking respondent's wife whether respondent had any weapons in the residence, respondent's wife stated that respondent kept a .357 revolver in a kitchen drawer and a .22 caliber rifle in the master bedroom. The police retrieved the .357 revolver from the kitchen and proceeded upstairs where they found respondent in the master bedroom.

(5) Respondent was arrested for inflicting corporal injury on a spouse, a violation of Penal Code section 273.5. The police seized the .22 caliber rifle which was located in the bedroom as indicated by respondent's wife.

(6) The police checked the serial number on the .357 Magnum revolver and found that it was stolen. Before learning the handgun was stolen, the police were told by respondent that he had purchased the handgun six months earlier. Respondent, however, refused to divulge the identity of the seller.

(7) The police booked respondent for

1 receiving stolen property, a violation of Penal  
2 Code section 496.1.

3 (8) On or about November 11, 1987, in  
4 the matter entitled *The People of the State of*  
5 *California v. Leandro Gulapa Gatus*, Misdemeanor  
6 Complaint No. 87F10705, Los Angeles County  
7 Municipal Court, San Fernando Judicial District,  
8 respondent was charged with inflicting corporal  
9 injury on a spouse, in violation of Penal Code  
10 section 273.5, subdivision (a), and battery, in  
11 violation of Penal Code section 242.

12 (9) On or about August 29, 1988, the  
13 case was dismissed, respondent having successfully  
14 completed a diversion program to which he was  
15 admitted on or about February 29, 1988, upon his  
16 motion.

17 **SECOND CAUSE FOR DISCIPLINE**

18 **(Criminal Conviction--Possession of Dangerous Weapon)**

19 6. Respondent Leandro G. Gatus, M.D., is subject to  
20 disciplinary action under sections 490, generally, and 2236,  
21 specifically, of the Business and Professions Code in that  
22 respondent has sustained a conviction for possession of a dangerous  
23 weapon, in violation of Penal Code section 12020, subdivision (a),  
24 a misdemeanor and a crime which, under the facts and circumstances  
25 of its commission, is substantially related to the qualifications,  
26 functions and duties of respondent's licensure. The facts and  
27 circumstances underlying respondent's conviction are as follows:

1           A. On or about September 22, 1996, at  
2 approximately, 2:45 a.m., respondent was stopped for suspected  
3 drunk driving. Prior to being stopped, respondent was  
4 observed straddling the traffic lane dividing lines and  
5 driving 55 miles per hour in a 35 miles per hour speed zone.

6           B. After detecting the strong odor of alcohol on  
7 respondent and administering the standard field sobriety test  
8 which respondent failed, the police placed respondent under  
9 arrest for driving under the influence of alcohol or drugs, a  
10 violation of Vehicle Code section 22152. subdivision (a), and  
11 transported him to the police station. During booking, the  
12 police found a knife in respondent's front pants pocket.  
13 Respondent was charged with possession of a dangerous weapon,  
14 a violation of Penal Code section 12020, subdivision (a).

15           C. On or about September 30, 1996, in the matter  
16 entitled *The People of the State of California v. Leandro G.*  
17 *Gatus*, Misdemeanor Complaint No. 6PN06997, Los Angeles County  
18 Municipal Court, Van Nuys Judicial District, respondent was  
19 charged, in Count 1, with possession of a dangerous weapon, a  
20 violation of Penal Code section 12020, subdivision (a).

21           D. At his arraignment on October 17, 1996,  
22 respondent entered a not guilty plea.

23           E. On or about November 20, 1996, pursuant to a  
24 negotiated plea agreement, respondent changed his previously  
25 entered not guilty plea to the charge to *nolo contendere*.  
26 Proceedings were suspended. Respondent was placed on summary  
27 probation for 12 months on the term and condition, among

1 others, that he pay a fine in the amount of \$300.

2 **THIRD CAUSE FOR DISCIPLINE**

3 **(Use of Alcoholic Beverages)**

4 7. Respondent Leandro G. Gatus, M.D., is subject to  
5 disciplinary action under section 2239 of the Business and  
6 Professions Code in that respondent has used alcoholic beverages or  
7 any of the dangerous drugs specified in section 4211 of the  
8 Business and Professions Code to the extent or in such a manner as  
9 to be dangerous or injurious to himself or to the public; and, that  
10 respondent has sustained more than one misdemeanor conviction  
11 involving the use or consumption of alcoholic beverages or  
12 self-administration of any of the substances referred to in section  
13 2239, as follows:

14 A. Complainant refers to and, by this reference,  
15 incorporates herein paragraphs 5, subparagraphs A through E,  
16 inclusive, and 6, subparagraphs A through E, inclusive, above  
17 as though fully set forth.

18 **FOURTH CAUSE FOR DISCIPLINE**

19 **(Unprofessional Conduct)**

20 8. Respondent Leandro G. Gatus, M.D., is subject to  
21 disciplinary action under section 2234, generally, of the Business  
22 and Professions Code in that respondent has engaged in  
23 unprofessional conduct by reason of his 1994 and 1996 criminal  
24 convictions for offenses which under the facts and circumstances of  
25 their commission are substantially related to the qualifications,  
26 functions, and duties of a physician and surgeon; by using  
27 alcoholic beverages or any of the dangerous drugs specified in



1 section 4211 of the Business and Professions Code to the extent or  
2 in such a manner as to be dangerous or injurious to himself or to  
3 the public; or, by sustaining more than one misdemeanor conviction  
4 involving the use or consumption of alcoholic beverages or any of  
5 the dangerous drugs specified in section 4211 of the Business and  
6 Professions Code, as follows:

7           A. Complainant refers to and, by this reference,  
8 incorporates herein paragraphs 5, subparagraphs A through E,  
9 inclusive, and 6, subparagraphs A through E, inclusive, above  
10 as though fully set forth.

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PRAAYER

**WHEREFORE**, the complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Division issue a decision:


1. Revoking or suspending Physician and Surgeon's Certificate Number A 45231, heretofore issued to respondent LEANDRO G. GATUS, M.D.;

2. Revoking, suspending or denying approval of the respondent's authority to supervise physician's assistants, pursuant to Business and Professions Code section 3527;

3. Ordering respondent to pay the Division the actual and reasonable costs of the investigation and enforcement of this case as well as the costs of probation monitoring, if applicable; and,

4. Taking such other and further action as the Division deems necessary and proper.

DATED: December 1, 1999

  
\_\_\_\_\_  
Ron Joseph  
Executive Director  
Medical Board of California  
Department of Consumer Affairs  
State of California  
  
Complainant