**BEFORE THE**
**BOARD OF PODIATRIC MEDICINE**
**DEPARTMENT OF CONSUMER AFFAIRS**
**STATE OF CALIFORNIA**

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| **In the Matter of the Accusation/ Petition to Revoke Probation Against:** | ) | |
| **RAMYAR MOUSSAVI, D.P.M.** | ) | **Case No. 500-2016-000361** |
| **Physician's and Surgeon's License No. E 4361** | ) | |
| **Respondent** | ) | |

## DECISION

**The attached Stipulated Surrender of License and Order is hereby adopted as the Decision and Order of the Board of Podiatric Medicine, Department of Consumer Affairs, State of California.**

**This Decision shall become effective at 5:00 p.m. on October 13, 2017.**

**IT IS SO ORDERED October 6, 2017.**

**MEDICAL BOARD OF CALIFORNIA**

**By:** _____
**BRIAN NASLUND**
**Executive Officer**

XAVIER BECERRA
Attorney General of California
ALEXANDRA M. ALVAREZ
Supervising Deputy Attorney General
ROSEMARY F. LUZON
Deputy Attorney General
State Bar No. 221544
600 West Broadway, Suite 1800
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*Attorneys for Complainant*

**BEFORE THE**
**BOARD OF PODIATRIC MEDICINE**
**DEPARTMENT OF CONSUMER AFFAIRS**
**STATE OF CALIFORNIA**

| | |
|---|---|
| In the Matter of the Accusation/Petition to Revoke Probation Against:<br><br>**RAMYAR MOUSSAVI, D.P.M.**<br>**23061 Fairfield**<br>**Mission Viejo, CA 92692**<br><br>**Podiatric License No. 4361,**<br><br>Respondent. | Case No. 500-2016-000361<br><br>**STIPULATED SURRENDER OF LICENSE AND ORDER** |

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

**PARTIES**

1. Brian Naslund (Complainant) is the Executive Officer of the Board of Podiatric Medicine, Department of Consumer Affairs (Board). He brought this action solely in his official capacity and is represented in this matter by Xavier Becerra, Attorney General of the State of California, by Rosemary F. Luzon, Deputy Attorney General.

2. Ramyar Moussavi, D.P.M. (Respondent) is represented in this proceeding by attorney Fred G. Minassian, Esq., whose address is:

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Fred G. Minassian, Esq.
Law Offices of Fred G. Minassian
101 N. Brand Blvd., Suite 1970,
Glendale, CA 91203

3. On or about July 17, 2001, the Board issued Podiatric License No. 4361 to Respondent. That license was in full force and effect at all times relevant to the charges brought in Accusation/Petition to Revoke Probation No. 500-2016-000361, and will expire on April 30, 2017, unless renewed.

4. In a prior disciplinary action entitled, *In the Matter of the Accusation Against Ramyar Moussavi, D.P.M.*, Case No. 1B-2009-199047, the Board issued a decision, effective June 29, 2012, in which Respondent's Podiatric License was revoked. However, the revocation was stayed and Respondent's Podiatric License was placed on probation for a period of five (5) years with certain terms and conditions.

**JURISDICTION**

5. On February 9, 2017, Accusation/Petition to Revoke Probation No. 500-2016-000361 was filed before the Board, and is currently pending against Respondent. The Accusation/Petition to Revoke Probation and all other statutorily required documents were properly served on Respondent on February 9, 2017. Respondent timely filed his Notice of Defense contesting the Accusation/Petition to Revoke Probation.

6. A true and correct copy of Accusation/Petition to Revoke Probation No. 500-2016-000361 is attached as Exhibit A and incorporated by reference as if fully set forth herein.

**ADVISEMENT AND WAIVERS**

7. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation/Petition to Revoke Probation No. 500-2016-000361. Respondent also has carefully read, fully discussed with counsel, and understands the effects of this Stipulated Surrender of License and Order.

8. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation/Petition to Revoke Probation; 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.

9. Having the benefit of counsel, Respondent hereby voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

**CULPABILITY**

10. Respondent admits the truth of each and every charge and allegation in Accusation/Petition to Revoke Probation No. 500-2016-000361, agrees that cause exists for discipline, and hereby surrenders his Podiatric License No. 4361 for the Board's formal acceptance.

11. Respondent understands that by signing this stipulation, he enables the Board to issue an order accepting the surrender of his Podiatric License without further process.

**CONTINGENCY**

12. This stipulation shall be subject to approval by the Board. Respondent understands and agrees that counsel for Complainant and the staff of the Board may communicate directly with the Board regarding this stipulation and surrender, without notice to or participation by Respondent or his counsel. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Surrender and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

13. The parties understand and agree that Portable Document Format (PDF) and facsimile copies of this Stipulated Surrender of License and Order, including Portable Document Format (PDF) and facsimile signatures thereto, shall have the same force and effect as the originals.

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

## ORDER

IT IS HEREBY ORDERED that Podiatric License No. 4361, issued to Respondent Ramyar Moussavi, D.P.M., is surrendered and accepted by the Board of Podiatric Medicine.

1. The surrender of Respondent's Podiatric License and the acceptance of the surrendered license by the Board shall constitute the imposition of discipline against Respondent. This stipulation constitutes a record of the discipline and shall become a part of Respondent's license history with the Board of Podiatric Medicine.

2. Respondent shall lose all rights and privileges as a Doctor of Podiatric Medicine in California as of the effective date of the Board's Decision and Order.

3. Respondent shall cause to be delivered to the Board his pocket license and, if one was issued, his wall certificate on or before the effective date of the Decision and Order.

4. If Respondent ever files an application for licensure or a petition for reinstatement in the State of California, the Board shall treat it as a petition for reinstatement. Respondent must comply with all the laws, regulations and procedures for reinstatement of a revoked license in effect at the time the petition is filed, and all of the charges and allegations contained in Accusation/Petition to Revoke Probation No. 500-2016-000361 shall be deemed to be true, correct and admitted by Respondent when the Board determines whether to grant or deny the petition.

5. If Respondent should ever apply or reapply for a new license or certification, or petition for reinstatement of a license, by any other health care licensing agency in the State of California, all of the charges and allegations contained in Accusation/Petition to Revoke Probation, No. 500-2016-000361 shall be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or restrict licensure.

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6. Respondent shall pay the Board the amount of $26,420.65 prior to issuance of a new or reinstated license, which reflects all unpaid costs of probation monitoring, as well as all unpaid cost recovery amounts, incurred in Case No. 1B-2009-199047, and all costs of investigation and enforcement incurred in Accusation/Petition to Revoke Probation No. 500-2016-000361.

**ACCEPTANCE**

I have carefully read the above Stipulated Surrender of License and Order and have fully discussed it with my attorney, Fred G. Minassian, Esq. I understand the stipulation and the effect it will have on my Podiatric License. I enter into this Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Podiatric Medicine.

DATED: 8/15/17

RAMYAR MOUSSAVI, D.P.M.

I have read and fully discussed with Respondent Ramyar Moussavi, D.P.M. the terms and conditions and other matters contained in this Stipulated Surrender of License and Order. I approve its form and content.

DATED: 8/16/17

FRED G. MINASSIAN, ESQ.

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ENDORSEMENT

The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted for consideration by the Board of Podiatric Medicine of the Department of Consumer Affairs.

Dated: 8/18/17

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
ALEXANDRA M. ALVAREZ
Supervising Deputy Attorney General

ROSEMARY F. LUZON
Deputy Attorney General
*Attorneys for Complainant*

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**Exhibit A**

**Accusation/Petition to Revoke Probation No. 500-2016-000361**

KATHLEEN A. KENEALY
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ALEXANDRA M. ALVAREZ
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*Attorneys for Complainant*

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO February 9 2017
BY Robyn Fitzwater ANALYST

**BEFORE THE**
**BOARD OF PODIATRIC MEDICINE**
**DEPARTMENT OF CONSUMER AFFAIRS**
**STATE OF CALIFORNIA**

| | |
|---|---|
| In the Matter of the Accusation/Petition to Revoke Probation Against:<br><br>**RAMYAR MOUSSAVI, D.P.M.**<br>**23061 Fairfield**<br>**Mission Viejo, CA 92692**<br><br>**Podiatric License No. 4361,**<br><br>Respondent. | Case No. 500-2016-000361<br><br>**ACCUSATION AND PETITION TO REVOKE PROBATION** |

Complainant alleges:

**PARTIES**

1. Brian Naslund (Complainant) brings this Accusation solely in his official capacity as the Executive Officer of the Board of Podiatric Medicine, Department of Consumer Affairs (Board).

2. On or about July 17, 2001, the Board issued Podiatric License No. 4361 to Ramyar Moussavi, D.P.M. (Respondent). The Podiatric License was in full force and effect at all times relevant to the charges brought herein and will expire on April 30, 2017, unless renewed.

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## DISCIPLINARY HISTORY

3. In a disciplinary action entitled, *In the Matter of the Accusation Against Ramyar Moussavi, D.P.M.*, Case No. 1B-2009-199047, the Board issued a decision, effective June 29, 2012, in which Respondent's Podiatric License was revoked. However, the revocation was stayed and Respondent's Podiatric License was placed on probation for a period of five (5) years with certain terms and conditions. A true and correct copy of that decision is attached as Exhibit A and is incorporated by reference.

## JURISDICTION

4. This Accusation and Petition to Revoke Probation is brought before the Board, under the authority of the following laws and the Board's Decision in the case entitled *In the Matter of the Accusation Against Ramyar Moussavi, D.P.M.*, Case No. 1B-2009-199047. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

5. Section 2222 of the Code states:

"The California Board of Podiatric Medicine shall enforce and administer this article as to doctors of podiatric medicine. Any acts of unprofessional conduct or other violations proscribed by this chapter are applicable to licensed doctors of podiatric medicine and wherever the Medical Quality Hearing Panel established under Section 11371 of the Government Code is vested with the authority to enforce and carry out this chapter as to licensed physicians and surgeons, the Medical Quality Hearing Panel also possesses that same authority as to licensed doctors of podiatric medicine.

"The California Board of Podiatric Medicine may order the denial of an application or issue a certificate subject to conditions as set forth in Section 2221, or order the revocation, suspension, or other restriction of, or the modification of that penalty, and the reinstatement of any certificate of a doctor of podiatric medicine within its authority as granted by this chapter and in conjunction with the administrative hearing procedures established pursuant to Sections 11371, 11372, 11373, and 11529 of the Government Code. For these purposes, the California Board of Podiatric Medicine shall exercise the powers granted and be governed by the procedures set forth in this chapter."

6. Section 2497 of the Code states:

"(a) The board may order the denial of an application for, or the suspension of, or the revocation of, or the imposition of probationary conditions upon, a certificate to practice podiatric medicine for any of the causes set forth in Article 12 (commencing with Section 2220) in accordance with Section 2222.

"(b) The board may hear all matters, including but not limited to, any contested case or may assign any such matters to an administrative law judge. The proceedings shall be held in accordance with Section 2230. If a contested case is heard by the board itself, the administrative law judge who presided at the hearing shall be present during the board's consideration of the case and shall assist and advise the board."

7. Section 2234 of the Code states in pertinent part:

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

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

". . ."

8. Unprofessional conduct under Business and Professions Code section 2234 is conduct which breaches the rules or ethical code of the medical profession, or conduct which is unbecoming a member in good standing of the medical profession, and which demonstrates an unfitness to practice medicine. (*Shea v. Board of Medical Examiners* (1978) 81 Cal.App.3d 564, 575.)

9. Section 2236 of the Code states:

"(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 [Chapter 5, the Medical Practice Act]. The record of conviction shall be conclusive evidence only of the fact that the conviction occurred.

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"(b) The district attorney, city attorney, or other prosecuting agency shall notify the Medical Board 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 describe 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, 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."

10. Section 2239 of the Code states:

"(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 4022, 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 Medical Board may order discipline of the licensee in accordance with Section 2227 or the Medical Board may order the denial of the license when the time for appeal has elapsed or the judgment of

conviction has been affirmed on appeal or when an order granting probation is made suspending imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, complaint, information, or indictment."[1]

11. Section 802.1 of the Code states:

"(a) (1) A physician and surgeon, osteopathic physician and surgeon, a doctor of podiatric medicine, and a physician assistant shall report either of the following to the entity that issued his or her license:

"(A) The bringing of an indictment or information charging a felony against the licensee.

"(B) The conviction of the licensee, including any verdict of guilty, or plea of guilty or no contest, of any felony or misdemeanor.

"(2) The report required by this subdivision shall be made in writing within 30 days of the date of the bringing of the indictment or information or of the conviction.

"(b) Failure to make a report required by this section shall be a public offense punishable by a fine not to exceed five thousand dollars ($5,000)."

12. California Code of Regulations, title 16, section 1360, states:

"For the purposes of denial, suspension or revocation of a license, certificate or permit pursuant to Division 1.5 (commencing with Section 475) of the code, a crime or act shall be considered to be substantially related to the qualifications, functions or duties of a person holding a license, certificate or permit under the Medical Practice Act if to a substantial degree it evidences present or potential unfitness of a person holding a license, certificate or permit to perform the functions authorized by the license, certificate or permit in a manner

[1] There is a nexus between a physician's use of alcoholic beverages and his or her fitness to practice medicine, established by the Legislature in section 2239, "in all cases where a licensed physician used alcoholic beverages to the extent or in such a manner as to pose a danger to himself or others." (*Watson v. Superior Court* (*Medical Board*) (2009) 176 Cal.App.4th 1407, 1411.)

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

## COST RECOVERY

13. Section 2497.5 of the Code states:

"(a) The board may request the administrative law judge, under his or her proposed decision in resolution of a disciplinary proceeding before the board, to direct any licensee found guilty of unprofessional conduct to pay to the board a sum not to exceed the actual and reasonable costs of the investigation and prosecution of the case.

"(b) The costs to be assessed shall be fixed by the administrative law judge and shall not be increased by the board unless the board does not adopt a proposed decision and in making its own decision finds grounds for increasing the costs to be assessed, not to exceed the actual and reasonable costs of the investigation and prosecution of the case.

"(c) When the payment directed in the board's order for payment of costs is not made by the licensee, the board may enforce the order for payment by bringing an action in any appropriate court. This right of enforcement shall be in addition to any other rights the board may have as to any licensee directed to pay costs.

"(d) In any judicial action for the recovery of costs, proof of the board's decision shall be conclusive proof of the validity of the order of payment and the terms for payment.

"(e)(1) Except as provided in paragraph (2), the board shall not renew or reinstate the license of any licensee who has failed to pay all of the costs ordered under this section.

"(2) Notwithstanding paragraph (1), the board may, in its discretion, conditionally renew or reinstate for a maximum of one year the license of any licensee who demonstrates financial hardship and who enters into a formal agreement with the board to reimburse the board within one year period for those unpaid costs.

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"(f) All costs recovered under this section shall be deposited in the Board of Podiatric Medicine Fund as a reimbursement in either the fiscal year in which the costs are actually recovered or the previous fiscal year, as the board may direct."

14. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case, with failure of the licentiate to comply subjecting the license to not being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be included in a stipulated settlement.

## FIRST CAUSE FOR DISCIPLINE

**(Use of Alcoholic Beverages to the Extent, or in a Manner, as to be Dangerous to Respondent, Another Person or the Public)**

15. Respondent has subjected his Podiatric License No. 4361 to disciplinary action under sections 2222 and 2497, as defined by section 2239, subdivision (a), of the Code, in that he has used, or administered to himself, alcoholic beverages to the extent, or in such a manner, as to be dangerous or injurious to himself, another person, or the public, as more particularly alleged hereinafter:

A. On or about January 18, 2015, at approximately 3:25 p.m., Deputy R.R., Deputy M.M., and C.S.O. T.S. were dispatched to the scene of a traffic collision in Lake Forest, California. Upon arrival, Respondent's vehicle was found with major front end damage, after Respondent lost control of his vehicle, struck a curb, and collided into a center concrete median. While speaking with Respondent, Deputy R.R. observed that Respondent had a strong odor of alcohol on his person, as well as bloodshot and watery eyes. Respondent told Deputy R.R. that he had two drinks at a sushi restaurant before he started driving.

B. Deputy R.R. advised Respondent that he would be conducting an investigation for driving under the influence, to which Respondent responded angrily and belligerently. He told Deputy R.R. to call his friend, an "Officer H.," and ask him who he was dealing with. Respondent told Deputy R.R. that he was a physician and that Deputy R.R. was not doing society

a favor by doing what he was doing. Respondent continued to behave uncooperatively and aggressively towards Deputies R.R. and M.M., advancing towards them and pointing his finger at their faces, requiring them to request assistance from Deputy E. Respondent agreed to submit to standardized Field Sobriety Tests (FSTs), which he performed poorly. Respondent refused a Preliminary Alcohol Screening Test. Based on Respondent's objective symptoms of intoxication, his poor performance on the FSTs, and his involvement in a traffic collision, Deputy R.R. placed Respondent under arrest for driving under the influence.

C. After handcuffs were placed on him, Respondent again became very angry and argumentative. He refused to get into the back seat of the patrol car on his own, requiring Deputy R.R., Deputy M.M., and Deputy E. to push him inside. Once inside, Respondent began kicking the rear door window of the patrol car, telling Deputy R.R. that he did not know what he was doing and that he will make Deputy R.R. pay for what he has done. Deputy R.R. then placed a hobble around Respondent's ankles to prevent him from kicking the rear door window. While en route to the county jail, Respondent cursed at Deputy R.R. and repeatedly threatened to sue him.

D. On or about March 4, 2015, the Orange County District Attorney filed a criminal complaint against Respondent in the matter of *The People of the State of California v. Ramyar Moussavi*, Orange County Superior Court, Case No. OCSO 15-011508. Count One of the complaint charged Respondent with driving under the influence of alcohol, in violation of California Vehicle Code section 23152(a), a misdemeanor. Count Two of the complaint charged Respondent with driving while having a blood alcohol concentration (BAC) level of 0.08% or more, in violation of California Vehicle Code section 23152(b), a misdemeanor. Count Three of the complaint charged Respondent with turning a vehicle from a direct course and moving right or left upon a roadway when such movement could not be made with reasonable safety, in violation of California Vehicle Code section 22107, an infraction.

E. On or about August 4, 2015, Respondent was convicted upon his plea of no contest to Count Two of the complaint. On or about the same date, the Superior Court sentenced Respondent to probation for three years on the following terms and conditions: (1) serve one day in county jail; (2) perform forty hours of community service in lieu of a five-day sentence in

county jail; (3) pay various fines and fees; (4) enroll in and complete a three-month Level 1 First Offender Alcohol Program; (5) do not drive a motor vehicle with any measureable amount of alcohol in his blood and submit to a chemical test of his blood at the request of a peace officer, probation officer, or mandatory supervision officer; (6) do not violate any laws; and (7) do not drive a motor vehicle without a valid license in his possession.

F. Respondent did not notify the Board of the conviction within 30 days of the date of conviction, as required by Section 802.1 of the Code.

**SECOND CAUSE FOR DISCIPLINE**

**(Conviction of a Crime Substantially Related to the Qualifications, Functions, or Duties of a Physician)**

16. Respondent has subjected his Podiatric License No. 4361 to disciplinary action under sections 2222, 2497, and 2234, as defined by section 2236, of the Code, in that he has been convicted of a crime substantially related to the qualifications, functions, or duties of a physician, as more particularly alleged in paragraph 15, above, which is hereby incorporated by reference as if fully set forth herein.

**THIRD CAUSE FOR DISCIPLINE**

**(General Unprofessional Conduct)**

17. Respondent has subjected his Podiatric License No. 4361 to disciplinary action under sections 2222, 2497, and 2234 of the Code, in that he has engaged in conduct which breaches the rules or ethical code of the medical profession, or conduct which is unbecoming to a member in good standing of the medical profession, and which demonstrates an unfitness to practice medicine, as more particularly alleged in paragraph 15, above, which is hereby incorporated by reference as if fully set forth herein.

**FOURTH CAUSE FOR DISCIPLINE**

**(Failure to Report Conviction of a Felony or Misdemeanor)**

18. Respondent has subjected his Podiatric License No. 4361 to disciplinary action under section 802.1 of the Code, in that he failed to timely report to the Board his August 4, 2015, conviction of driving while having a BAC level of 0.08% or more, in matter of *The People of the*

*State of California v. Ramyar Moussavi*, Orange County Superior Court, Case No. OCSO 15-011508, as more particularly alleged in paragraph 15, above, which is hereby incorporated by reference as if fully set forth herein.

**FIRST CAUSE TO REVOKE PROBATION**

**(Failure to Obey All Regulations Related to Practice of Medicine)**

19. At all times after the effective date of Respondent's probation in *In the Matter of the Accusation Against Ramyar Moussavi, D.P.M.*, Case No. 1B-2009-199047, Probation Condition 8 stated:

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

20. Respondent's probation is subject to revocation because Respondent failed to comply with Probation Condition 8, as more particularly alleged in paragraph 15, above, which is hereby incorporated by reference as if fully set forth herein.

**SECOND CAUSE TO REVOKE PROBATION**

**(Failure to Submit Quarterly Declarations)**

21. At all times after the effective date of Respondent's probation in *In the Matter of the Accusation Against Ramyar Moussavi, D.P.M.*, Case No. 1B-2009-199047, Probation Condition 9 stated:

> "9. QUARTERLY DECLARATIONS. Respondent shall submit quarterly declarations under penalty of perjury on forms provided by the Board, stating whether there has been compliance with all the conditions of probation. Respondent shall submit quarterly declarations not later than 10 calendar days after the end of the preceding quarter."

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22. Respondent's probation is subject to revocation because Respondent failed to comply with Probation Condition 9, in that he has not submitted quarterly declarations to the Board for the entire year of 2016. The last quarterly declaration that Respondent submitted to the Board, dated January 14, 2016, was for the fourth quarter of 2015.

**THIRD CAUSE TO REVOKE PROBATION**

**(Failure to Pay Probation Monitoring Costs)**

23. At all times after the effective date of Respondent's probation in *In the Matter of the Accusation Against Ramyar Moussavi, D.P.M.*, Case No. 1B-2009-199047, Probation Condition 18 stated:

> "18. PROBATION MONITORING COSTS. Respondent shall pay the costs associated with probation monitoring each and every year of probation as designated by the Board, which may be adjusted on an annual basis. Such costs shall be payable to the Board of Podiatric Medicine and delivered to the Board or its designee within 60 days after the start of the new fiscal year. Failure to pay costs within 30 calendar days of this date is a violation of probation."

24. Respondent's probation is subject to revocation because Respondent failed to comply with Probation Condition 18, in that he has not made any of the required payments associated with probation monitoring to date.

**FOURTH CAUSE TO REVOKE PROBATION**

**(Failure to Comply with Continuing Medical Education Requirements)**

25. At all times after the effective date of Respondent's probation in *In the Matter of the Accusation Against Ramyar Moussavi, D.P.M.*, Case No. 1B-2009-199047, Probation Condition 21 stated:

> "21. COMPLIANCE WITH REQUIRED CONTINUING MEDICAL EDUCATION. Respondent shall submit satisfactory proof biennially to the Board of compliance with the requirement to complete fifty hours of approved continuing medical education, and meet continuing competence requirements for re-licensure during each two year renewal period."

26. Respondent's probation is subject to revocation because Respondent failed to comply with Probation Condition 21, in that he has not submitted any Continuing Medical Education certifications to the Board since 2012.

**PRAYER**

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

1. Revoking or suspending Podiatric License No. 4361, issued to Respondent Ramyar Moussavi, D.P.M.;

2. Revoking the probation and imposing the discipline that was stayed in Case No. 1B-2009-199047, *i.e.*, revocation of Podiatric License No. 4361, issued to Respondent Ramyar Moussavi, D.P.M.;

3. Ordering Respondent Ramyar Moussavi, D.P.M., to pay the Board of Podiatric Medicine all unpaid costs of probation monitoring, as well as all unpaid cost recovery amounts, incurred in Case No. 1B-2009-199047;

4. Ordering Respondent Ramyar Moussavi, D.P.M., if placed on probation, to pay the Board of Podiatric Medicine the costs of probation monitoring;

5. Ordering Ramyar Moussavi, D.P.M., to pay the Board of Podiatric Medicine the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 2497.5; and

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

DATED: February 9, 2017

BRIAN NASLUND
Executive Officer
Board of Podiatric Medicine
State of California
*Complainant*

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**Exhibit A**

**Decision and Order**

**Board of Podiatric Medicine, Case No. 1B-2009-199047**

BEFORE THE
BOARD OF PODIATRIC MEDICINE
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

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| In the Matter of the Accusation Against:<br><br>RAMYAR MOUSSAVI, D.P.M.<br><br>Doctor of Podiatric Medicine<br>License No. E 4361<br><br>Respondent. | ) | File No. 1B-2009-199047 |

## DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby accepted and adopted by the Board of Podiatric Medicine of the Department of Consumer Affairs, State of California as its Decision in the above-entitled matter.

This Decision shall become effective at 5:00 p.m. on June 29, 2012.

DATED May 31, 2012

BOARD OF PODIATRIC MEDICINE

Neil B. Mansdorf, D.P.M., President

KAMALA D. HARRIS
Attorney General of California
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**BEFORE THE**
**BOARD OF PODIATRIC MEDICINE**
**DEPARTMENT OF CONSUMER AFFAIRS**
**STATE OF CALIFORNIA**

| | |
|---|---|
| In the Matter of the Accusation Against:<br><br>**RAMYAR MOUSSAVI, D.P.M.**<br>**11800 E. Valley Blvd.**<br>**El Monte, CA 91732**<br>**Podiatric License No. E 4361**<br><br>Respondent. | Case No. 1B-2009-199047<br><br>OAH No. 2011-050-838<br><br>**STIPULATED SETTLEMENT AND DISCIPLINARY ORDER** |

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

PARTIES

1. James Rathlesberger (Complainant) is the Executive Officer of the Board of Podiatric Medicine. He brought this action solely in his official capacity and is represented in this matter by Kamala D. Harris, Attorney General of the State of California, by Wendy Widlus, Deputy Attorney General.

2. Respondent Ramyar Moussavi, D.P.M. (Respondent) is represented in this proceeding by attorney Keith Greer, Esq., whose address is 16787 Bernardo Center Drive, Suite 12, San Diego, California 92128.

3. On or about July 17, 2001, the Board of Podiatric Medicine (Board) issued Podiatric License No. E 4361 to Ramyar Moussavi, D.P.M. (Respondent). The Podiatric License was in full force and effect at all times relevant to the charges brought in Accusation No. 1B-2009-199047 and will expire on April 30, 2013, unless renewed.

JURISDICTION

4. Accusation No. 1B-2009-199047 was filed before the Board, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on May 4, 2011. Respondent timely filed his Notice of Defense contesting the Accusation.

A copy of Accusation No. 1B-2009-199047 is attached as Exhibit A and is incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 1B-2009-199047. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

6. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; 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 admits the truth of each and every charge and allegation in Accusation No. 1B-2009-199047. Further, if Respondent ever petitions to modify or terminate any term or

condition set forth herein, including but not limited to probation, or should the Board or any other regulatory agency in California or elsewhere hereinafter institute any other action against Respondent, including, but not limited to, an Accusation and/or Petition to Revoke Probation, the allegations and facts set forth in the Accusation shall be deemed true and admitted for all purposes.

9. Respondent agrees that his Podiatric License is subject to discipline and he is to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

CONTINGENCY

10. This stipulation shall be subject to approval by the Board of Podiatric Medicine. Respondent understands and agrees that counsel for Complainant and the staff of the Board of Podiatric Medicine may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent or his counsel. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

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

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

**DISCIPLINARY ORDER**

IT IS HEREBY ORDERED that Podiatric License No. E 4361 issued to Respondent Ramyar Moussavi, D.P.M. (Respondent) is revoked. However, the revocation is stayed and Respondent is placed on probation for five (5) years on the following terms and conditions.

1. ACTUAL SUSPENSION As part of probation, Respondent is suspended from the practice of podiatric medicine for 90 days. That suspension is stayed unless Respondent violates any term or condition of his probation. If Respondent does violate any term or condition of his probation, his suspension will begin the sixteenth (16th) day after he admits said violation or is found in violation of his probation. If Respondent is suspended, Respondent shall prominently post a notice of the Board's Order of Suspension, in a place clearly visible to the public. Said notice, provided by the Board, shall remain so posted during the entire period of suspension.

2. MEDICAL RECORD KEEPING COURSE Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in the course in medical record keeping, offered by the Physician Assessment and Clinical Education Program (PACE) offered at the University of California - San Diego School of Medicine, at Respondent's expense. Failure to successfully complete the course during the first six months of probation is a violation of probation.

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

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

3. EXAMINATION Within 60 calendar days of the effective date of this Decision, Respondent shall arrange to take and pass a written examination approved by the Board. Failure to pass the examination within one year of the effective date of this Decision is a violation of probation. Respondent shall pay the costs of all examinations. For purposes of this condition, the exam shall be a passing score of the National Board of Podiatric Medical Examiners Part III examination consistent with Business and Professions Code section 2493.

If the Respondent fails to pass the first examination, Respondent shall be suspended from the practice of podiatric medicine. Respondent shall cease the practice of podiatric medicine

within 72 hours after being notified by the Board or its designee that Respondent has failed the examination. Respondent shall remain suspended from the practice of medicine until Respondent successfully passes a follow-up examination, as evidenced by written notice to Respondent from the Board or its designee.

4. MONITORING - PRACTICE/BILLING Within 30 days of the effective date of this Decision, the entire practice shall be monitored, including, but not limited to the following: medical records, charting, pre and postoperative evaluations, all surgical procedures and billing records.

The Board shall immediately, within the exercise of reasonable discretion, appoint a doctor of podiatric medicine from its panel of medical consultants or panel of expert reviewers as the monitor.

The monitor shall provide quarterly reports to the Board or its designee which include an evaluation of Respondent's performance, indicating whether Respondent's practices are within the standards of practice of podiatric medicine or billing, or both, and whether Respondent is practicing podiatric medicine safely.

The Board or its designee shall determine the frequency and practice areas to be monitored. Such monitoring shall be required during the entire period of probation. However, after Respondent completes the first year of his probation, the monitor shall furnish the Board with a non binding recommendation with regard to the continued necessity of further monitoring of Respondent's practice.

The Board or its designee may at its sole discretion also require prior approval by the monitor of any medical or surgical procedures engaged in by the Respondent. The Respondent shall pay all costs of such monitoring and shall otherwise comply with all requirements of his or her contract with the monitor, a copy of which is attached as "Appendix A - Agreement to Monitor Practice and/or Billing." If the monitor terminates the contract, or is no longer available, the Board or its designee shall appoint a new monitor immediately. Respondent shall not practice at any time during the probation until the Respondent provides a copy of the contract with the current monitor to the probation investigator and such contract is approved by the Board.

Respondent shall provide access to the practice monitor of Respondent's patient records and such monitor shall be permitted to make direct contact with any patients treated or cared for by Respondent and to discuss any matters related to Respondent's care and treatment of those patients. Respondent shall obtain any necessary patient releases to enable the monitor to review records and to make direct contact with patients. Respondent shall execute a release authorizing the monitor to provide to the Board or its designee any relevant information. If the practice monitor deems it necessary to directly contact any patient, and thus require the disclosure of such patient's identity, Respondent shall notify the patient that the patient's identity has been requested pursuant to the Decision. This notification shall be signed and dated by each patient prior to the commencement or continuation of any examination or treatment of each patient by Respondent and a copy of such notification shall be maintained in each patient's file. The notifications signed by Respondent's patients shall be subject to inspection and copying by the Board or its designee at any time during the period of probation that Respondent is required to comply with this condition. The practice monitor will sign a confidentiality agreement requiring him or her to keep all patient information regarding Respondent's patients in complete confidence, except as otherwise required by the Board or its designee.

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

5. SOLO PRACTICE Respondent is prohibited from engaging in the solo practice of podiatric medicine. However, after Respondent completes the first year of his probation, Respondent's assigned practice monitor shall furnish the Board with a non binding recommendation with regard to the continued necessity of further monitoring of Respondent's practice. Respondent may engage in the practice of podiatric medicine if he practices in an office which includes one of the following practitioners: medical doctor, doctor of osteopathic medicine, doctor of podiatric medicine, or doctor of chiropractic medicine.

6. NOTIFICATION Prior to engaging in the practice of medicine, the Respondent shall provide a true copy of the Decision(s) and Accusation(s) to the Chief of Staff or the Chief

Executive Officer at every hospital where privileges or membership are extended to Respondent, at any other facility where Respondent engages in the practice of podiatric medicine, including all physician and locum tenens registries or other similar agencies, and to the Chief Executive Officer at every insurance carrier which extends malpractice insurance coverage to Respondent. Respondent shall submit proof of compliance to the Division or its designee within 15 calendar days.

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

7. PHYSICIAN ASSISTANTS Prior to receiving assistance from a physician assistant, Respondent must notify the supervising physician of the terms and conditions of his/her probation.

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

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

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

Respondent shall not engage in the practice of podiatric medicine in Respondent's place of residence. Respondent shall maintain a current and renewed California doctor of podiatric medicine's license.

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

11. INTERVIEW WITH THE BOARD OR ITS DESIGNEE Respondent shall be available in person for interviews either at Respondent's place of business or at the probation unit office with the Board or its designee, upon request, at various intervals and either with or without notice throughout the term of probation.

12. RESIDING OR PRACTICING OUT-OF-STATE In the event Respondent should leave the State of California to reside or to practice, Respondent shall notify the Board or its designee in writing 30 calendar days prior to the dates of departure and return. Non-practice is defined as any period of time exceeding 30 calendar days in which Respondent is not engaging in any activities defined in section 2472 of the Business and Professions Code.

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

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

13. FAILURE TO PRACTICE PODIATRIC MEDICINE - CALIFORNIA RESIDENT In the event the Respondent resides in the State of California and for any reason Respondent stops practicing podiatric medicine in California, Respondent shall notify the Board or its designee in writing within 30 calendar days prior to the dates of non-practice and return to practice. Any

period of non-practice within California as defined in this condition will not apply to the reduction of the probationary term and does not relieve Respondent of the responsibility to comply with the terms and conditions of probation. Non-practice is defined as any period of time exceeding thirty calendar days in which Respondent is not engaging in any activities defined in section 2472 of the Business and Professions Code.

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

Respondent's license shall be automatically cancelled if Respondent resides in California and for a total of two years, fails to engage in California in any of the activities described in Business and Professions Code section 2472.

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

15. VIOLATION OF PROBATION If Respondent violates probation in any respect, the Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If an accusation or petition to revoke probation is filed against Respondent during probation, the Board shall have continuing jurisdiction until the matter is final, the period of probation shall be extended until the matter is final, and no petition for modification of penalty shall be considered while there is an accusation or petition to revoke probation pending against Respondent.

16. COST RECOVERY Within 90 calendar days from the effective date of the Decision or other period agreed to by the Board or its designee, Respondent shall reimburse the Board the amount of $7,342.37. This amount is 50 percent of the Board's total investigative and prosecution costs of $14,684.75 for this matter. The filing of bankruptcy or period of non-practice by Respondent shall not relieve the Respondent of his/her obligation to reimburse the

Board for its costs. The costs must be paid prior to the end of Respondent's probation. The Respondent must pay all costs in full no later than 120 days before the scheduled end of his probation.

17. LICENSE SURRENDER Following the effective date of this Decision, if Respondent ceases practicing due to retirement or health reasons, or is otherwise unable to satisfy the terms and conditions of probation, Respondent may request the voluntary surrender of Respondent's license. The Board reserves the right to evaluate the Respondent's request and to exercise its discretion whether to grant the request or to take any other action deemed appropriate and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent shall within 15 calendar days deliver Respondent's wallet and wall certificate to the Board or its designee and Respondent shall no longer practice podiatric medicine. Respondent will no longer be subject to the terms and conditions of probation and the surrender of Respondent's license shall be deemed disciplinary action. If Respondent re-applies for a podiatric medical license, the application shall be treated as a petition for reinstatement of a revoked certificate.

18. PROBATION MONITORING COSTS Respondent shall pay the costs associated with probation monitoring each and every year of probation as designated by the Board, which may be adjusted on an annual basis. Such costs shall be payable to the Board of Podiatric Medicine and delivered to the Board or its designee within 60 days after the start of the new fiscal year. Failure to pay costs within 30 calendar days of this date is a violation of probation.

19. NOTICE TO EMPLOYEES Respondent shall, upon or before the effective date of this Decision, post or circulate a notice which actually recites the offenses for which Respondent has been disciplined and the terms and conditions of probation to all employees involved in his/her practice. Within 15 days of the effective date of this Decision, Respondent shall cause his/her employees to report to the Board in writing, acknowledging the employees have read the Accusation and Decision in the case and understand Respondent's terms and conditions of probation.

20. CHANGES OF EMPLOYMENT Respondent shall notify the Board in writing, through the assigned probation officer, of any and all changes of employment, location, and

address within 30 days of such change.

21. COMPLIANCE WITH REQUIRED CONTINUING MEDICAL EDUCATION Respondent shall submit satisfactory proof biennially to the Board of compliance with the requirement to complete fifty hours of approved continuing medical education, and meet continuing competence requirements for re-licensure during each two year renewal period.

22. EFFECTIVE DATE This Stipulated Settlement and Disciplinary Order shall not become effective before January 1, 2012.

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Keith Greer, Esq. I understand the stipulation and the effect it will have on my Podiatric License. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Podiatric Medicine.

DATED: Oct. 7, 2011

RAMYAR MOUSSAVI, D.P.M.
Respondent

I have read and fully discussed with Respondent Ramyar Moussavi, D.P.M. the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: Oct 7, 2011

KEITH GREER, Esq.
Attorney for Respondent

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board of Podiatric Medicine of the Department of Consumer Affairs.

Dated: 10/10/2011

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
ROBERT MCKIM BELL
Supervising Deputy Attorney General

WENDY WIDLUS
Deputy Attorney General
*Attorneys for Complainant*

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**Exhibit A**

**Accusation No. 1B-2009-199047**

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO May 4 20 11
BY [illegible] ANALYST

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**BEFORE THE**
**BOARD OF PODIATRIC MEDICINE**
**DEPARTMENT OF CONSUMER AFFAIRS**
**STATE OF CALIFORNIA**

| | |
|---|---|
| In the Matter of the Accusation Against:<br>**RAMYAR MOUSSAVI, D.P.M.**<br>1442 Irvine Boulevard Suite 125<br>Tustin, California 92780<br>Podiatric Certificate No. E 4361,<br>Respondent. | Case No. 1B-2009-199047<br>Case No. 1B-2009-199436<br>**ACCUSATION** |

Complainant alleges:

**PARTIES**

1. James Rathlesberger ("Complainant") brings this Accusation solely in his official capacity as the Executive Officer of the California Board of Podiatric Medicine ("Board").

2. On or about July 17, 2001, the Board issued Podiatric certificate number E 4361 to Ramyar Moussavi, D.P.M. (Respondent). That certificate was in full force and effect at all times relevant to the charges brought herein and will expire on April 30, 2013, unless renewed.

**JURISDICTION**

3. This Accusation is brought before the Board under the authority of the following provisions of the California Business and Professions Code ("Code") unless otherwise indicated.

4. Section 2222 of the Code states:

"The California Board of Podiatric Medicine shall enforce and administer this article as to doctors of podiatric medicine. Any acts of unprofessional conduct or other violations proscribed by this chapter are applicable to licensed doctors of podiatric medicine and wherever the Medical Quality Hearing Panel established under Section 11371 of the Government Code is vested with the authority to enforce and carry out this chapter as to licensed physicians and surgeons, the Medical Quality Hearing Panel also possesses that same authority as to licensed doctors of podiatric medicine.

"The California Board of Podiatric Medicine may order the denial of an application or issue a certificate subject to conditions as set forth in Section 2221, or order the revocation, suspension, or other restriction of, or the modification of that penalty, and the reinstatement of any certificate of a doctor of podiatric medicine within its authority as granted by this chapter and in conjunction with the administrative hearing procedures established pursuant to Sections 11371, 11372, 11373, and 11529 of the Government Code. For these purposes, the California Board of Podiatric Medicine shall exercise the powers granted and be governed by the procedures set forth in this chapter."

5. Section 125.3 of the Code, in pertinent part, states:

"(a) Except as otherwise provided by law, in any order issued in resolution of a disciplinary proceeding before any board within the department or before the Osteopathic Medical Board, upon request of the entity bringing the proceeding may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case."

6. Section 2261 of the Code states:

"Knowingly making or signing any certificate or other document directly or indirectly related to the practice of medicine or podiatry which falsely represents the existence or nonexistence of a state of facts, constitutes unprofessional

conduct."

7. Section 2472 of the Code, states, in pertinent part:

"(a) The certificate to practice podiatric medicine authorizes the holder to practice podiatric medicine.

"(b) As used in this chapter, "podiatric medicine" means the diagnosis, medical, surgical, mechanical, manipulative, and electrical treatment of the human foot, including the ankle and tendons that insert into the foot and the nonsurgical treatment of the muscles and tendons of the leg governing the functions of the foot.

"(c) No podiatrist shall do any amputation or administer an anesthetic other than local. If an anesthetic other than local is required for any procedure, the anesthetic shall be administered by another health care practitioner licensed under this division, who is authorized to administer the required anesthetic within the scope of his or her practice.

"(d) Surgical treatment of the ankle and tendons at the level of the ankle may be performed by a doctor of podiatric medicine who was certified by the board on an after January 1, 1984.

8. Section 2460.1 of the Code states:

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

9. Section 11519 of the Government Code states:

"(a) The decision shall become effective 30 days after it is delivered or mailed to respondent unless: reconsideration is ordered within that time, or the agency itself orders that the decision shall become effective sooner, or a stay of execution is granted.

"(b) A stay of execution may be included in the decision or if not included

therein may be granted by the agency at any time before the decision becomes effective. The stay of execution provided herein may be accompanied by an express condition that respondent comply with specified terms of probation; provided, however, that the terms of probation shall be just and reasonable in the light of the findings and decision.

"(c) If respondent was required to register with any public officer, a notification of any suspension or revocation shall be sent to the officer after the decision has become effective.

"(d) As used in subdivision (b), specified terms of probation may include an order of restitution. Where restitution is ordered and paid pursuant to the provisions of this subdivision, the amount paid shall be credited to any subsequent judgment in a civil action.

"(e) The person to which the agency action is directed may not be required to comply with a decision unless the person has been served with the decision in the manner provided in Section 11505 or has actual knowledge of the decision.

"(f) A nonparty may not be required to comply with a decision unless the agency has made the decision available for public inspection and copying or the nonparty has actual knowledge of the decision.

"(g) This section does not preclude an agency from taking immediate action to protect the public interest in accordance with Article 13 ([entitled Emergency Decision] commencing with Section 11460.10) of Chapter 4.5."

10. Section 2234 of the Code states, in pertinent part:

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

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

"(b) Gross negligence.

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

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

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

"(d) Incompetence.

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

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

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

11. Section 2266 of the Code states:

"The failure of a physician and surgeon to maintain adequate and accurate records relating to the provision of services to their patients constitutes unprofessional conduct."

## FIRST CAUSE FOR DISCIPLINE

**(Gross Negligence)**

**(Bus. & Prof. Code, § 2234, subd. (b))**

12. Respondent is subject to disciplinary action under section 2234, subdivision (b), of the Code in that he committed acts or omissions involving gross negligence in the care and treatment of patients Maria C. and Abel R.[1] The circumstances are as follows:

**Patient Maria C.**

13. On or about August 6, 2005, 58-year-old Maria C., suffering as a result of bunions[2] on both of her feet, consulted with Larry Ivancich, D.P.M.[3] Dr. Ivancich told her she needed to have surgery on both of her bunions.

14. The records for patient Maria C.'s initial consultation and office visit with Dr. Ivancich on August 4, 2005, show her chief complaint as pain in bunions on both feet. Patient Maria C.'s medical records do not reflect a past medical history, a history or physical taken by Dr. Ivancich or any staff member, no review of systems,[4] no indication of previous conservative care for the bunions, and no pre-operative X-rays.

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[1] The names of the patients are abbreviated to protect their privacy. Their names will be provided to Respondent upon written request for discovery.

[2] A bunion is defined as an enlargement of bone or tissue of the inner portion of the joint at the base of the big toe (the first metatarsophalangeal joint). The enlargement represents additional bone formation, often in combination with a misalignment of the big toe. Bunions are commonly associated with a deviated position of the big toe toward the second toe, and the deviation in the angle between the first and second metatarsal bones of the foot. The small bones found beneath the first metatarsal (which help the flexor tendon bend the big toe downwards) may also become deviated over time as the first metatarsal bone drifts away from its normal position. Arthritis of the big toe joint, diminished and/or altered range of motion, and discomfort with pressure applied to the bump or with motion of the joint, may all accompany bunion development.

[3] Doctor of Podiatric Medicine.

[4] A review of systems in a medical context is defined as a system-by-system review of the body functions begun during the initial interview with the patient and completed during the physical examination, as physical findings prompt further questions. Questions about family or personal history are included in each section. An example of such a review would be questions with regard to:

Past medical history.
Family medical history.
Current medications.

(continued...)

In patient Maria C.'s medical records for this initial visit there are schematic diagrams for a bunionectomy[5] commonly referred to as an Austin/Akin[6] bunionectomy. There is a small

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Previous surgeries.

Skin bruising, discoloration, pruritus, birthmarks, moles, ulcers, decubiti, changes in the hair or nails, sun exposure and protection.

Spontaneous or excessive bleeding, fatigue, enlarged or tender lymph nodes, pallor, history of anemia.

Head and face pain, traumatic injury.

Ears tinnitus, change in hearing, running or discharge from the ears, deafness, dizziness.

Eyes change in vision, pain, inflammation, infections, double vision, scotomata, blurring, tearing.

Mouth and throat dental problems, hoarseness, dysphagia, bleeding gums, sore throat, ulcers or sores in the mouth.

Nose and sinuses discharge, epistaxis, sinus pain, obstruction.

Breasts pain, change in contour or skin color, lumps, discharge from the nipple.

Respiratory tract cough, sputum, change in sputum, night sweats, nocturnal dyspnea, wheezing.

Cardiovascular system chest pain, dyspnea, palpitations, weakness, intolerance of exercise, varicosities, swelling of extremities, known murmur, hypertension, asystole.

Gastrointestinal system nausea, vomiting, diarrhea, constipation, quality of appetite, change in appetite, dysphagia, gas, heartburn, melena, change in bowel habits, use of laxatives or other drugs to alter the function of the gastrointestinal tract.

Urinary tract dysuria, change in color of urine, change in frequency of urination, pain with urgency, incontinence, edema, retention, nocturia.

Genital tract (female) menstrual history, obstetric history, contraceptive use, discharge, pain or discomfort, pruritus, history of venereal disease, sexual history.

Genital tract (male) penile discharge, pain or discomfort, pruritus, skin lesions, hematuria, history of venereal disease, sexual history.

Skeletal system heat; redness; swelling; limitation of function; deformity; crepitation: pain in a joint or an extremity, the neck, or the back, especially with movement.

Nervous system dizziness, tremor, ataxia, difficulty in speaking, change in speech, paresthesia, loss of sensation, seizures, syncope, changes in memory.

Endocrine system tremor, palpitations, intolerance of heat or cold, polyuria, polydipsia, polyphagia, diaphoresis, exophthalmos, goiter.

Psychologic status nervousness, instability, depression, phobia, sexual disturbances, criminal behavior, insomnia, night terrors, mania, memory loss, perseveration, disorientation.

[5] A bunionectomy is a surgical procedure to excise, or remove, a bunion. Some procedures simply address an enlarged bump, some also address a crooked big toe. In order to slow the return of the bunion deformity, most procedures aim to realign the big toe with the bone behind it, i.e., the "first metatarsal." This would also realign the joint surfaces between those two bones. The goal of surgery is to realign the big toe and there are many choices of procedure based upon the patient's individual foot. Various procedures are used for a short first metatarsal, for a long first metatarsal, some for a very unstable foot, and others based on the presence of severe arthritis. Sometimes a screw is placed in the foot to hold a bone in a corrected position, other times a pin, wire or plate is chosen.

[6] An Austin/Akin bunionectomy, also defined as a first metatarsal neck osteotomy, (an osteotomy is a surgical operation whereby a bone is cut to shorten, lengthen, or change its alignment) is known by various names based on the individual who first described the procedure (e.g. Austin, Reverdin-Green, Kalish-Austin). The goal of all these procedures is the same; to remove the bump and realign the joint. The first part of all bunion procedures involves removing

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notation under "musculoskeletal findings" which is illegible. The remainder of the patient's medical record for the initial visit is illegible.

15. Patient Maria C.'s medical records for her initial consultation and office visit with Dr. Ivancich on August 4, 2005, show she signed a pre-operative consent for correction of bilateral bunions.

16. On or about August 10, 2005, patient Maria C. came to the surgical center for the bunion surgery she had scheduled six days earlier with Dr. Ivancich. At the surgery center she was informed for the first time that Dr. Ivancich would not be her surgeon due to a scheduling conflict, and that Respondent would be her surgeon.

17. During Respondent's September 14, 2010, interview with Medical Board Senior Investigator Jaime Sandoval about patient Maria C.'s case, Respondent stated he assumed he spoke with the patient on August 10, 2005, prior to performing her bunion surgery. Respondent could not remember examining the patient, speaking with her, or reviewing her medical records. Respondent does not remember evaluating any pre-operative X-rays.

18. There are no medical records which show that Respondent performed a complete history and physical examination of patient Maria C. prior to performing surgery on the patient on August 10, 2005. There are no medical records which show that Respondent even spoke to Maria C. prior to performing her bunion surgery on August 10, 2005.

19. There are no medical records which show that Respondent either examined previous X-rays of Maria C. or ordered preoperative X-rays for Maria C., or examined X-rays for this patient at any time prior to performing the August 10, 2005 surgery.

20. The applicable standard of care in all cases which involve non-emergency surgery requires that the surgeon must perform a history and physical on the patient. In this case

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the bump of bone from the side of the 1st metatarsal head.

Once completed, the podiatric surgeon will create an osteotomy through the first metatarsal that will allow shifting the bone and realigning the joint. Depending on the type of osteotomy, the actual shape of the bone cut can vary. In the case of the Austin bunionectomy, the bone cut is V-shaped with the "V"sitting on its side and the tip of the "V" pointing toward the joint. When this cut is completed, the head of the metatarsal and joint is shifted toward the 2nd toe. In this way the bone and joint are repositioned in a more normal position.

Respondent does not remember examining the patient, speaking with her, reviewing her medical records, or ordering X-rays of her feet. Furthermore, there is no objective evidence or documentation that shows Respondent spoke to this patient, examined this patient, performed a history or physical or ordered X-rays or reviewed X-rays prior to performing surgery on this patient on August 10, 2005.

21. Respondent did not perform the Austin/Akin bunionectomy for which patient Maria C. had signed the pre-operative consent form six days prior in Dr. Ivancich's office at her initial visit. Instead, Respondent's operative report shows that on or about August 10, 2005, he performed a distal first metatarsal osteotomy[7] to correct the patient's bunions.

22. Patient Maria C. received postoperative care from a series of other physicians. She complained of pain in her feet on almost every visit. The patient was given bunion splints, and had orthotics made in an attempt to relieve her pain.

23. Respondent's first postoperative examination on patient Maria C. occurred on March 21, 2006, approximately seven months after he performed her surgery. At that time Respondent diagnosed her as having pain, tibial neuritis,[8] and edema.[9] Respondent ordered X-rays, but there is no information in the patient's medical records of any X-ray results.

24. Patient Maria C. continued to complain of pain in both feet, with the addition of pain in the balls of both feet and toes. The patient ultimately consulted with three separate physicians about her worsening foot pain which was 10 on a scale of 1-to-10 three years after Respondent performed surgery on her bunions. Because Maria C. is employed at a barber shop where she must stand on her feet, this amount of pain means she is unable to endure her complete work shifts.

Physical examinations and X-rays of Maria C.'s feet showed this patient had a high

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[7] A bunion surgery usually performed for the surgical treatment of mild-to-moderate bunions.

[8] Inflammation of a nerve in the shin bone.

[9] Edema is swelling caused by excess fluid trapped in the body's tissues.

metatarsal angle[10] of approximately 15 to 16 degrees.

25. The standard of care in bunion surgery is to ascertain the patient's foot pathology along with the patient's age and other lifestyle factors in order to determine the appropriate surgical procedure to perform to achieve the best patient outcome. Due to Maria C.'s high metatarsal angle, the distal metatarsal osteotomy Respondent inexplicably chose to perform failed to reduce the inter metatarsal angle and thus Maria C.'s bunions quickly recurred. By disregarding the consented Austin/Akin procedure, and instead performing the single distal first metatarsal osteotomy, Respondent failed to correct the patient's major pathology.

Moreover, there is no objective medical evidence which supports the decision to do a single distal first metatarsal osteotomy. The medical records contain no X-rays or other tangible information indicating inter metatarsal angles or hallux abductus[11] angles which Respondent would have been able to review to make the proper decision for the correct surgical procedure for this patient.

26. Respondent's care of Maria C. was grossly negligent for the reasons stated below:

A. Respondent did not conduct a pre-operative history on his patient, Maria C., to enable him to review the history of her foot pain. Failure to perform a pre-operative history on this patient was especially significant because Respondent first met the patient immediately prior to performing surgery on her feet.

B. Respondent did not conduct a pre-operative physical examination on his patient, Maria C., to enable him to independently determine the correct surgical procedures for him to perform on her feet. Failure to perform a pre-operative physical examination on this patient was especially significant because Respondent first met the patient immediately

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[10] One of the factors considered in determining the appropriate surgical procedure is the metatarsal angle. Examples of criteria considered are: 1. The 1st inter- metatarsal angle (I.M. angle), the angle between the 1st and the 2nd metatarsal, 2. The Proximal Articular Set Angle (P.A.S.A.), the angle between the cartilage that articulates with the big toe relative to the 1st metatarsal and 3. The Hallux Abductus Angle, the angle between the big toe and the 1st metatarsal.

[11] The hallux is commonly known as the big or great toe. Hallux abductus means a fixed angulation of the hallux directed away from the body midline.

prior to performing surgery on her feet.

C. Respondent failed to review any existent pre-operative X-rays to enable him to independently determine the correct surgical procedures for him to perform on her feet. Failure to perform a pre-operative physical examination on this patient was especially significant because Respondent first met the patient immediately prior to performing surgery on her feet.

D. Respondent failed to order pre-operative X-rays to enable him to independently determine the correct surgical procedures for him to perform on her feet. Failure to perform a pre-operative physical examination on this patient was especially significant because Respondent first met the patient immediately prior to performing surgery on her feet.

E. Respondent failed to recognize Maria C.'s severe foot pathology. His failure to correctly identify the severity of the patient's foot pathology made it impossible for him to choose the correct surgical procedure to perform on his patient to ameliorate her foot problems.

F. Respondent failed to choose the correct surgical procedure to perform on Maria C.'s feet to achieve the best possible outcome to resolve this patient's foot problems.

**Patient Abel M.**

27. On or about July 22, 2006, 65-year-old Abel M., initially seen by Larry Ivancich, D.P.M., had surgery on his right bunion. The right foot bunion surgery was performed by Dr. Ivancich. After the bunion surgery the patient was sent home wearing a special postoperative shoe.

28. On or about July 25, 2006, just three days after his right foot bunion surgery, Respondent saw Abel M. for a consultation and pre-operative consent for surgery on the patient's right Achilles tendon[12].

[12] The Achilles tendon (a tendon is a tough band of fibrous connective tissue that usually connects muscle to bone) is a tendon of the posterior leg. In humans, the tendon passes behind the ankle and is the thickest and strongest tendon in the body.

29. During Respondent's September 14, 2010, interview with Medical Board Senior Investigator Jaime Sandoval about patient Abel M., Respondent stated this patient was referred to him by Dr. Ivancich for surgical correction of the patient's right heel. Respondent further stated that both Dr. Ivancich, as well as the office manager, told him to do the surgery. In particular, Respondent said that Dr. Ivancich stated to Respondent in his conversation with him that if Respondent failed to complete the surgery Dr. Ivancich would not be happy with the situation.

30. On or about July 25, 2006, during his initial consultation with patient Abel M., Respondent examined the patient's right lower foot. However, Respondent's notes indicate no objective information with regard to the Achilles tendon other than Respondent noted it was "short."

31. Respondent's documented diagnostic impressions from his initial evaluation of patient Able M. were as follows: Pain; Achilles tendonitis[13]; bony prominence right posterior heel; and "short" Achilles tendon.

However, Respondent's documentation fails to note any objective measurements of the patient's right heel, range of motion, nor any other method utilized by Respondent to independently confirm that the patient's right Achilles tendon was short, or indeed, how short it was when compared to standard measurements of other Achilles tendons.

Respondent further documented that during his musculoskeletal examination of Abel M. he noted the patient had a painful Achilles tendon right posterior heel with painful bony prominence and redness in the right posterior aspect of the heel.

32. The applicable standard of care in all cases which involve non-emergency surgery requires that the surgeon must perform a complete history and physical on the patient.

During Respondent's September 14, 2010, interview with Medical Board Senior Investigator Jaime Sandoval about patient Abel M., Respondent stated Dr. Ivancich should have taken a history and physical for the original surgery which occurred July 28, 2006. Respondent stated he should have reviewed the medical records of the history and physical he assumed Dr.

[13] Achilles tendonitis is a condition of irritation and inflammation of the large tendon in the back of the ankle.

Ivancich took for the July 28, 2006 surgery. However, Respondent had no records which confirmed that he had indeed reviewed any history or physical taken by Dr. Ivancich.

Moreover, Respondent did not have any medical records of completing his own complete history and physical on patient Abel M. other than the examination of the patient's right lower foot referred to above in paragraphs 28, 30, and 31. There is no documentation that Respondent ever performed a review of systems on this patient.

Respondent's consultation notes for his examination of Abel M. on July 25, 2006, fail to document any patient complaints of right heel pain and irritation preceding to the bunion surgery he had undergone three (3) days prior to his examination by Respondent.

33. The applicable standard of care with regard to a complete pre-surgical consent is that prior to surgery the physician must fully inform the patient about the surgical procedure to be performed. The explanation should include a discussion of possible complications as well as other alternative treatment plans. The surgical consent should also include simple diagrams of the procedure that can be easily understood by the patient.

During this initial consultation with Respondent, patient Abel M. signed a surgical consent. This surgical consent shows the patient initialed the informed consent and agreed to Respondent performing a surgery listed as "Achilles tendon lengthening of the right foot to relieve tight and painful tendon."

This surgical consent from the patient's initial consultation with Respondent did not indicate any notation of markings on the posterior aspect of the calcaneous,[14] nor is there any mention of an exostectomy[15] of the posterior aspect of the patient's heel. Neither the patient's schematic diagrams depicted in the patient's medical records, nor the consent form the patient signed, indicate that Respondent intended to remove bone from the patient's right heel.

There are no medical records which show a consent form from the surgical center

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[14] The calcaneous, also commonly known as the heel bone, is one of the bones of the foot which constitutes the heel.

[15] An exostectomy is the process of removing bony bumps on the bones.

where Respondent performed the patient's surgery. Thus, there is no objective evidence which documents this patient was ever informed Respondent intended to remove portions of the patient's heel bone.

34. The applicable standard of care in all cases which involve non-emergency surgery requires that the surgeon attempt conservative treatment of the condition prior to surgical intervention.

Here, the patient's medical records document that Abel M. began to complain of pain and irritation of his right heel only three days after his bunion surgery. Nonetheless, Abel M.'s medical records show Respondent failed to suggest or prescribe any of the following conservative, non-surgical treatments prior to surgical intervention: Appropriate heel and toe padding of the patient's postoperative shoe; Night splints; Non-steroidal anti inflammatory medications; and Physical therapy.

Nor do the patient's medical records document any previous conservative care either suggested or rendered by any physician for the patient's fresh complaint of pain in his right heel immediately following surgery on the same foot. The patient's fresh complaint of right heel pain appears to have been of a type which would have responded successfully to any or all of the non-surgical treatment options listed above.

35. On or about July 28, 2006, only six days after Dr. Ivancich performed surgery on his right foot bunion, Abel M. underwent additional, non-emergency surgery performed by Respondent on his patient's right heel. Respondent's operative report documented that he performed an Achilles tendon lengthening of the right ankle, and an excision of bony prominence retro calcaneal on patient Abel M.

It is not the standard of care to operate on a patient twice in a six-day period. To do so puts the patient at great risk from complications including reaction to anesthesia, an increased risk of infection, and a greatly increased risk of pain.

If the surgery Respondent performed was truly necessary it should have been noted by Dr. Ivancich, and performed by him during the July 25, 2006, surgery on the patient's bunion.

34. On or about August 1, 2006, Respondent saw patient Abel M. for his postoperative visit. Respondent documented during his musculoskeletal examination of Abel M. that he found the patient's right heel now had good range of motion.

35. On or about August 15, 2006, Respondent saw patient Abel M. again. Respondent noted in the "treatment rendered" potion of his records that the patient "pulled the first metatarsal pin," i.e., the patient removed one of the pins Dr. Ivancich inserted during the bunion surgery he performed on the patient on July 22, 2006.

However, fourteen days later, according to Dr. Ivancich's notes of the patient's August 29, 2006 postoperative visit, the pins in the patient's foot were intact. In fact, Abel M. purposely went to Dr. Ivancich on August 29, 2006, to have Dr. Ivancich remove the two (2) pins Dr. Ivancich inserted during the patient's bunion surgery.

36. On or about September 5, 2006, Respondent saw the patient again for postoperative care. Respondent's notes under the musculoskeletal section of his report details various measurements of the patient's range of motion in his right foot. Respondent also noted an injection of some substance into the right posterior aspect of the patient's ankle in the area of the scar from the surgery Respondent performed.

37. On or about September 26, 2006, Respondent saw the patient again for postoperative care, and diagnosed him with neuritis.[16] Respondent scheduled Abel M. for surgery, and the patient signed a consent for same but there are no operative reports or other medical records which indicate Respondent performed any surgery on this patient other than that performed on or about July 28, 2006.

38. On or about November 7, 2006, Respondent treated patient Abel M. with an injection of lidocaine[17] and two different forms of cortisone[18] into his sural[19] nerve.

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[16] Neuritis is defined as inflammation of a nerve or group of nerves, characterized by pain, loss of reflexes, and atrophy of the affected muscles.

[17] Lidocaine is an anesthetic typically used to numb or treat pain in medical procedures in topical or injected form.

[18] Cortisone is a steroid hormone used to treat a variety of ailments. Cortisone suppresses the immune system, thus reducing inflammation and attendant pain and swelling at the site of an

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39. Respondent's care of Abel M. was grossly negligent for the reasons stated below:

A. Respondent performed unnecessary surgery on patient Abel M. without any documentation of conservative care rendered to the patient prior to the surgery. The patient presented to Respondent with a postoperative complaint arising from irritation from the special shoe he was told to wear after bunion surgery. Respondent's main criteria for performing unnecessary surgery on Abel M. is that he was told to do so by both Dr. Ivancich and the office manager.

B. Respondent failed to perform a complete history and physical on Abel M. prior to performing foot surgery on this patient. Respondent's medical records of his initial and only consultation with Abel M. do not show evidence of:

Patient complaint of right heel pain prior to the bunion surgery performed on his foot three days earlier;

No prior treatment to the patient's right heel;

No documentation of an examination of the patient's range of motion by Respondent;

No X-rays of the right foot and heel reviewed or ordered and reviewed by Respondent;

No review of systems;

No medical history;

No documentation of current medications used by the patient, and

No family medical history.

C. Respondent failed to fully inform the patient prior to the surgery about the surgical procedures he planned to perform. The medical records do not show that Respondent ever explained to Abel M. that Respondent would be removing a potion of the patient's right heel bone.

D. Respondent failed to obtain a complete informed consent from the patient. As

injury.

[19] Sural refers to a nerve which runs up the calf of the leg.

previously explained, Respondent failed to inform Abel M. that he intended to remove a portion of the patient's right heel bone. Without a complete explanation of all of the surgical procedures Respondent planned to perform, Abel M.'s signature on the consent was meaningless and a nullity, as the patient was not informed with regard to a most important part of his upcoming surgery. Thus, the patient was unable to meaningfully assess the risks and benefits and make an informed decision about whether he did wish to undergo a surgery.

E. The standard of care in the podiatric community is not to perform additional, non-emergency, unnecessary surgery three days after a prior surgery. There was no documented medical necessity to return this patient to surgery for these procedures a mere three (3) days following the patient's bunion surgery.

**SECOND CAUSE FOR DISCIPLINE**

**(REPEATED NEGLIGENT ACTS)**

**(Bus. & Prof. Code, § 2234, subd. (c))**

40. Respondent is subject to disciplinary action under section 2234, subdivision (c), of the Code in that Respondent committed repeated negligent acts in his care of patients, Maria C. and Abel M. as listed above. The circumstances are as follows:

41. The facts and circumstances in paragraphs 13 through 39 are incorporated by reference as if set forth in full herein.

42. Listed below are the repeated negligent acts and omissions in the records of patients Maria C. and Abel M.:

A. Respondent did not conduct a complete pre-operative history and physical examination in the taking of the history of these patients;

B. Respondent did not adequately document a complete history and physical examination of these patients;

C. Respondent failed to recognize Maria C.'s severe foot pathology. His failure to correctly identify the severity of the patient's foot pathology made it impossible for him

to choose the correct surgical procedure to perform on his patient to ameliorate her foot problems;

D. Respondent failed to choose the correct surgical procedure to perform on Maria C.'s feet to achieve the best possible outcome to resolve this patient's foot problems;

E. Respondent performed unnecessary surgery on patient Abel M. without any documentation of conservative care rendered to the patient prior to the surgery;

F. Respondent failed to fully inform Abel M. prior to the surgery about the surgical procedures he planned to perform;

G. Respondent failed to obtain a complete informed consent from Abel M. prior to the patient's surgery; and

H. Respondent performed unnecessary, non-emergency surgery on Abel M. three days after the patient underwent surgery, thereby exposing his patient to needless risk and pain.

**THIRD CAUSE FOR DISCIPLINE**

**(FAILURE TO MAINTAIN ADEQUATE AND ACCURATE RECORDS)**

**(Bus. & Prof. Code, § 2266)**

43. Respondent is subject to disciplinary action under section 2266 of the Code in that Respondent failed to maintain adequate and accurate records in his care of patients Maria C. and Abel M. The circumstances are as follows:

44. The facts and circumstances in paragraphs 13 through 39 are incorporated by reference as if set forth in full herein.

**PRAYER**

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

1. Revoking or suspending Podiatric License Number E 4361, issued to Ramyar Moussavi, D.P.M.

2. Ordering him to pay the Board of Podiatric Medicine the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section

2497.5;

3. If placed on probation, ordering him to pay to the Board of Podiatric Medicine the costs of probation monitoring;

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

DATED: May 4, 2011

JAMES RATHLESBERGER
Executive Officer
Board of Podiatric Medicine
Department of Consumer Affairs
State of California

*Complainant*

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