

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

In the Matter of the Accusation
Against:

Fouad Ibrahim Ghaly, M.D.

Physician's and Surgeon's
Certificate No. C 39588

Respondent.

Case No.: 800-2019-054052

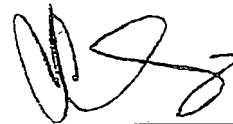
DECISION

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

This Decision shall become effective at 5:00 p.m. on August 4, 2023.

IT IS SO ORDERED: July 7, 2023.

MEDICAL BOARD OF CALIFORNIA



Laurie Rose Lubiano, J.D. , Chair
Panel A

1 ROB BONTA
Attorney General of California
2 ALEXANDRA M. ALVAREZ
Supervising Deputy Attorney General
3 JOHN S. GATSCHET
Deputy Attorney General
4 State Bar No. 244388
California Department of Justice
5 1300 I Street, Suite 125
P.O. Box 944255
6 Sacramento, CA 94244-2550
Telephone: (916) 210-7546
7 Facsimile: (916) 327-2247

8 *Attorneys for Complainant*

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

14 In the Matter of the Accusation Against:

Case No. 800-2019-054052

15 **FOUAD IBRAHIM GHALY, M.D.**
20911 Earl St, Suite 260
16 Torrance, CA 90503-4352

OAH No. 2022110702

17 Physician's and Surgeon's Certificate
18 No. C 39588

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

19 Respondent.

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

22 **PARTIES**

23 1. Reji Varghese ("Complainant") is the Interim Executive Director of the Medical
24 Board of California ("Board"). He brought this action solely in his official capacity and is
25 represented in this matter by Rob Bonta, Attorney General of the State of California, by John S.
26 Gatschet, Deputy Attorney General.

27 2. Respondent Fouad Ibrahim Ghaly, M.D. ("Respondent") is represented in this
28 proceeding by attorney Mark V. Franzen, Esq., whose address is:

1 Carroll, Kelly, Trotter, & Franzen
2 Post Office Box 22636
3 Long Beach, CA 90801-5636

4 3. On or about January 26, 1981, the Board issued Physician's and Surgeon's Certificate
5 No. C 39588 to Respondent. That Certificate was in full force and effect at all times relevant to
6 the charges brought in Accusation No. 800-2019-054052, and will expire on October 31, 2024,
7 unless renewed.

8 **JURISDICTION**

9 4. Accusation No. 800-2019-054052 was filed before the Board, and is currently
10 pending against Respondent. The Accusation and all other statutorily required documents were
11 properly served on Respondent on March 4, 2022. Respondent timely filed his Notice of Defense
12 contesting the Accusation.

13 5. A copy of Accusation No. 800-2019-054052 is attached as Exhibit A and
14 incorporated herein by reference.

15 **ADVISEMENT AND WAIVERS**

16 6. Respondent has carefully read, fully discussed with counsel, and understands the
17 charges and allegations in Accusation No. 800-2019-054052. Respondent has also carefully read,
18 fully discussed with his counsel, and understands the effects of this Stipulated Settlement and
19 Disciplinary Order.

20 7. Respondent is fully aware of his legal rights in this matter, including the right to a
21 hearing on the charges and allegations in the Accusation; the right to confront and cross-examine
22 the witnesses against him; the right to present evidence and to testify on his own behalf; the right
23 to the issuance of subpoenas to compel the attendance of witnesses and the production of
24 documents; the right to reconsideration and court review of an adverse decision; and all other
25 rights accorded by the California Administrative Procedure Act and other applicable laws.

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

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1 CULPABILITY

2 9. Respondent understands and agrees that the charges and allegations in Accusation
3 No. 800-2019-054052, if proven at a hearing, constitute cause for imposing discipline upon his
4 Physician's and Surgeon's Certificate.

5 10. Respondent agrees that, at a hearing, Complainant could establish a *prima facie* case
6 for the charges in the Accusation, and that Respondent hereby gives up his right to contest those
7 charges.

8 11. Respondent agrees that his Physician's and Surgeon's Certificate is subject to
9 discipline and he agrees to be bound by the Board's probationary terms as set forth in the
10 Disciplinary Order below.

11 CONTINGENCY

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

22 13. Respondent agrees that if he ever petitions for early termination or modification of
23 probation, or if an accusation and/or petition to revoke probation is filed against him before the
24 Board, all of the charges and allegations contained in Accusation No. 800-2019-054052 shall be
25 deemed true, correct and fully admitted by respondent for purposes of any such proceeding or any
26 other licensing proceeding involving Respondent in the State of California.

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1 14. The parties understand and agree that Portable Document Format (PDF) and facsimile
2 copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile
3 signatures thereto, shall have the same force and effect as the originals.

4 15. In consideration of the foregoing admissions and stipulations, the parties agree that
5 the Board may, without further notice or opportunity to be heard by the Respondent, issue and
6 enter the following Disciplinary Order:

7 **DISCIPLINARY ORDER**

8 **IT IS HEREBY ORDERED** that Physician's and Surgeon's Certificate No. C 39588
9 issued to Respondent FOUAD IBRAHIM GHALY, M.D., is revoked. However, the revocation
10 is stayed and Respondent is placed on probation for four (4) years from the effective date of the
11 decision on the following terms and conditions:

12 1. **EDUCATION COURSE.** Within 60 calendar days of the effective date of this
13 Decision, and on an annual basis thereafter, Respondent shall submit to the Board or its designee
14 for its prior approval educational program(s) or course(s) which shall not be less than 40 hours
15 per year, for each year of probation. The educational program(s) or course(s) shall be aimed at
16 correcting any areas of deficient practice or knowledge and shall be Category I certified. The
17 educational program(s) or course(s) shall be at Respondent's expense and shall be in addition to
18 the Continuing Medical Education (CME) requirements for renewal of licensure. Following the
19 completion of each course, the Board or its designee may administer an examination to test
20 Respondent's knowledge of the course. Respondent shall provide proof of attendance for 65
21 hours of CME of which 40 hours were in satisfaction of this condition.

22 2. **MEDICAL RECORD KEEPING COURSE.** Within 60 calendar days of the effective
23 date of this Decision, Respondent shall enroll in a course in medical record keeping approved in
24 advance by the Board or its designee. Respondent shall provide the approved course provider
25 with any information and documents that the approved course provider may deem pertinent.
26 Respondent shall participate in and successfully complete the classroom component of the course
27 not later than six (6) months after Respondent's initial enrollment. Respondent shall successfully
28 complete any other component of the course within one (1) year of enrollment. The medical

1 record keeping course shall be at Respondent's expense and shall be in addition to the Continuing
2 Medical Education (CME) requirements for renewal of licensure.

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

8 Respondent shall submit a certification of successful completion to the Board or its
9 designee not later than 15 calendar days after successfully completing the course, or not later than
10 15 calendar days after the effective date of the Decision, whichever is later.

11 3. MONITORING – PRACTICE. Within 30 calendar days of the effective date of this
12 Decision, Respondent shall submit to the Board or its designee for prior approval as a practice
13 monitor(s), the name and qualifications of one or more licensed physicians and surgeons whose
14 licenses are valid and in good standing, and who are preferably American Board of Medical
15 Specialties (ABMS) certified. A monitor shall have no prior or current business or personal
16 relationship with Respondent, or other relationship that could reasonably be expected to
17 compromise the ability of the monitor to render fair and unbiased reports to the Board, including
18 but not limited to any form of bartering, shall be in Respondent's field of practice, and must agree
19 to serve as Respondent's monitor. Respondent shall pay all monitoring costs.

20 The Board or its designee shall provide the approved monitor with copies of the Decision(s)
21 and Accusation(s), and a proposed monitoring plan. Within 15 calendar days of receipt of the
22 Decision(s), Accusation(s), and proposed monitoring plan, the monitor shall submit a signed
23 statement that the monitor has read the Decision(s) and Accusation(s), fully understands the role
24 of a monitor, and agrees or disagrees with the proposed monitoring plan. If the monitor disagrees
25 with the proposed monitoring plan, the monitor shall submit a revised monitoring plan with the
26 signed statement for approval by the Board or its designee.

27 Within 60 calendar days of the effective date of this Decision, and continuing throughout
28 probation, Respondent's practice shall be monitored by the approved monitor. Respondent shall

1 make all records available for immediate inspection and copying on the premises by the monitor
2 at all times during business hours and shall retain the records for the entire term of probation.

3 If Respondent fails to obtain approval of a monitor within 60 calendar days of the effective
4 date of this Decision, Respondent shall receive a notification from the Board or its designee to
5 cease the practice of medicine within three (3) calendar days after being so notified. Respondent
6 shall cease the practice of medicine until a monitor is approved to provide monitoring
7 responsibility.

8 The monitor(s) shall submit a quarterly written report to the Board or its designee which
9 includes an evaluation of Respondent's performance, indicating whether Respondent's practices
10 are within the standards of practice of medicine, and whether Respondent is practicing medicine
11 safely, billing appropriately or both. It shall be the sole responsibility of Respondent to ensure
12 that the monitor submits the quarterly written reports to the Board or its designee within 10
13 calendar days after the end of the preceding quarter.

14 If the monitor resigns or is no longer available, Respondent shall, within 5 calendar days of
15 such resignation or unavailability, submit to the Board or its designee, for prior approval, the
16 name and qualifications of a replacement monitor who will be assuming that responsibility within
17 15 calendar days. If Respondent fails to obtain approval of a replacement monitor within 60
18 calendar days of the resignation or unavailability of the monitor, Respondent shall receive a
19 notification from the Board or its designee to cease the practice of medicine within three (3)
20 calendar days after being so notified. Respondent shall cease the practice of medicine until a
21 replacement monitor is approved and assumes monitoring responsibility.

22 In lieu of a monitor, Respondent may participate in a professional enhancement program
23 approved in advance by the Board or its designee that includes, at minimum, quarterly chart
24 review, semi-annual practice assessment, and semi-annual review of professional growth and
25 education. Respondent shall participate in the professional enhancement program at Respondent's
26 expense during the term of probation.

27 4. PROHIBITED PRACTICE. During probation, Respondent is prohibited from
28 practicing the following area of medicine:

1 (a.) No provision of any medical therapy that involves the use or direct application of stem
2 cells for the treatment of any condition;

3 After the effective date of this Decision, all patients being treated by the Respondent shall
4 be notified that the Respondent is prohibited from practicing the types of medicine set forth in
5 this prohibition term. Any new patients must be provided this notification at the time of their
6 initial appointment.

7 Respondent shall maintain a log of all patients to whom the required oral notification was
8 made. The log shall contain the: 1) patient's name, address and phone number; 2) patient's
9 medical record number, if available; 3) the full name of the person making the notification; 4) the
10 date the notification was made; and 5) a description of the notification given. Respondent shall
11 keep this log in a separate file or ledger, in chronological order, shall make the log available for
12 immediate inspection and copying on the premises at all times during business hours by the Board
13 or its designee, and shall retain the log for the entire term of probation.

14 5. NOTIFICATION. Within seven (7) days of the effective date of this Decision, the
15 Respondent shall provide a true copy of this Decision and Accusation to the Chief of Staff or the
16 Chief Executive Officer at every hospital where privileges or membership are extended to
17 Respondent, at any other facility where Respondent engages in the practice of medicine,
18 including all physician and locum tenens registries or other similar agencies, and to the Chief
19 Executive Officer at every insurance carrier which extends malpractice insurance coverage to
20 Respondent. Respondent shall submit proof of compliance to the Board or its designee within 15
21 calendar days.

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

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

26 7. INVESTIGATION/ENFORCEMENT COST RECOVERY. Respondent is hereby
27 ordered to reimburse the Board its costs of investigation and enforcement, including, but not
28 limited to, expert review, legal review, and investigation, in the amount of \$17,500.00 (seventeen

1 thousand, five hundred dollars). Costs shall be payable to the Medical Board of California.
2 Failure to pay such costs shall be considered a violation of probation.

3 Payment must be made in full within 30 calendar days of the effective date of the Order, or
4 by a payment plan approved by the Medical Board of California. Any and all requests for a
5 payment plan shall be submitted in writing by respondent to the Board. Failure to comply with
6 the payment plan shall be considered a violation of probation.

7 The filing of bankruptcy by respondent shall not relieve respondent of the responsibility to
8 repay investigation and enforcement costs, including expert review costs.

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

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

14 9. GENERAL PROBATION REQUIREMENTS.

15 Compliance with Probation Unit

16 Respondent shall comply with the Board's probation unit.

17 Address Changes

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

23 Place of Practice

24 Respondent shall not engage in the practice of medicine at Respondent's residence.

25 License Renewal

26 Respondent shall maintain a current and renewed California physician's and surgeon's
27 license.

28 Travel or Residence Outside California

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

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

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

10 11. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or
11 its designee in writing within 15 calendar days of any periods of non-practice lasting more than
12 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is
13 defined as any period of time Respondent is not practicing medicine as defined in Business and
14 Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct
15 patient care, clinical activity or teaching, or other activity as approved by the Board. If
16 Respondent resides in California and is considered to be in non-practice, Respondent shall
17 comply with all terms and conditions of probation. All time spent in an intensive training
18 program which has been approved by the Board or its designee shall not be considered non-
19 practice and does not relieve Respondent from complying with all the terms and conditions of
20 probation. Practicing medicine in another state of the United States or Federal jurisdiction while
21 on probation with the medical licensing authority of that state or jurisdiction shall not be
22 considered non-practice. A Board-ordered suspension of practice shall not be considered as a
23 period of non-practice.

24 In the event Respondent's period of non-practice while on probation exceeds 18 calendar
25 months, Respondent shall successfully complete the Federation of State Medical Boards's Special
26 Purpose Examination, or, at the Board's discretion, a clinical competence assessment program
27 that meets the criteria of Condition 18 of the current version of the Board's "Manual of Model
28 Disciplinary Orders and Disciplinary Guidelines" prior to resuming the practice of medicine.

1 Respondent's period of non-practice while on probation shall not exceed two (2) years.
2 Periods of non-practice will not apply to the reduction of the probationary term.
3 Periods of non-practice for a Respondent residing outside of California will relieve
4 Respondent of the responsibility to comply with the probationary terms and conditions with the
5 exception of this condition and the following terms and conditions of probation: Obey All Laws;
6 General Probation Requirements; and Quarterly Declarations.

7 12. COMPLETION OF PROBATION. Respondent shall comply with all financial
8 obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the
9 completion of probation. This term does not include cost recovery, which is due within 30
10 calendar days of the effective date of the Order, or by a payment plan approved by the Medical
11 Board and timely satisfied. Upon successful completion of probation, Respondent's certificate
12 shall be fully restored.

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

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

1 application shall be treated as a petition for reinstatement of a revoked certificate.

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

7 16. FUTURE ADMISSIONS CLAUSE. If Respondent should ever apply or reapply for
8 a new license or certification, or petition for reinstatement of a license, with the Medical Board of
9 California or any other health care licensing action agency in the State of California, all of the
10 charges and allegations contained in Accusation No. 800-2019-054052 shall be deemed to be
11 true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any other
12 legal proceeding seeking to deny or restrict license.

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ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Mark V. Franzen, Esq. I understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate. 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 Medical Board of California.

DATED: June 07/2023 [Signature]
FOUAD IBRAHIM GHALY, M.D.
Respondent

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

DATED: June 7, 2023 [Signature]
MARK V. FRANZEN, ESQ.
Attorney for Respondent

ENDORSEMENT

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

DATED: _____

Respectfully submitted,
ROB BONTA
Attorney General of California
ALEXANDRA M. ALVAREZ
Supervising Deputy Attorney General

JOHN S. GATSCHEIT
Deputy Attorney General
Attorneys for Complainant

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ACCEPTANCE

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DATED: _____
FOUAD IBRAHIM GHALY, M.D.
Respondent

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

DATED: _____
MARK V. FRANZEN, ESQ.
Attorney for Respondent

ENDORSEMENT

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

DATED: June 7, 2023

Respectfully submitted,
ROB BONTA
Attorney General of California
ALEXANDRA M. ALVAREZ
Supervising Deputy Attorney General



JOHN S. GATSCHET
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 800-2019-054052

1 ROB BONTA
Attorney General of California
2 JUDITH T. ALVARADO
Supervising Deputy Attorney General
3 State Bar No. 155307
300 South Spring Street, Suite 1702
4 Los Angeles, CA 90013
Telephone: (213) 269-6453
5 Facsimile: (916) 731-2117
Attorneys for Complainant
6

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

11 In the Matter of the Accusation Against:

Case No. 800-2019-054052

12 **FOUAD IBRAHIM GHALY, M.D.**
20911 Earl Street, Suite 260
13 Torrance, CA 90503-4352

A C C U S A T I O N

14 **Physician's and Surgeon's Certificate**
15 **No. C 39588,**

16 Respondent.

17
18 **PARTIES**

19 1. William Prasifka (Complainant) brings this Accusation solely in his official capacity
20 as the Executive Director of the Medical Board of California, Department of Consumer Affairs
21 (Board).

22 2. On or about January 26, 1981, the Board issued Physician's and Surgeon's Certificate
23 Number C 39588 to Fouad Ibrahim Ghaly, M.D. (Respondent). The Physician's and Surgeon's
24 Certificate was in full force and effect at all times relevant to the charges brought herein and will
25 expire on October 31, 2022, unless renewed.

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1 **JURISDICTION**

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

5 4. Section 2004 of the Code states:

6 The board shall have the responsibility for the following:

7 (a) The enforcement of the disciplinary and criminal provisions of the Medical
8 Practice Act.

9 (b) The administration and hearing of disciplinary actions.

10 (c) Carrying out disciplinary actions appropriate to findings made by a panel or
an administrative law judge.

11 (d) Suspending, revoking, or otherwise limiting certificates after the conclusion
12 of disciplinary actions.

13 (e) Reviewing the quality of medical practice carried out by physician and
surgeon certificate holders under the jurisdiction of the board.

14 (f) Approving undergraduate and graduate medical education programs.

15 (g) Approving clinical clerkship and special programs and hospitals for the
16 programs in subdivision (f).

17 (h) Issuing licenses and certificates under the board's jurisdiction.

18 (i) Administering the board's continuing medical education program.

19 5. Section 2227 of the Code provides that a licensee who is found guilty under the
20 Medical Practice Act may have his or her license revoked, suspended for a period not to exceed
21 one year, placed on probation and required to pay the costs of probation monitoring, or such other
22 action taken in relation to discipline as the Board deems proper.

23 **STATUTORY PROVISIONS**

24 6. Section 2234 of the Code, states:

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

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

1 (b) Gross negligence.

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

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

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

14 (d) Incompetence.

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

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

19 (g) The failure by a certificate holder, in the absence of good cause, to attend
20 and participate in an interview by the board. This subdivision shall only apply to a
21 certificate holder who is the subject of an investigation by the board.

22 7. Section 2264 of the Code states:

23 The employing, directly or indirectly, the aiding, or the abetting of any
24 unlicensed person or any suspended, revoked, or unlicensed practitioner to engage in
25 the practice of medicine or any other mode of treating the sick or afflicted which
26 requires a license to practice constitutes unprofessional conduct.

27 8. Section 2266 of the Code states:

28 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.

COST RECOVERY

9. Section 125.3 of the Code 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, the
administrative law judge may direct a licensee 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.

(b) In the case of a disciplined licensee that is a corporation or a partnership, the
order may be made against the licensed corporate entity or licensed partnership.

1 (c) A certified copy of the actual costs, or a good faith estimate of costs where
2 actual costs are not available, signed by the entity bringing the proceeding or its
3 designated representative shall be prima facie evidence of reasonable costs of
investigation and prosecution of the case. The costs shall include the amount of
investigative and enforcement costs up to the date of the hearing, including, but not
limited to, charges imposed by the Attorney General.

4 (d) The administrative law judge shall make a proposed finding of the amount
5 of reasonable costs of investigation and prosecution of the case when requested
6 pursuant to subdivision (a). The finding of the administrative law judge with regard
7 to costs shall not be reviewable by the board to increase the cost award. The board
may reduce or eliminate the cost award, or remand to the administrative law judge if
the proposed decision fails to make a finding on costs requested pursuant to
subdivision (a).

8 (e) If an order for recovery of costs is made and timely payment is not made as
9 directed in the board's decision, the board may enforce the order for repayment in any
10 appropriate court. This right of enforcement shall be in addition to any other rights
the board may have as to any licensee to pay costs.

11 (f) In any action for 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.

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

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

17 (h) All costs recovered under this section shall be considered a reimbursement
18 for costs incurred and shall be deposited in the fund of the board recovering the costs
to be available upon appropriation by the Legislature.

19 (i) Nothing in this section shall preclude a board from including the recovery of
20 the costs of investigation and enforcement of a case in any stipulated settlement.

21 (j) This section does not apply to any board if a specific statutory provision in
22 that board's licensing act provides for recovery of costs in an administrative
disciplinary proceeding.

23 **FACTUAL ALLEGATIONS**

24 10. Respondent is a board-certified anesthesiologist. He practices internal medicine and
25 preventative/regenerative medicine at the Ghaly Center for Regenerative Medicine in Torrance,
26 California.

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1 11. In or about December 2016, Respondent was approached by L.C.¹ to become the
2 Medical Director and member of the Infusio Team to begin on January 1, 2017, in Beverly Hills,
3 California.

4 12. Infusio Inc., Infusio Life, LLC, and Synergy Health, LLC ("Infusio") were
5 corporations/limited liability corporations that employed the services of medical professionals
6 and clinical professionals to provide regenerative, longevity, and other medical health care
7 services to the public, including the harvesting, preparation, and administration of autologous
8 stem cells for human use.

9 13. Respondent began working as the Medical Director of Infusio Beverly Hills on
10 January 1, 2017. Respondent's duties included providing oversight to Infusio's health care
11 professionals regarding regenerative and longevity treatment protocols, providing oversight for all
12 his patients at the Infusio Beverly Hills location or at his Torrance location, providing tutoring
13 and training to Suzanne Kim, M.D., the other physician located at Infusio Beverly Hills, and
14 participating in medical research, including Stromal Vascular Fraction ("SVF") procedures.²

15 14. Infusio paid Respondent twenty thousand dollars (\$20,000) per month for his
16 services. Respondent worked for Infusio from January 1, 2017 through June 7, 2017. During that
17 time he treated approximately fifty-eight patients at Infusio Beverly Hills. He provided the
18 patients with assessments, diagnoses, and developed treatment protocols.

19 15. During his tenure at Infusio Beverly Hills, Respondent treated Patients 1 through 5.³
20 Patients 1-5 all presented to Respondent with a history of Lyme disease. Patients 2, 3, and 5
21 reported that Respondent performed their initial consultations. However, there are no notes of
22 these initial consultations.

23 16. Respondent ordered initial laboratory testing for Patients 1 and 4. There is no
24 notation that Respondent reviewed the laboratory results for any patient or discussed the results
25 with any patient.

26 _____
27 ¹ L.C. was a representative of Infusio.

28 ² SVF is a form of stem cell therapy that is made up of stem cells harvested from adipose
tissue.

³ The patients are identified herein by number to address privacy concerns.

1 17. Patients 1 through 5 were placed on the "Integrative Lyme Disease Program," which
2 included an "IV Protocol Program," where the patient received 10 days of intravenous therapy
3 and SVF.

4 18. Patients 1 through 4 signed consent forms having the names of Respondent and Dr.
5 Kim listed as the patients' physicians. Patients 1 through 4 signed consent forms⁴ for SVF which
6 identified the stem cell therapy as part of a research program under an Institutional Review Board
7 (IRB). The research team included Respondent and Dr. Kim; Respondent and Dr. Kim are also
8 identified as the "investigators" of the research program. The research study title and number are
9 "Autologous Adipose Derived Stromal Vascular Fraction Deployment" #CSN111.

10 19. In addition to ordering initial laboratory testing for Patient 1, Respondent is noted to
11 be the physician provider during day 2/10 of the patient's IV Protocol Program on March 14,
12 2017.⁵ Respondent wrote a prescription for mebendazole (a medication that treats parasite
13 infections such as pinworms, hookworms and roundworms), 100 mg, #10, to be taken twice a
14 day, for Patient 1 on March 3, 2017. Despite providing care and treatment to Patient 1,
15 Respondent made no notes in Patient 1's chart. Many of the entries in Patient 1's chart are also
16 incomplete and missing a physician's signature.

17 20. In addition to performing Patient 2's initial consultation and ordering the initial
18 laboratory testing on February 15, 2017, Respondent signed the SVF procedure note for the
19 patient.⁶ Respondent is also noted as the physician provider during day 10/10 of the patient's IV
20 Protocol Program on February 23, 2017. Many of the entries in Patient 2's chart are also
21 incomplete and missing a physician's signature.

22 21. In addition to performing Patient 3's initial consultation, Respondent is also noted as
23 the physician provider during day 10/10 of the patient's IV Protocol Program on May 19, 2017.

24 ⁴ Patients 1-4 signed two, multiple page, consent forms regarding SVF. Both consent
25 forms advised the patient that the therapy was part of a research study. One consent form advised
26 that the SVF was a patient funded research protocol. Patient 5 did not sign the Informed Consent
to Participate in Research (IRB consent). Patient 5's SVF procedure occurred on June 15, 2017,
after Respondent disassociated from Infusio.

27 ⁵ The IV Protocol infusion notes appear to be an electronic medical record (EMR)
template. All of the infusion notes for all patients appear to be identical.

28 ⁶ The SVF procedure note appears to be an EMR template. All of the SVF procedure
notes for all patients appear to be identical.

1 Respondent also ordered laboratory tests for Patient 3 on May 24, 2017, however, there is no
2 indication that he reviewed the labs or discussed the results with the patient. Many of the entries
3 in Patient 3's chart are also incomplete and missing a physician's signature.

4 22. In addition to ordering Patient 4's initial laboratory testing, Respondent is also noted
5 as the physician provider during day 2/10 of the patient's IV Protocol Program on May 31, 2017,
6 day 3/10 of the patient's IV Protocol Program on June 1, 2017, day 4/10 of the patient's IV
7 Protocol Program on June 2, 2017, day 6/10 of the patient's IV Protocol Program on June 5,
8 2017, day 7/10 of the patient's IV Protocol Program on June 6, 2017, and day 8/10 of the
9 patient's IV Protocol Program on June 7, 2017. Respondent also wrote two prescriptions for
10 Patient 4. The first prescription was written on June 4, 2017 for progesterone T-D cream 4%, 1
11 gm, to be used every day with three refills. The second prescription was for craniosacral
12 massage, twice a month, #24, written on June 5, 2017. Respondent also recommended DHEA
13 (androstenedione, an endogenous steroid hormone precursor, produced in the brain, adrenal glands
14 and gonads). It is unknown why or for what purpose Respondent wrote the prescriptions or made
15 drug recommendations for Patient 4 as there are no chart notes written by Respondent. Many of
16 the entries in Patient 4's chart are also incomplete and missing a physician's signature.

17 23. In addition to performing Patient 5's initial consultation, Respondent is also noted as
18 the physician provider during day 1/10 of the patient's IV Protocol Program on June 5, 2017. The
19 nurse's note indicates that Respondent issued an order not to add calcium to Patient 5's admixture
20 (IV solution). It is unknown why Respondent issued this order as there are no chart notes written
21 by Respondent. Respondent is also noted as the physician provider on day 2/10 of the patient's
22 IV Protocol Program on June 6, 2017 and on day 3/10 of the patient's IV Protocol Program on
23 June 7, 2017.

24 24. Although Respondent was Medical Director of Infusio Beverly Hills, is listed as the
25 physician provider during at least one of all five patients' IV Protocol Program, issued orders for
26 the patients to receive the IV Protocol Program, and issued change orders to the intravenous
27 admixture, Respondent failed to ensure that the intravenous admixture bags/bottles were properly
28 labeled. Additionally, Respondent failed to ensure that the notes for the patients' infusion of the

1 IV Protocol Program listed what medication was administered to each patient. Rather, the notes
2 indicate that "the medications were checked prior to mixing and they were confirmed not to be
3 expired. The bottles were prepped in the IV prep area using clean technique." However, the
4 most important information is missing. There is no identification of the intravenous solution
5 used, the names of the drugs added or the amounts or concentrations of the drugs.

6 25. The standard of care requires that the label on intravenous admixture bags have two
7 patient identifiers, such as the patient's name, medical record number, or date of birth. The label
8 should also have the name of the intravenous solution and the names of all drugs added to
9 solution, including the amounts or concentration of the ingredients. The label should have the
10 total volume of solution/fluid contained in the intravenous admixture bag/bottle, the date the
11 intravenous admixture bag/bottle was prepared, the expiration date, storage conditions, initials of
12 the preparer and checking pharmacist, infusion rate and bottle number (e.g., 1:2, 2:2, etc.), if
13 applicable. Once the intravenous admixture bottle/bag is connected to the patient's intravenous
14 line, a note must be made in the patient's chart indicating what is being infused to the patient
15 (solution and medications, medication amounts) and at what rate, and the patient's response to the
16 infusion.

17 26. As Medical Director of Infusio Beverly Hills, a member of the research team, and an
18 investigator of the research program for Autologous Adipose Derived Stromal Vascular Fraction
19 Deployment (SVF), Respondent failed to ensure that an appropriately licensed laboratory
20 scientist, carrying either a California Clinical Laboratory Scientist license (Business and
21 Professions Code, section 1260.3, et. seq.), or certification from the National Accrediting Agency
22 for Clinical Laboratory Sciences (NAACLS), was processing Patients 1 through 3's stem cells.

23 27. According to Patients 1 through 3's medical records, their stem cells were processed
24 by Dillion Robidoux, an unlicensed and uncertified individual. Prior to working at Infusio
25 Beverly Hills, Dillion Robidoux worked at In-and-Out Burger.

26 28. It is noted in Patients 1 through 3's charts that Dillion Robidoux would centrifuge the
27 adipose tissue harvested from the patient via a tumescent liposuction type of procedure using a
28 cannula and a syringe. Following the initial centrifuge, Dillion Robidoux would take the

1 remaining 1 cc of infranant and transfer it to a Time Machine Maxstem syringe. Saline and
2 collagenase were added and incubated to 38 degrees centigrade. Following incubation, the
3 solution was again centrifuged. The fat was removed and washed, then centrifuged again. The
4 process of washing and centrifuge was repeated twice, for a total of three washings. The SVF
5 was filtered through a 100 micron nylon filter. The SVF cells were then counted and evaluated
6 for viability using Trypan blue stain. The SVF was then ready to be given to the patient via
7 intravenous administration.

8 29. When Dr. Kim learned that Dillion Robidoux was not a licensed or certified clinical
9 laboratory scientist, and was not properly trained to process human stem cells, she told him to
10 stop processing the patient's stem cells for SVF transfusion into human recipients at Infusio
11 Beverly Hills.

12 **FIRST CAUSE FOR DISCIPLINE**

13 **(Aiding and Abetting of an Unlicensed Person**

14 **In Processing Stem Cells for Human Use)**

15 30. Respondent, Fouad Ibrahim Ghaly, M.D., is subject to disciplinary action under
16 section 2264 of the Code in that he aided and abetted an unlicensed individual to work as a
17 certified clinical laboratory scientist or a licensed California Clinical Laboratory Scientist to
18 process stem cells for human use. The circumstances are as follows:

19 31. The allegations of Paragraphs 10 through 29 are incorporated here as if fully set forth.

20 **SECOND CAUSE FOR DISCIPLINE**

21 **(Repeated Negligent Acts)**

22 32. Respondent, Fouad Ibrahim Ghaly, M.D., is subject to disciplinary action under
23 section 2234, subdivision (c) of the Code in that he engaged in repeated negligent acts in his care
24 and treatment of Patients 1 through 5. The circumstances are as follows:

25 33. The allegations of Paragraphs 10 through 29 are incorporated here as if fully set forth.

26 34. Respondent failed to maintain adequate and accurate medical records for Patient 1, a
27 negligent act.

28 ///

- 1 35. Respondent failed to maintain adequate and accurate medical records for Patient 2, a
2 negligent act.
- 3 36. Respondent failed to maintain adequate and accurate medical records for Patient 3, a
4 negligent act.
- 5 37. Respondent failed to maintain adequate and accurate medical records for Patient 4, a
6 negligent act.
- 7 38. Respondent failed to maintain adequate and accurate medical records for Patient 5, a
8 negligent act.
- 9 39. Respondent failed to ensure that Patient 1's intravenous admixture labels contained
10 the appropriate information, a negligent act.
- 11 40. Respondent failed to ensure that Patient 2's intravenous admixture labels contained
12 the appropriate information, a negligent act.
- 13 41. Respondent failed to ensure that Patient 3's intravenous admixture labels contained
14 the appropriate information, a negligent act.
- 15 42. Respondent failed to ensure that Patient 4's intravenous admixture labels contained
16 the appropriate information, a negligent act.
- 17 43. Respondent failed to ensure that Patient 5's intravenous admixture labels contained
18 the appropriate information, a negligent act.
- 19 44. Respondent failed to ensure that Patient 1's stem cells were processed by a certified
20 or licensed clinical laboratory scientist, a negligent act.
- 21 45. Respondent failed to ensure that Patient 2's stem cells were processed by a certified
22 or licensed clinical laboratory scientist, a negligent act.
- 23 46. Respondent failed to ensure that Patient 3's stem cells were processed by a certified
24 or licensed clinical laboratory scientist, a negligent act.
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1 **THIRD CAUSE FOR DISCIPLINE**

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

3 47. Respondent, Fouad Ibrahim Ghaly, M.D., is subject to disciplinary action under
4 section 2266 of the Code for his failure to maintain adequate and accurate medical records for
5 Patients 1 through 5. The circumstances are as follows:

6 48. The allegations of Paragraphs 10 through 29 are incorporated here as if fully set forth.

7 49. The allegations in the Second Cause for Discipline, paragraphs 34 through 43, are
8 incorporated here as if fully set forth.

9 **DISCIPLINARY CONSIDERATIONS**

10 50. To determine the degree of discipline, if any, to be imposed on Respondent Fouad
11 Ibrahim Ghaly, M.D., Complainant alleges that on or about July 14, 2005, in a prior disciplinary
12 action titled *In the Matter of the Accusation Against Fouad Ibrahim Ghaly, M.D.* before the
13 Medical Board of California, in Case Number 06-1999-095440, Respondent's license was
14 revoked. However, the revocation was stayed and the physician's and surgeon's certificate was
15 placed on probation for a period of five years with terms and conditions. That Decision is now
16 final and is incorporated by reference as if fully set forth herein.

17 51. To determine the degree of discipline, if any, to be imposed on Respondent Fouad
18 Ibrahim Ghaly, M.D., Complainant alleges that in Case Number 20-1998-089555, Respondent
19 was issued a Citation and Fine for his failure to maintain a fictitious name permit in connection
20 with his medical business. That matter is now final and is incorporated by reference as if fully set
21 forth herein.

22 **PRAYER**

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

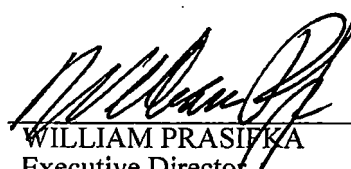
25 1. Revoking or suspending Physician's and Surgeon's Certificate Number C 39588,
26 issued to Fouad Ibrahim Ghaly, M.D.;

27 2. Revoking, suspending or denying approval of Fouad Ibrahim Ghaly, M.D.'s authority
28 to supervise physician assistants and advanced practice nurses;

1 3. Ordering Fouad Ibrahim Ghaly, M.D., to pay the Board the costs of the investigation
2 and enforcement of this case, and if placed on probation, the costs of probation monitoring; and,

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

4
5 DATED: **MAR 04 2022**



WILLIAM PRASIFKA
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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