

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
3 KAROLYN M. WESTFALL
Deputy Attorney General
4 State Bar No. 234540
600 West Broadway, Suite 1800
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 738-9465
7 Facsimile: (619) 645-2061

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,**

Respondent.

Case No. 800-2023-095455

OAH No. 2023100005

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

18
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.

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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1 14. The parties agree that this Stipulated Surrender of License and Order shall be null and
2 void and not binding upon the parties unless approved and adopted by the Executive Director on
3 behalf of the Board, except for this paragraph, which shall remain in full force and effect.
4 Respondent fully understands and agrees that in deciding whether or not to approve and adopt this
5 Stipulated Surrender of License and Order, the Executive Director and/or the Board may receive
6 oral and written communications from its staff and/or the Attorney General's Office.
7 Communications pursuant to this paragraph shall not disqualify the Executive Director, the
8 Board, any member thereof, and/or any other person from future participation in this or any other
9 matter affecting or involving Respondent. In the event that the Executive Director on behalf of
10 the Board does not, in his discretion, approve and adopt this Stipulated Surrender of License and
11 Order, with the exception of this paragraph, it shall not become effective, shall be of no
12 evidentiary value whatsoever, and shall not be relied upon or introduced in any administrative
13 action by either party hereto. Respondent further agrees that should this Stipulated Surrender of
14 License and Order be rejected for any reason by the Executive Director on behalf of the Board,
15 Respondent will assert no claim that the Executive Director, the Board, or any member thereof,
16 was prejudiced by its/his/her review, discussion and/or consideration of this Stipulated Surrender
17 of License and Order or of any matter or matters related hereto.

18 **ADDITIONAL PROVISIONS**

19 15. This Stipulated Surrender of License and Order is intended by the parties herein to be
20 an integrated writing representing the complete, final and exclusive embodiment of the
21 agreements of the parties in the above-entitled matter.

22 16. The parties agree that copies of this Stipulated Surrender of License and Order,
23 including copies of the signatures of the parties, may be used in lieu of original documents and
24 signatures and, further, that such copies shall have the same force and effect as originals.

25 17. In consideration of the foregoing admissions and stipulations, the parties agree the
26 Executive Director of the Board may, without further notice to or opportunity to be heard by
27 Respondent, issue and enter the following Order on behalf of the Board:

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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 19 24 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

1 ROB BONTA
Attorney General of California
2 ALEXANDRA M. ALVAREZ
Supervising Deputy Attorney General
3 KAROLYN M. WESTFALL
Deputy Attorney General
4 State Bar No. 234540
600 West Broadway, Suite 1800
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 738-9465
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8 *Attorneys for Complainant*

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

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In the Matter of the Accusation Against:

Case No. 800-2023-095455

14

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

A C C U S A T I O N

15

16

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

17

Respondent.

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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.

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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
10 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
11 violations of the licensing act to pay a sum not to exceed the reasonable costs of the
investigation and enforcement of the case.

12 (b) In the case of a disciplined licentiate that is a corporation or a partnership,
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
15 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
16 limited to, charges imposed by the Attorney General.

17 (d) The administrative law judge shall make a proposed finding of the amount
of reasonable costs of investigation and prosecution of the case when requested
18 pursuant to subdivision (a). The finding of the administrative law judge with regard
to costs shall not be reviewable by the board to increase the cost award. The board
19 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
20 subdivision (a).

21 (e) If an order for recovery of costs is made and timely payment is not made as
directed in the board's decision, the board may enforce the order for repayment in any
22 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.

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.

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

4 **PRAYER**

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

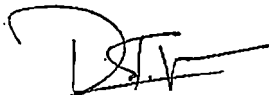
7 1. Revoking or suspending Physician's and Surgeon's Certificate No. A 37090, issued
8 to Respondent, Alfred Adib Shihata, M.D.;

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

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

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

15
16 DATED: AUG 29 2023



17 REJI VARGHESE
18 Executive Director
19 Medical Board of California
20 Department of Consumer Affairs
21 State of California
22 Complainant

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