

FILED

STATE OF CALIFORNIA

MEDICAL BOARD OF CALIFORNIA

SACRAMENTO 9/24/10

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

12 In the Matter of the Accusation Against:

Case Nos. 10-07-188130

13 **MARK B. ZWEIFACH, M.D.**
 8811 Nottingham Place
 14 La Jolla, CA 92037

ACCUSATION

15 Physician's and Surgeon's
 16 Certificate No. G48626

Respondent.

18 Complainant alleges:

19 **PARTIES**

20 1. Linda K. Whitney (Complainant) brings this Accusation solely in her official capacity
 21 as Executive Director of the Medical Board of California, Department of Consumer Affairs.

22 2. On or about August 9, 1982, the Medical Board of California issued Physician's and
 23 Surgeon's Certificate No. G48626, to Mark B. Zweifach, M.D. (Respondent). The Physician's
 24 and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought
 25 herein. The Certificate shall expire on December 31, 2011, unless renewed.

26 3. On or about September 16, 2008, Respondent stipulated to a voluntary suspension of
 27 his Physician's and Surgeon's Certificate No. G48626.

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1 **JURISDICTION**

2 4. 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 (Code) unless otherwise indicated.

5 5. Section 118, subdivision (b) of the Code provides, in part, that the suspension or
6 expiration of a license “shall not, during any period in which it may be renewed, restored,
7 reissued, or reinstated, deprive the Board of its authority to institute or continue a disciplinary
8 proceeding against the licensee upon any ground provided by law or to enter an order suspending
9 or revoking the license or otherwise taking disciplinary action against the licensee on any such
10 ground.”

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

16 7. Section 2234 of the Code provides in part that the Board “shall take action against
17 any licensee charged with unprofessional conduct. . . .” Unprofessional conduct under section
18 2234 includes conduct that breaches the rules or ethical code of the medical profession, or
19 conduct that is unbecoming to a member in good standing of the medical profession, and which
20 demonstrates an unfitness to practice medicine.¹

21 8. California Code of Regulations (CCR), title 16, section 1360, states:

22 “For the purposes of denial, suspension or revocation of a license, . . . a crime or act shall
23 be considered to be substantially related to the qualifications, functions or duties of a person
24 holding a license, certificate or permit under the Medical Practice Act if to a substantial degree it
25 evidences present or potential unfitness of a person holding a license, certificate or permit to
26 perform the functions authorized by the license, certificate or permit in a manner consistent with

27 _____
28 ¹ *Shea v. Board of Medical Examiners* (1978) 81 Cal.App.3d 564, 575.

1 the public health, safety or welfare. Such crimes or acts shall include but not be limited to the
2 following: Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
3 violation of, or conspiring to violate any provision of the Medical Practice Act.”

4 **CAUSE FOR DISCIPLINE**

5 **(General Unprofessional Conduct)**

6 9. Respondent is subject to disciplinary action under Code sections 2227 and 2234, as
7 defined by section 2234 and CCR title 16, section 1360, in that he engaged in conduct that
8 breaches the rules or ethical code of the medical profession, or conduct that is unbecoming to a
9 member in good standing of the medical profession, and that demonstrates an unfitness to practice
10 medicine. The circumstances are as follows:

11 10. In about July, August and September 2007, Respondent, a physician with Kaiser
12 Permanente in San Diego, California, used his Kaiser Permanente assigned computer in his office
13 in the Kaiser Permanente Bostonia Medical Office building, located in El Cajon, California, to
14 access suspected child pornography websites on the internet. When confronted by Kaiser
15 Permanente investigators, Respondent admitted accessing the websites at work, and further
16 admitted an addiction to internet pornography.

17 **PRAYER**

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

20 1. Revoking, suspending, or imposing probationary conditions on Physician's and
21 Surgeon's Certificate No. G48626, issued to Respondent Mark B. Zweifach, M.D.;

22 2. Revoking, suspending or denying approval of Respondent Mark B. Zweifach, M.D.'s
23 authority to supervise physician assistants, pursuant to section 3527 of the Code;

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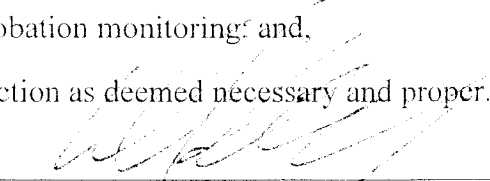
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3. Ordering Respondent Mark B. Zweifach, M.D., if placed on probation, to pay the Medical Board of California the costs of probation monitoring; and,

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

DATED: November 24, 2010



LINDA K. WHITNEY
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant