

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

Case No. D1-2007-185479

Respondent

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 24, 2013.

IT IS SO ORDERED: September 24, 2013.

MEDICAL BOARD OF CALIFORNIA

Barbara Yaroslavsky, Chair
Panel A

1 KAMALA D. HARRIS
Attorney General of California
2 THOMAS S. LAZAR
Supervising Deputy Attorney General
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8 *Attorneys for Complainant*

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

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

15 **NAGUIB S. BEBAWI, M.D.**
16 **18021 Skypark Circle, Suite 68-G**
Irvine, CA 92614

17 **Physician and Surgeon's Certificate**
No. A 46388

18 Respondent.

Case No. D1-2007-185479

OAH No. 2012090372

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

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

22 PARTIES

23 1. Kimberly Kirchmeyer (Complainant) is the Interim Executive Director of the Medical
24 Board of California. She is represented in this matter by Kamala D. Harris, Attorney General of
25 the State of California, by Harinder K. Kapur, Deputy Attorney General.

26 2. Respondent Naguib S. Bebawi, M.D. (Respondent) is representing himself in this
27 proceeding and has chosen not to exercise his right to be represented by counsel at his own
28 expense.

3. On or about August 7, 1989, the Medical Board of California issued Physician's and Surgeon's Certificate No. A 46388 to Naguib S. Bebawi, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in Accusation and Petition to Revoke Probation No. D1-2007-185479 and will expire on October 31, 2014, unless renewed.

JURISDICTION

4. On or about August 30, 2012, Accusation and Petition to Revoke Probation No. D1-2007-185479 was filed under Business and Professions Code section 822 before the Medical Board of California (Board), Department of Consumer Affairs, and is currently pending against Respondent. A true and correct copy of Accusation and Petition to Revoke Probation No. D1-2007-185479 and all other statutorily required documents were properly served on Respondent. Respondent timely filed his Notice of Defense contesting the Accusation and Petition to Revoke Probation. A true and correct copy of Accusation and Petition to Revoke Probation No. D1-2007-185479 is attached hereto as Exhibit A and incorporated herein by reference as if fully set forth herein.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read and fully understands the charges and allegations in Accusation and Petition to Revoke Probation No. D1-2007-185479. Respondent has also carefully read and fully understands the effects of this Stipulated Settlement and Disciplinary Order.

6. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in Accusation and Petition to Revoke Probation No. D1-2007-185479; the right to be represented by counsel at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

8. Respondent does not contest that, at an administrative hearing, complainant could establish a prima facie case with respect to the charges and allegations contained in Accusation and Petition to Revoke Probation No. D1-2007-185479 and that he has thereby subjected his Physician's and Surgeon's Certificate No. A 46388 to disciplinary action.

9. Respondent agrees that if he ever petitions for early termination or modification of probation, or if an accusation and/or petition to revoke probation is filed against him before the Medical Board of California, all of the charges and allegations contained in Accusation and Petition to Revoke Probation No. D1-2007-185479 shall be deemed true, correct and fully admitted by respondent for purposes of any such proceeding or any other licensing proceeding involving respondent in the State of California.

10. Respondent agrees that his Physician's and Surgeon's Certificate No. A 46388 is subject to discipline and he agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

CONTINGENCY

11. The parties agree that this Stipulated Settlement and Disciplinary Order shall be submitted to the Board for its consideration in the above-entitled matter and, further, that the Board shall have a reasonable period of time in which to consider and act on this Stipulated Settlement and Disciplinary Order after receiving it.

12. The parties agree that this Stipulated Settlement and Disciplinary Order shall be null and void and not binding upon the parties unless approved and adopted by the Board, except for this paragraph, which shall remain in full force and effect. Respondent fully understands and agrees that in deciding whether or not to approve and adopt this Stipulated Settlement and Disciplinary Order, the Board may receive oral and written communications from its staff and/or the Attorney General's office. Communications pursuant to this paragraph shall not disqualify the Board, any member thereof, and/or any other person from future participation in this or any other

1 matter affecting or involving respondent. In the event that the Board, in its discretion, does not
2 approve and adopt this Stipulated Settlement and Disciplinary Order, with the exception of this
3 paragraph, it shall not become effective, shall be of no evidentiary value whatsoever, and shall
4 not be relied upon or introduced in any disciplinary action by either party hereto. Respondent
5 further agrees that should the Board reject this Stipulated Settlement and Disciplinary Order for
6 any reason, respondent will assert no claim that the Board, or any member thereof, was
7 prejudiced by its/his/her review, discussion and/or consideration of this Stipulated Settlement and
8 Disciplinary Order or of any matter or matters related hereto.

9 ADDITIONAL PROVISIONS

10 13. The parties understand and agree that facsimile copies of this Stipulated Settlement
11 and Disciplinary Order, including facsimile signatures thereto, shall have the same force and
12 effect as the originals.

13 14. This Stipulated Settlement and Disciplinary Order is intended by the parties herein to
14 be an integrated writing representing the complete, final and exclusive embodiment of the
15 agreements of the parties in the above-entitled matter.

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

19 DISCIPLINARY ORDER

20 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 46388 issued
21 to Respondent Naguib S. Bebawi, M.D. (Respondent) is revoked. However, the revocation is
22 stayed and Respondent is placed on probation for the same period of time and on the same terms
23 and conditions of his current probation order in "In the Matter of the Accusation Against Naguib.
24 S. Bebawi, M.D.," Medical Board of California Case No. 04-2007-185479, and also on the
25 following additional terms and conditions:

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1 1. PSYCHIATRIC EVALUATION. Within 30 calendar days of the effective date of
2 this Decision, and on whatever periodic basis thereafter may be required by the Board or its
3 designee, Respondent shall undergo and complete a psychiatric evaluation (and psychological
4 testing, if deemed necessary) by a Board-appointed board certified psychiatrist, who shall
5 consider any information provided by the Board or designee and any other information the
6 psychiatrist deems relevant, and shall furnish a written evaluation report to the Board or its
7 designee. Psychiatric evaluations conducted prior to the effective date of the Decision shall not
8 be accepted towards the fulfillment of this requirement. Respondent shall pay the cost of all
9 psychiatric evaluations and psychological testing.

10 Respondent shall comply with all restrictions or conditions recommended by the evaluating
11 psychiatrist within 15 calendar days after being notified by the Board or its designee.

12 2. MEDICAL EVALUATION AND TREATMENT. During the term of probation as
13 may be required by the Board or its designee, Respondent shall undergo a medical evaluation by a
14 Board-appointed physician who shall consider any information provided by the Board or designee
15 and any other information the evaluating physician deems relevant and shall furnish a medical
16 report to the Board or its designee. Respondent shall provide the evaluating physician any
17 information and documentation that the evaluating physician may deem pertinent.

18 Following the evaluation, Respondent shall comply with all restrictions or conditions
19 recommended by the evaluating physician within 15 calendar days after being notified by the
20 Board or its designee. If Respondent is required by the Board or its designee to undergo medical
21 treatment, Respondent shall within 30 calendar days of the requirement notice, submit to the
22 Board or its designee for prior approval the name and qualifications of a California licensed
23 treating physician of Respondent's choice. Upon approval of the treating physician, Respondent
24 shall within 15 calendar days undertake medical treatment and shall continue such treatment until
25 further notice from the Board or its designee.

26 The treating physician shall consider any information provided by the Board or its designee
27 or any other information the treating physician may deem pertinent prior to commencement of
28 treatment. Respondent shall have the treating physician submit quarterly reports to the Board or

1 its designee indicating whether or not the Respondent is capable of practicing medicine safely.
2 Respondent shall provide the Board or its designee with any and all medical records pertaining to
3 treatment, the Board or its designee deems necessary.

4 If, prior to the completion of probation, Respondent is found to be physically incapable of
5 resuming the practice of medicine without restrictions, the Board shall retain continuing
6 jurisdiction over Respondent's license and the period of probation shall be extended until the
7 Board determines that Respondent is physically capable of resuming the practice of medicine
8 without restrictions. Respondent shall pay the cost of the medical evaluation(s) and treatment.

9 3. PROHIBITED PRACTICE. During the entire period of probation, unless respondent
10 receives written notification from the Board or its designee that he has been examined and cleared
11 by a board-certified psychiatrist appointed by the Board or its designee, respondent is prohibited
12 from engaging in any medical activities that require significant visuospatial scale including, but
13 not limited to, radiology or surgical procedures. After the effective date of this Decision, all
14 patients being treated by the Respondent shall be notified that the Respondent is prohibited from
15 engaging in any medical activities that require significant visuospatial scale including, but not
16 limited to, radiology or surgical procedures. Any new patients must be provided this notification
17 at the time of their initial appointment.

18 Respondent shall maintain a log of all patients to whom the required oral notification was
19 made. The log shall contain the: 1) patient's name, address and phone number; patient's medical
20 record number, if available; 3) the full name of the person making the notification; 4) the date the
21 notification was made; and 5) a description of the notification given. Respondent shall keep this
22 log in a separate file or ledger, in chronological order, shall make the log available for immediate
23 inspection and copying on the premises at all times during business hours by the Board or its
24 designee, and shall retain the log for the entire term of probation.

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

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

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

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

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

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

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

16 8. GENERAL PROBATION REQUIREMENTS.

17 Compliance with Probation Unit

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

20 Address Changes

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

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1 Place of Practice

2 Respondent shall not engage in the practice of medicine in Respondent's or patient's place
3 of residence, unless the patient resides in a skilled nursing facility or other similar licensed
4 facility.

5 License Renewal

6 Respondent shall maintain a current and renewed California physician's and surgeon's
7 license.

8 Travel or Residence Outside California

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

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

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

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

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

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

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

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

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

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

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

1 to the terms and conditions of probation. If Respondent re-applies for a medical license, the
2 application shall be treated as a petition for reinstatement of a revoked certificate.

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

8 ACCEPTANCE

9 I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the
10 stipulation and the effect it will have on my Physician's and Surgeon's Certificate No. A 46388. I
11 enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and
12 intelligently, and agree to be bound by the Decision and Order of the Medical Board of
13 California.

14 DATED: 7/15/13


15 NAGUIB S. BEBAWI, M.D.
16 Respondent

17 ENDORSEMENT

18 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
19 submitted for consideration by the Medical Board of California of the Department of Consumer
20 Affairs.

21 Dated: 7/18/13

Respectfully submitted,

22 KAMALA D. HARRIS
23 Attorney General of California
24 THOMAS S. LAZAR
25 Supervising Deputy Attorney General



26 HARINDER K. KAPUR
27 Deputy Attorney General
28 Attorneys for Complainant

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Exhibit A

Accusation and Petition to Revoke Probation No. D1-2007-185479

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FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO August 15, 2012
BY HEIDI G. GARCIA ANALYST

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

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

13 **NAGUIB BEBAWI, M.D.**
14 **18021 Skypark Circle, Suite G/H**
15 **Irvine, CA 92614**

16 **Physician's and Surgeon's Certificate**
17 **No. A 46388**

Respondent.

Case No. D1-2007-185479

**ACCUSATION AND PETITION TO
REVOKE PROBATION**

(Bus. & Prof. Code § 822)

18 Complainant alleges:

19 **PARTIES**

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

22 2. On or about August 7, 1989, the Medical Board of California issued Physician's and
23 Surgeon's Certificate No. A 46388 to Naguib Bebawi, M.D. (respondent). Physician's and
24 Surgeon's Certificate No. A 46388 was in full force and effect at all times relevant to the charges
25 brought herein and will expire on October 31, 2012, unless renewed.

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JURISDICTION

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

4. Section 822 of the Code provides:

“If a licensing agency determines that its licentiate’s ability to practice his or her profession safely is impaired because the licentiate is mentally ill, or physically ill affecting competency, the licensing agency may take action by any one of the following methods:

“(a) Revoking the licentiate’s certificate or license.

“(b) Suspending the licentiate’s right to 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.”

5. Section 824 of the Code provides:

“The licensing agency may proceed against a licentiate under either Section 820, or 822, or under both sections.”

SECTION 822 CAUSE FOR ACTION

(Mental Illness and/or Physical Illness Affecting Competency)

6. Respondent’s Physician’s and Surgeon’s Certificate No. A 46388 is subject to action under section 822 of the Code, in that his ability to practice medicine safely is impaired because he is mentally ill, or physically ill affecting his competency as more particularly alleged hereinafter:

1 7. On January 4, 2010, Accusation No. 04-2007-185479 was filed against respondent
2 charging him with gross negligence, repeated negligent acts, incompetence, and failing to
3 maintain adequate and accurate records in his care and treatment of three pediatric patients. On
4 June 22, 2011, the Board's Decision and Order in that matter became effective, revoking
5 respondent's Physician and Surgeon's Certificate, staying that revocation and placing him on
6 probation for five (5) years, on various terms and conditions, including a requirement that he
7 successfully complete the PACE program.

8 8. In compliance with the Board's Decision and Order in Case No. 04-2007-185479,
9 respondent participated in Phase I of the PACE program on August 29-30, 2011. After two days
10 of intensive testing and evaluation, respondent was found to have deficiencies in the following
11 several clinical competencies based on findings that he: :

- 12 • struggles with conceptualization and novel problem solving.
- 13 • fails to recognize the significance of unexpected situations to quickly make
14 alternative plans when unusual events arise.
- 15 • has deficits that may also impact his decision making abilities, and lead to
16 poor error correction or troubleshooting.
- 17 • inclined to make preservative errors and is largely ineffective in utilizing
18 feedback to inform his conceptualization and reasoning.

19 9. In further compliance with the Board's Decision and Order in Case No. 04-2007-
20 185479 and in order, to comply with the recommendation of the PACE program, respondent
21 participated in a neuropsychological evaluation conducted by Dr. P. on January 18 and 24, 2012,
22 which showed that respondent suffers from deficits across the vast majority of
23 neuropsychological tests and that his deficits may affect his ability to practice safely, as set forth
24 below:

25 "Given the fact that Dr. Bebawi does have obvious neuropsychological difficulties,
26 the recommendation to allow him to continue practicing is provided with some
27 reservation and with emphasis that the above conditions and limitations be considered
28 of utmost importance. In an abundance of caution to obviate any potential dangers to

1 his patients. I would also recommend that there be a mechanism for formal review of
2 his clinical practice and skills over the next one or two years, similar to the
3 program for which he has undergone and for which he has continued to be evaluated
4 at UCSD.”

5 10. On or about some time in April 2012, PACE staff was provided with a copy of
6 Dr. P.’s report in order to determine whether respondent could complete the competency
7 assessment. As a result of respondent’s performance in PACE Phase I and Dr. P.’s report,
8 respondent was found by the PACE program to be unsafe to practice medicine, to represent a
9 danger to the health, safety and welfare of his patients and to present a risk of serious injury to the
10 public.

11 11. A Noticed Petition for an Interim Suspension Order was filed on July 10, 2012, and
12 heard on August 10, 2012. On August 24, 2012, an Interim Suspension Order was issued denying
13 in part and granting in part the Petition for Interim Suspension. Pursuant to the Order, respondent
14 was prohibited from engaging in medical activities requiring significant visuospatial scale,
15 including but not limited to, radiology or surgical procedures and, required respondent to have a
16 practice monitor or participate in a professional enhancement program.

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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 Certificates No. A 46388. issued to respondent Naguib Bebawi, M.D.;

2. Revoking, suspending or denying approval of respondent Naguib Bebawi, M.D.'s authority to supervise physician's assistants, pursuant to section 3527 of the Code;

3. Ordering Respondent Naguib Bebawi, M.D. to pay the Medical Board of California, if placed on probation, the costs of probation monitoring;

4. Taking action as authorized by section 822 of the Code as the Board, in its discretion, deems necessary and proper; and

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

DATED: Aug 30, 2012

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

SD2012704046