

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

In the Matter of the Accusation Against:

Alfred Adib Shihata, M.D.

**Physician's and Surgeon's
Certificate No. A 37090**

Respondent.

Case No. 800-2023-095455

DECISION

The attached Stipulated Surrender of License and 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 February 8, 2024.

IT IS SO ORDERED February 1, 2024.

MEDICAL BOARD OF CALIFORNIA

JENNA JONES FOR

**Reji Varghese
Executive Director**

1 ROB BONTA
Attorney General of California
2 ALEXANDRA M. ALVAREZ
Supervising Deputy Attorney General
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8 *Attorneys for Complainant*

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

13 In the Matter of the Accusation Against:

14 **ALFRED ADIB SHIHATA, M.D.**
15 **3802 National Ave.**
San Diego, CA 92123

16 **Physician's and Surgeon's Certificate**
17 **No. A 37090,**

18 Respondent.

Case No. 800-2023-095455

OAH No. 2023100005

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

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

21 **PARTIES**

22 1. Reji Varghese (Complainant) is the Executive Director of the Medical Board of
23 California (Board). He brought this action solely in his official capacity and is represented in this
24 matter by Rob Bonta, Attorney General of the State of California, by Karolyn M. Westfall,
25 Deputy Attorney General.

26 2. Alfred Adib Shihata, M.D. (Respondent) is represented in this proceeding by attorney
27 David Rosenberg, Esq., whose address is: 10815 Rancho Bernardo Road, Suite 260, San Diego,
28 CA 92127.

3. On or about July 17, 1981, the Board issued Physician's and Surgeon's Certificate No. A 37090 to Respondent. The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2023-095455 and will expire on April 30, 2025, unless renewed.

4. On or about August 4, 2023, an Interim Order of Suspension was issued by the Office of Administrative Hearings, immediately suspending Physician's and Surgeon's Certificate No. A 37090 and prohibiting Respondent from practicing medicine in the State of California. As a result, Respondent remains suspended from the practice of medicine pending the issuance of a final decision on the Accusation.

JURISDICTION

5. On August 29, 2023, Accusation No. 800-2023-095455 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 August 29, 2023. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation No. 800-2023-095455 is attached hereto as Exhibit A and incorporated by reference as if fully set forth herein.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 800-2023-095455. Respondent also has carefully read, fully discussed with counsel, and understands the effects of this Stipulated Surrender of License and Order.

7. 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 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.

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

1 **CULPABILITY**

2 9. Respondent admits that, at an administrative hearing, Complainant could establish a
3 *prima facie* case with respect to the charges and allegations contained in Accusation No. 800-
4 2023-095455, agrees that he has thereby subjected his Physician's and Surgeon's Certificate No.
5 A 37090 to action, and hereby surrenders his Physician's and Surgeon's Certificate No. A 37090
6 for the Board's formal acceptance.

7 10. Respondent further agrees that if he ever petitions for reinstatement of his Physician's
8 and Surgeon's Certificate No. A 37090, all of the charges and allegations contained in Accusation
9 No. 800-2023-095455, shall be deemed true, correct, and fully admitted by Respondent for
10 purposes of any such proceeding or any other licensing proceeding involving Respondent in the
11 State of California or elsewhere.

12 **CONTINGENCY**

13 11. Business and Professions Code section 2224, subdivision (b), provides, in pertinent
14 part, that the Medical Board "shall delegate to its executive director the authority to adopt a ...
15 stipulation for surrender of a license."

16 12. Respondent understands that, by signing this stipulation, he enables the Executive
17 Director of the Board to issue an order, on behalf of the Board, accepting the surrender of his
18 Physician's and Surgeon's Certificate No. A 37090 without further notice to, or opportunity to be
19 heard by, Respondent.

20 13. This Stipulated Surrender of License and Order shall be subject to the approval of the
21 Executive Director on behalf of the Board. The parties agree that this Stipulated Surrender of
22 License and Order shall be submitted to the Executive Director for his consideration in the above-
23 entitled matter and, further, that the Executive Director shall have a reasonable period of time in
24 which to consider and act on this Stipulated Surrender of License and Order after receiving it. By
25 signing this stipulation, Respondent fully understands and agrees that he may not withdraw his
26 agreement or seek to rescind this stipulation prior to the time the Executive Director, on behalf of
27 the Medical Board, considers and acts upon it.

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ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 37090, issued to Respondent Alfred Adib Shihata, M.D., is surrendered and accepted by the Board.

1. The surrender of Respondent's Physician's and Surgeon's Certificate and the acceptance of the surrendered license by the Board shall become a part of Respondent's license history with the Board.

2. Respondent shall lose all rights and privileges as a physician and surgeon 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. As required by Business and Professions Code section 823, reinstatement of Respondent's Physician's and Surgeon's Certificate No. A 37090 shall be governed by the procedures in Article 12.5 of Chapter 1 of Division 2 of the Code.

5. 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 or surrendered license in effect at the time the petition is filed, and all of the charges and allegations contained in Accusation No. 800-2023-095455 shall be deemed to be true, correct and admitted by Respondent when the Board determines whether to grant or deny the petition.

6. 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 No. 800-2023-095455 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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ACCEPTANCE

I have carefully read the above Stipulated Surrender of License and Order and have fully discussed it with my attorney David Rosenberg, Esq. I understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate. 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 Medical Board of California.

DATED: January 10 / 2024 A Shihata
ALFRED ADIB SHIHATA, M.D.
Respondent

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

DATED: 1/11/24 [Signature]
DAVID ROSENBERG, ESQ.
Attorney for Respondent

ENDORSEMENT

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

DATED: 1/11/24 Respectfully submitted,
ROB BONTA
Attorney General of California
ALEXANDRA M. ALVAREZ
Supervising Deputy Attorney General
[Signature]
KAROLYN M. WESTFALL
Deputy Attorney General
Attorneys for Complainant

Exhibit A

Accusation No. 800-2023-095455

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Attorney General of California
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Supervising Deputy Attorney General
3 KAROLYN M. WESTFALL
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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. 800-2023-095455

15 **ALFRED ADIB SHIHATA, M.D.**
3802 National Ave.
San Diego, CA 92123

A C C U S A T I O N

16 **Physician's and Surgeon's Certificate**
17 **No. A37090,**

Respondent.

18
19
20 **PARTIES**

21 1. Reji Varghese (Complainant) brings this Accusation solely in his official capacity as
22 the Executive Director of the Medical Board of California, Department of Consumer Affairs
23 (Board).

24 2. On or about July 17, 1981, the Medical Board issued Physician's and Surgeon's
25 Certificate No. A37090 to Alfred Adib Shihata, M.D. (Respondent). The Physician's and
26 Surgeon's Certificate was in full force and effect at all times relevant to the charges brought
27 herein and will expire on April 30, 2025, unless renewed.

28 ///

3. On or about August 4, 2023, an Interim Order of Suspension was issued by the Office of Administrative Hearings, immediately suspending Physician's and Surgeon's Certificate No. A37090 and prohibiting Respondent from practicing medicine in the State of California. As a result, Respondent remains suspended from the practice of medicine pending the issuance of a final decision after an administrative hearing on the Accusation.

JURISDICTION

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

5. Section 822 of the Code states:

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

- (a) Revoking the licentiate's certificate or license.
- (b) Suspending the licentiate's right to practice.
- (c) Placing the licentiate on probation.
- (d) Taking such other action in relation to the licentiate as the licensing agency discretion deems proper.

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

6. Section 2227 of the Code states, in pertinent part:

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

- (1) Have his or her license revoked upon order of the board.
- (2) Have his or her right to practice suspended for a period not to exceed one year upon order of the board.
- (3) Be placed on probation and be required to pay the costs of probation monitoring upon order of the board.

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

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

5 ...

6 COST RECOVERY

7 7. Business and Professions Code section 125.3 states that:

8 (a) Except as otherwise provided by law, in any order issued in resolution of a
9 disciplinary proceeding before any board within the department or before the
Osteopathic Medical Board upon request of the entity bringing the proceeding, the
10 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.

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

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

16 (d) The administrative law judge shall make a proposed finding of the amount
17 of reasonable costs of investigation and prosecution of the case when requested
pursuant to subdivision (a). The finding of the administrative law judge with regard
18 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
19 the proposed decision fails to make a finding on costs requested pursuant to
subdivision (a).

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

23 (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.

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

26 (2) Notwithstanding paragraph (1), the board may, in its discretion,
27 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
28

1 with the board to reimburse the board within that one-year period for the unpaid
2 costs.

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

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

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

11 **SECTION 822 CAUSE FOR ACTION**

12 **(Mental Illness Affecting Competency)**

13 8. Respondent is subject to action under section 822 of the Code in that his ability to
14 practice medicine safely is impaired due to a mental illness affecting competency, as more
15 particularly alleged hereinafter:

16 9. On or about January 26, 2023, Respondent presented to his primary care physician
17 with complaints of memory difficulty, poor concentration, and low energy.

18 10. On or about February 13, 2023, Respondent underwent a neurological evaluation due
19 to his memory difficulty and sleep disturbances. During the evaluation, Respondent reported that
20 he would suddenly fall asleep without warning and would drop an object he was carrying and the
21 noise would wake him up. Respondent further reported that he was sometimes incoherent when
22 answering questions. Respondent was given the Montreal Cognitive Assessment (MOCA)¹ and
23 scored 22 out of 30, indicative of cognitive impairment.

24 11. On or about May 4, 2023, Respondent voluntarily submitted to a psychiatric
25 evaluation by Board-appointed psychiatrist, N.B., M.D. (Dr. N.B.). During the psychometric
26 testing, Respondent scored 23 out of 30 on the MOCA, indicative of cognitive impairment. After
27 his review of records, mental status examination, and psychometric testing, Dr. N.B. concluded
28 that Respondent suffers from an unspecified cognitive disorder.

¹ The Montreal Cognitive Assessment (MOCA) is a widely used screening assessment for
detecting cognitive impairment. The test assesses different cognitive domains including but not
limited to, attention and concentration, memory, and executive function. MOCA scores range
between 0 and 30. A score of 26 or over is considered to be normal.

12. On or about July 7, 2023, Dr. N.B. further concluded that Respondent is unable to practice medicine safely as a result of his unspecified cognitive disorder, and that Respondent's continued practice of medicine will endanger the public health, safety, and welfare.

PRAYER

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

1. Revoking or suspending Physician's and Surgeon's Certificate No. A 37090, issued to Respondent, Alfred Adib Shihata, M.D.;

2. Revoking, suspending or denying approval of Respondent, Alfred Adib Shihata, M.D.'s authority to supervise physician assistants and advanced practice nurses;

3. Ordering Respondent, Alfred Adib Shihata, M.D., to pay the Board the costs of the investigation and enforcement of this case, and if placed on probation, the costs of probation monitoring; and

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

DATED: AUG 29 2023


REJI VARGHESE
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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