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

In the Matter of the Second Amended Accusation Against: Fereydoun Sahafi, M.D. Physician's and Surgeon's Certificate No. A 52188 Respondent.	Case No.: 800-2019-057110

DECISION

The attached Stipulated Settlement and Disciplinary 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 May 3, 2024.

IT IS SO ORDERED: April 4, 2024.

MEDICAL BOARD OF CALIFORNIA

Richard E. Thorp, Chair
Panel B

ROB BONTA
Attorney General of California
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Supervising Deputy Attorney General
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Attorneys for Complainant

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

In the Matter of the Second Amended Accusation Against: **FEREYDOUN SAHAFI, M.D.** **P.O. Box 4124** **Mission Viejo, California, 91406** **Physician's and Surgeon's Certificate No. A 52188** Respondent.	Case No. 800-2019-057110 OAH No. 2022060183 **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. Reji Varghese (Complainant) is the Executive Director of the Medical Board of California (Board). He brought this action solely in his official capacity and is represented in this matter by Rob Bonta, Attorney General of the State of California, by Jason J. Ahn, Deputy Attorney General.

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2. Respondent Fereydoun Sahafi, M.D. (Respondent) is represented in this proceeding by attorney Brian Hoffman, Esq., whose address is: Wood Smith Henning & Berman, LLP, 10960 Wilshire Blvd., 18th Floor, Los Angeles, CA 90024.

3. On or about July 30, 1993, the Board issued Physician's and Surgeon's Certificate No. A 52188 to Respondent. The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in Second Amended Accusation No. 800-2019-057110, and will expire on May 31, 2025, unless renewed.

JURISDICTION

4. On March 30, 2022, Accusation No. 800-2019-057110 was filed before the Board. The Accusation and all other statutorily required documents were properly served on Respondent on or about March 30, 2022. Respondent timely filed his Notice of Defense contesting the Accusation. On June 20, 2022, First Amended Accusation No. 800-2019-057110 was filed before the Board, which superseded Accusation No. 800-2019-057110. The First Amended Accusation and all other statutorily required documents were properly served on Respondent on or about June 20, 2022. Respondent timely filed his Notice of Defense contesting the First Amended Accusation. On October 11, 2022, Second Amended Accusation No. 800-2019-057110 was filed before the Board, which superseded First Amended Accusation No. 800-2019-057110. The Second Amended Accusation and all other statutorily required documents were properly served on Respondent on or about October 11, 2022. Respondent timely filed his Notice of Defense contesting the Second Amended Accusation.

5. A copy of Second Amended Accusation No. 800-2019-057110 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Second Amended Accusation No. 800-2019-057110. Respondent has also carefully read, fully discussed with his counsel, and fully understands the effects of this Stipulated Settlement and Disciplinary Order.

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

CULPABILITY

9. Respondent does not contest that, at an administrative hearing, Complainant could establish a *prima facie* case with respect to the charges and allegations contained in Second Amended Accusation No. 800-2019-057110, a copy of which is attached hereto as Exhibit A, and that he has thereby subjected his Physician's and Surgeon's Certificate No. A 52188 to disciplinary action.

10. Respondent agrees that if an accusation is ever filed against him before the Medical Board of California, all of the charges and allegations contained in Second Amended Accusation No. 800-2019-057110 shall be deemed true, correct, and fully admitted by Respondent for purposes of that proceeding or any other licensing proceeding involving Respondent in the State of California.

11. Respondent agrees that his Physician's and Surgeon's Certificate No. A 52188 is subject to discipline and he agrees to be bound by the Board's imposition of discipline as set forth in the Disciplinary Order below.

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

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CONTINGENCY

13. This stipulation shall be subject to approval by the Medical Board of California. Respondent understands and agrees that counsel for Complainant and the staff of the Medical Board of California 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.

14. Respondent agrees that if he ever petitions for early termination or modification of probation, or if an accusation and/or petition to revoke probation is filed against him before the Board, all of the charges and allegations contained in Second Amended Accusation No. 800-2019-057110 shall be deemed true, correct and fully admitted by respondent for purposes of any such proceeding or any other licensing proceeding involving Respondent in the State of California.

ADDITIONAL PROVISIONS

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

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

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

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 52188 issued to Respondent FEREYDOUN SAHAFI, M.D. is revoked. However, the revocation is stayed and Respondent is placed on probation for five (5) years on the following terms and conditions:

1. STANDARD STAY ORDER. However, revocation stayed and Respondent is placed on probation for (e.g., ten) years upon the following terms and conditions.

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

3. MEDICAL RECORD KEEPING COURSE. Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a course in medical record keeping approved in advance by the Board or its designee. Respondent shall provide the approved course provider with any information and documents that the approved course provider may deem pertinent. Respondent shall participate in and successfully complete the classroom component of the course not later than six (6) months after Respondent's initial enrollment. Respondent shall successfully complete any other component of the course within one (1) year of enrollment. The medical record keeping course shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

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.

4. CLINICAL COMPETENCE ASSESSMENT PROGRAM. Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a clinical competence assessment program approved in advance by the Board or its designee. Respondent shall successfully complete the program not later than six (6) months after Respondent's initial enrollment unless the Board or its designee agrees in writing to an extension of that time.

The program shall consist of a comprehensive assessment of Respondent's physical and mental health and the six general domains of clinical competence as defined by the Accreditation Council on Graduate Medical Education and American Board of Medical Specialties pertaining to Respondent's current or intended area of practice. The program shall take into account data obtained from the pre-assessment, self-report forms and interview, and the Decision(s), Accusation(s), and any other information that the Board or its designee deems relevant. The program shall require Respondent's on-site participation for a minimum of three (3) and no more than five (5) days as determined by the program for the assessment and clinical education evaluation. Respondent shall pay all expenses associated with the clinical competence assessment program.

At the end of the evaluation, the program will submit a report to the Board or its designee which unequivocally states whether the Respondent has demonstrated the ability to practice safely and independently. Based on Respondent's performance on the clinical competence assessment, the program will advise the Board or its designee of its recommendation(s) for the scope and length of any additional educational or clinical training, evaluation or treatment for any

medical condition or psychological condition, or anything else affecting Respondent's practice of medicine. Respondent shall comply with the program's recommendations.

Determination as to whether Respondent successfully completed the clinical competence assessment program is solely within the program's jurisdiction.

If Respondent fails to enroll, participate in, or successfully complete the clinical competence assessment program within the designated time period, Respondent shall receive a notification from the Board or its designee to cease the practice of medicine within three (3) calendar days after being so notified. The Respondent shall not resume the practice of medicine until enrollment or participation in the outstanding portions of the clinical competence assessment program have been completed. If the Respondent did not successfully complete the clinical competence assessment program, the Respondent shall not resume the practice of medicine until a final decision has been rendered on the accusation and/or a petition to revoke probation. The cessation of practice shall not apply to the reduction of the probationary time period.

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

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

signed statement for approval by the Board or its designee.

Within 60 calendar days of the effective date of this Decision, and continuing throughout probation, Respondent's practice shall be monitored by the approved monitor. Respondent shall make all records available for immediate inspection and copying on the premises by the monitor at all times during business hours and shall retain the records for the entire term of probation.

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

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

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

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

expense during the term of probation.

6. NOTIFICATION. Within seven (7) days of the effective date of this Decision, the Respondent shall provide a true copy of this Decision and Accusation 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 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 Board or its designee within 15 calendar days.

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

7. SUPERVISION OF PHYSICIAN ASSISTANTS AND ADVANCED PRACTICE NURSES. During probation, Respondent is prohibited from supervising physician assistants and advanced practice nurses.

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

9. INVESTIGATION/ENFORCEMENT COST RECOVERY. Respondent is hereby ordered to reimburse the Board its costs of investigation and enforcement, including, but not limited to, expert review, amended accusations, legal reviews, and investigation(s), in the amount of $53,743.00 (fifty-three thousand seven hundred forty-three dollars). Costs shall be payable to the Medical Board of California. Failure to pay such costs shall be considered a violation of probation.

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

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

10. 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.

11. GENERAL PROBATION REQUIREMENTS.

Compliance with Probation Unit

Respondent shall comply with the Board's probation unit.

Address Changes

Respondent shall, at all times, keep the Board informed of Respondent's business and residence addresses, email address (if available), and telephone number. 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, subdivision (b).

Place of Practice

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

License Renewal

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

Travel or Residence Outside California

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 thirty (30) calendar days.

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.

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

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

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

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

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

Periods of non-practice for a Respondent residing outside of 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; General Probation Requirements; Quarterly Declarations.

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

15. VIOLATION OF PROBATION. Failure to fully comply with any term or condition of probation is a 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, or an Interim Suspension Order is filed against Respondent during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

16. 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 to surrender his or her license. The Board reserves the right to evaluate Respondent's request and to exercise its discretion in determining whether or not 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 medicine. Respondent will no longer be subject to the terms and conditions of probation. If Respondent re-applies for a medical license, the application shall be treated as a petition for reinstatement of a revoked certificate.

17. 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 Medical Board of California and delivered to the Board or its designee no later than January 31 of each calendar year.

18. FUTURE ADMISSIONS CLAUSE. 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 action agency in the State of California, all of the charges and allegations contained in Second Amended Accusation No. 800-2019-057110 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 license.

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Brian Hoffman. 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 fully agree to be bound by the Decision and Order of the Medical Board of California.

DATED: 1/22/2024

DocuSigned by:
[signature]
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FEREYDOUN SAHAFI, M.D.
Respondent

I have read and fully discussed with Respondent Fereydoun Sahafi, 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: 01/22/24

[signature]
BRIAN HOFFMAN
Attorney for Respondent

ENDORSEMENT

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

DATED: January 22, 2024

Respectfully submitted,

ROB BONTA
Attorney General of California
MATTHEW M. DAVIS
Supervising Deputy Attorney General

JASON J. AHN
Deputy Attorney General
Attorneys for Complainant

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Attorneys for Complainant

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

In the Matter of the Second Amended Accusation Against: **Fereydoun Sahafi, M.D.** **P.O. Box 4124** **Mission Viejo, California, 92690** **Physician's and Surgeon's Certificate No. A 52188,** Respondent.	Case No. 800-2019-057110 OAH No. 2022060183 **SECOND AMENDED ACCUSATION**

PARTIES

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

2. On or about July 30, 1993, the Board issued Physician's and Surgeon's Certificate No. A 52188 to Fereydoun Sahafi, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought herein and will expire on May 31, 2023, unless renewed.

JURISDICTION

3. This Second Amended Accusation supersedes the First Amended Accusation filed on June 20, 2022, in the above-entitled matter, and is brought under the following laws. All sections referenced are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 2227 of the Code states:

(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.

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

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

(b) Any matter heard pursuant to subdivision (a), except for warning letters, medical review or advisory conferences, professional competency examinations, continuing education activities, and cost reimbursement associated therewith that are agreed to with the board and successfully completed by the licensee, or other matters made confidential or privileged by existing law, is deemed public, and shall be made available to the public by the board pursuant to Section 803.1.

STATUTORY PROVISIONS

5. Section 2234 of the Code, states:

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.

(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.

. . .

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

. . . .

6. 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.

7. 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.)

COST RECOVERY

8. 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.

(c) A certified copy of the actual costs, or a good faith estimate of costs where 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 investigative and enforcement costs up to the date of the hearing, including, but not limited to, charges imposed by the Attorney General.

(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 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 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).

(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 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.

(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.

(g) (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 that one-year period for the unpaid costs.

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

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

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

FIRST CAUSE FOR DISCIPLINE

(Gross Negligence)

9. Respondent is subject to disciplinary action under section 2227 and 2234, subdivision (b), of the Code, in that he committed gross negligence in his care and treatment of Patient A,[1] as more particularly alleged hereinafter:

10. On or about September 26, 2017, Patient A, a then 38-year-old female, had her initial consultation for "B.A." [breast augmentation]. The handwritten progress note for the visit indicates, among other things, that Patient A wears a 36B bra, she had saggy grade III-IV breasts

[1] The patients herein are identified as Patient A, Patient B, Patient C, and Patient D, in order to maintain patient confidentiality.

with stretch marks, her nipples were 23 and 23 ½ centimeters from her sternal notch, reference was made to 525 cc (SRX) [smooth round extra full] implants, and Patient A may require a lift after her breast augmentation. There is no documentation of any discussions of informed consent as part of the initial consultation including, but not limited to, surgical options, why one option might be better from others, risks and benefits of surgery, and the different incisions possible for augmentation (inframammary versus periareolar) and associated risks.

11. On or about September 29, 2017, Respondent performed a bilateral breast augmentation on Patient A with 525 cc silicone SRX implants placed subpectorally (below the pectoral muscle) through incisions at the inframammary fold (IMF) [the natural lower boundary of the breast where the breast and the chest meet]. The operative report noted one gram of Ancef was given intravenously. There was no documentation of any antibiotic irrigation being used. The Consent for Surgery identified the procedure as "Bilateral – Subpectoral Augmentation Mammaplasty," generally described as enlargement of breasts by insertion of silicone filled implants under the patient's pectoral muscles.

12. On or about October 2, 2017, Patient A had her first post-operative visit with a chief complaint of right breast pain. The handwritten progress note indicates, among other things, that the "breasts are high and hard (expected) [with] No signs of inflammation." The plan included Patient A periodically massaging her breasts, acetaminophen 500 mg every 6 hours for pain and return to clinic in two weeks. There are two sets of different handwriting and Respondent's countersignature.[2]

13. On or about October 9, 2017, Patient A had her second post-operative visit with a chief complaint of "[left] breast sitting high up and very firm, intermittent pain" with no indication of any fever. On examination, it was noted the right breast was "moderately firm but relaxed" and the left breast was "high and firm" with no signs of infection. The plan included "continue massages 6-10 [times per day], being more aggressive [with left] breast," continue

[2] During his subject interview, Respondent stated "my nurses typically do the post-op visit. But if I am in the office [and] a patient desires to see me, then I see them." Respondent further stated he countersigns any chart notes prepared by his nurses and if there are notations by him on the progress note that indicates that he actually saw the patient on the date set forth on the progress note.

wearing a surgical bra, and return to clinic in 3 weeks.

14. On or about October 31, 2017, Patient A had her third post-operative visit with Respondent with a chief complaint of left breast implant, "it's painful," with no apparent fever. On examination, the right breast was noted to be firm with the left breast having "capsular contraction[3] and the breast tissue is in lower position." The assessment was that the right breast has a Grade II capsule and the left breast has a Grade III capsule. The handwritten progress note indicates, as can best be discerned from the progress note, that "the patient has capsular contracture grade III left side [illegible] on the right side she has a grade II capsular contracture. She needs a capsulotomony/capsulectomy [surgeries to address capsular contracture] on the left [illegible] GA."

15. On or about January 30, 2018, Patient A had her fourth post-operative visit with Respondent with a chief complaint of "capsule contraction." The assessment is that the right breast has a Grade II capsule and the left breast has a Grade III capsule. The plan for the right breast was capsulectomy and pocket repair and the plan for the left breast was capsulectomy. Respondent's handwritten notes are largely illegible.

16. On or about February 27, 2018, Patient A had her fifth post-operative visit with Respondent so she could discuss the procedure or procedures to address her capsular contracture. Respondent's handwritten notes make reference to right capsular adjustment and left capsular contracture, with the remaining notations illegible.

17. On or about May 11, 2018, Patient A had her sixth post-operative visit with Respondent to "go over implant size and texture." Respondent's handwritten notes regarding the assessment and plan are largely illegible. Patient A signed a consent for "Surgery on 5/17/2018," which described the procedures as "Bilateral Explantation for Breast Prosthesis with Secondary Augmentation Mammaplasty and Bilateral Capsulotomy (Subpectoral Reaugmentation)."

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[3] After implants are placed, the body begins to build a pouch of scar tissue around each implant and forms a covering around each implant referred to as a capsule. In some cases, the scar tissue that forms the capsule gets thick and tight, squeezing around the implant or implants which can distort the shape, referred to as capsular contracture. Capsular contracture can cause a misshapen appearance for one or both breasts, the breast or breasts may be hard to the touch, and some patients may feel pain or discomfort as a result of the capsular contracture.

18. On or about May 17, 2018, Respondent performed his second procedure on Patient A in which he removed the left silicone implant, performed a capsulectomy, and placed a new textured implant. According to the operative report, Respondent also performed a "right pocket adjustment by creating a lateral bra." The pre-operative diagnosis was listed as "[t]he patient has silicone implant bilaterally" and the post-operative diagnosis was listed as "same." No indications for surgery were included in the operative report. The incision was made in the lower areolar area which was noted in the operative report as having been marked pre-operatively. The operative report does not indicate that a drain was used on either side. The irrigation method listed in the operative report was "normal saline." An estimate of surgical fees describes the procedure as "Release of capsular contraction around both breast implants by incising, cutting or scoring the scar tissue (capsule) and replacing the implants in the subpectoral position."

19. On or about May 21, 2018, Patient A had her first post-operative visit for the second procedure. Patient A complained of right breast pain and that she was experiencing extreme drowsiness from tramadol. The breasts were noted to be "well" and of "equal size and shape." The plan was, among other things, to continue with antibiotic until finished, discontinue tramadol and switch to Tylenol extra strength, continue with surgical bra for 2-3 weeks, no breast massages, and return to clinic in three weeks.

20. On or about May 31, 2018, Patient A had her second post-operative visit with Respondent for the second procedure. Patient A complained of right breast pain and discomfort. Respondent's handwritten notes for this visit are difficult to read and partly illegible. There are notations of redness under the incision, no other redness on the breast, no pain to the touch, lack of fever, with a plan which included Cipro (antibiotic) and returning to the clinic.

21. On or about June 5, 2018, Patient A had her third post-operative visit with Respondent for the second procedure. Respondent's handwritten notes for this visit are difficult to read and partly illegible. There is reference to Patient A going to the emergency room over the weekend. In her complaint to the Board, Patient A stated, "I was admitted to the emergency room at 06/04/2018 at 12:18 a.m. to be treated for severe drainage." The plan included, among other things, a sport bra, covering the incision, and [illegible] antibiotic and [illegible] x 3.

22. On or about June 15, 2018, Patient A had her fourth post-operative visit with Respondent for the second procedure. Respondent's handwritten notes for this visit are difficult to read and partly illegible. There is reference to "No [illegible] drainage. The incision is healed. The [right] breast is normal size now. Now she has a scar [illegible] on the lower areolar level. Will need Kenalog[4] shot in 2 months. Put a tape on top or the areola [illegible] ... [Return to clinic] in 2 months."

23. On or about July 24, 2018, Patient A had her fifth post-operative visit with Respondent for the second procedure. Respondent's handwritten notes for this visit are perfunctory, difficult to read, and mostly illegible. There is reference to nipple revision and right areola scar revision under local anesthesia.

24. On or about September 11, 2018, Patient A had her sixth post-operative visit with Respondent for the second procedure. Patient A came in for reevaluation of her scar and "states 'pocket feels tight on [right] side and feels like a capsular contracture.'" Respondent's handwritten notes for this visit are difficult to read and somewhat illegible. There is reference to "capsular contracture grade III on the right side ...[illegible] surgical treatment [illegible] ..."

25. On or about September 19, 2018, Patient A signed consent forms for an upcoming "Surgery on 10/5/2018." The description for the bilateral capsulotomy noted that the implants would be in the subpectoral position. One form discussed the general and specific surgical risks for "Capsulotomy with Secondary Subpectoral Mammoplasty (Secondary Breast Enlargement)." The specific surgical risks make repeated reference to "SUBPECTORAL PLACEMENT OF THE IMPLANT (UNDER THE MUSCLE)." Another form, the "Consent for Surgery" form for "Surgery on 10/5/2018," described the procedures as "Bilateral Explantation for Breast Prosthesis with Secondary Augmentation Mammaplasty and Bilateral Capsulotomy (Subpectoral Reaugmentation)."

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[4] Kenalog IA/IM injection is for the treatment of joint pain, swelling and stiffness in inflammatory disorders such as rheumatoid arthritis.

26. On or about October 5, 2018, Respondent performed his third procedure on Patient A. The Operative Report described the pre-operative diagnosis as "right capsular contraction and right ruptured implant," the procedure as "right silicone breast augmentation with 525 TRX after removal of old smooth silicone implant [-] right anterior casulectomy," and the post-operative diagnoses was listed as "same." The operative report indicated there was insufficient room under the pectoralis muscle so a pocket was created above the pectoralis muscle (subglandular) and the new implant was placed in the new pocket.[5] Patient A's complaint to the Board makes reference to the "unauthorized last-minute procedure (over the muscle)..."

27. On or about October 8, 2018, Patient A had her first post-operative visit for the third procedure. Patient A complained of swelling of the right breast. On examination, the right breast was documented as being "well, soft" with swelling noted on the right lateral breast with no signs or symptoms of infection. The plan was to continue with antibiotics, continue with a surgical bra for 3-4 weeks, call office with any concerns, and return to clinic in three weeks.

28. On or about October 29, 2018, Patient A had her second post-operative visit for the third procedure. Patient A complained of "feeling some tightness on lateral [right] breast." On examination, it was noted that the right breast was "soft, well," with no pain upon palpation and massage, and no signs or symptoms of infection. The plan was to continue breast massages as needed, okay to increase physical activity, call office for any concerns, and return to clinic in six weeks. This was the last documented visit at Respondent's office.

29. On or about February 4, 2019, Patient A had a consultation with Dr. S.K., a board certified plastic surgeon. Patient A complained of left breast pain and shortness of breath while running, which was alleviated by pulling her breast laterally while running, and Dr. S.K. was generally advised of the Patient A's past breast surgery history with Respondent. On examination, it was noted that there were bilateral augmented breasts, right nipple was 28 cm from the sternal notch and the left nipple was 27 cm, breasts had Grade 3 ptosis, there were scars

[5] Specifically, the operative report states, "The full anterior part of the capsule was removed on the right side to get an adequate pocket for the new 520cc TRX implant. But the scar tissue was so involved that we decided to put the implant on top of the muscle. So a pocket was created on top of the muscle."

in the IMF (inframammary fold) and infra areolar areas, a Baker IV capsular contracture was noted, and there were no skin changes, nipple retraction, axillary adenopathy or nipple discharge. The right implant was noted to be subglandular while the left was submuscular. Dr. S.K. discussed possible bilateral implant removal, FFS mastopexy, and capsulectomy (with possible drains) with Patient A. After a discussion of the known risks, Patient A expressed her desire to proceed with bilateral implant removal, FFS mastopex, and possible capsulectomy.

30. On or about March 15, 2019, Dr. S.K. performed bilateral breast textured silicone implant removal (TRX allergan 525), partial capsulectomy with bilateral mastopexy on Patient A without complication. The pre-operative diagnoses were noted as history of bilateral silicone breast augmentation through periareolar and IMF incision; and bilateral breast pain.

31. Respondent committed gross negligence in his care and treatment of Patient A which included, but was not limited to, the following:

(a) Respondent failed to provide adequate informed consent based on, among other things, inadequate discussion and/or documentation of the various surgical options, the risks or benefits associated with the various surgical options, the different possible incisions for breast augmentation, the failure to explain the decision to change the incision from inframammary to periareolar for the second procedure, and by providing a written consent for the third procedure for subpectoral placement when the implant was placed in the subglandular position; and

(b) Respondent exhibited a lack of knowledge and poor surgical technique when he, among other things, failed to provide and/or document antibiotic irrigation or minimal touch technique to avoid contamination and used a periareolar incision with a patient who had a history of capsular contracture.

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SECOND CAUSE FOR DISCIPLINE

(Repeated Negligent Acts)

32. Respondent is further subject to disciplinary action under sections 2227 and 2234, as defined by section 2234, subdivision (c), of the Code, in that Respondent committed repeated negligent acts in his care and treatment of Patients A, B, C, and D, as more particularly alleged herein.

Patient A

33. Respondent committed repeated negligent acts in his care and treatment of Patient A, which included, but was not limited to, the following:

(a) Paragraphs 9 through 31, above, are hereby incorporated by reference and realleged as if fully set forth herein;

(b) Respondent failed to provide adequate informed consent to Patient A, based on, among other things, inadequate discussion and/or documentation of the various surgical options, the risks or benefits associated with the various surgical options, the different possible incisions for breast augmentation, the failure to explain the decision to change the incision from inframammary to periareolar for the second procedure, and by providing a written consent for the third procedure for subpectoral placement when the implant was placed in the subglandular position;

(c) Respondent exhibited a lack of knowledge and poor surgical technique when he, among other things, failed to provide and/or document antibiotic irrigation or minimal touch technique to Patient A to avoid contamination and used a periareolar incision with a patient who had a history of capsular contracture; and

(d) Respondent failed to maintain adequate and accurate medical records on his care and treatment of Patient A, which included, but was not limited to, medical record documentation that was perfunctory and minimal, difficult to read, and which failed to adequately document the surgical options, risks, benefits of each surgical procedure and/or surgical plan.

Patient B

34. On or about January 30, 2018, Patient B first presented to Respondent. According to the [handwritten] medical records for this visit, "pt [Patient B] wants liposuction vs TT [tummy tuck]." A breast examination notes the "breasts are saggy. No lumps." The plan of care is first breast reduction and breast lift, second, "TT [tummy tuck]" with muscle tightening. Lipo[suction] 20 areas."

35. On or about March 20, 2018, Patient B returned to Respondent. According to the [handwritten] notes for this encounter, it states, "Recheck Areas," "Pt [Patient B] wants liposuction only. Wt [Weight] 150 [lb.] Ht [Height] 5'3" BMI [Body Mass Index][6] 27. G3C3POAO. No hx [history] of allergy." The note also states, "Lipodystrophy[7] of the body. No umbilical hernia..." The areas to undergo liposuction are listed.

36. On or about March 22, 2018, Patient B returned to Respondent. The [handwritten] medical records for this visit are mostly illegible except the last line which states, "move lipo[suction] later."

37. On or about April 5, 2018, Patient B returned to Respondent. The medical records for this visit indicate, "POD #7 sx: abdominoplasty.[8]" It was noted that Patient B had no complaints, the incision was clean, dry, and intact, and Patient B was to return in four (4) days.

38. On or about April 9, 2018, Patient B returned to Respondent and according to the medical records for this visit, the incision was well approximated and there was "slight irritation of the incision along mid-TT below navel." Patient B was told to finish out her antibiotics and return in two (2) weeks.

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[6] Body Mass Index [BMI] is a value derived from the mass and height of a person. It is defined as the body mass divided by the square of the body height.

[7] Lipodystrophy is a group of rare syndromes that cause a person to lose fat from some parts of the body, while gaining it in others, including on organs like the liver.

[8] Abdominoplasty, also known as a tummy tuck, is a cosmetic surgical procedure to improve the shape and appearance of the abdomen.

39. On or about April 20, 2018, Patient B returned to Respondent, with the complaint of pain in the left side of her abdomen. It was noted that there was an "opening in the Left side of the TT [tummy tuck] incision red, warmth, swollen." The rest of the medical notes for this encounter are in a different handwriting, mostly illegible except an entry that indicates "needle aspiration didn't . . . [illegible] anything limited physical activity W-D on the little opening X2/day cont. Binder."

40. On or about May 1, 2018, Patient B returned to Respondent, which was noted to be "POD # 1 month . . . The patient [Patient B] was complaining of abdominal swelling and pain throughout." The rest of the medical notes for this encounter are in a different handwriting and illegible.

41. On or about June 26, 2018, Patient B returned to Respondent and the medical notes are marked, "POD: 2m 28 days." The note reads, "pt [Patient B] wants to talk to the doctor about the result." In a second handwriting, the medical notes state, "% of a little pain ... [illegible]...I told her it would go away."

42. On or about July 31, 2018, Patient B returned to Respondent, and the medical notes are marked, "POD 4m 2 days" and again the medical notes are in two different handwritings. The note reads, "the patient [Patient B] is c/o [complaining of] of a little pain in the RUQ...[illegible]...a lipoma or neuroma. Kenalog shot. If no improvement U/S."

43. On or about August 13, 2018, Patient B returned to Respondent, complaining of pain in the R[ight] upper abdomen. It was noted that there was a lump near to the umbilicus. It was also noted that there was no redness or warmth or any signs of infection or inflammation. The plan was an ultrasound and Patient B was to return after the results were obtained.

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44. On or about September 11, 2018, Patient B returned to Respondent. The medical notes indicate, "3rd followup POD 5 months 18 days." The medical notes also state that Patient B wants to speak to the doctor [Respondent] about Kenalog shots or other options for abdominal bulging. The medical notes also state "pt [Patient B] has abdominal bulging of the epigastric region painful upon palpation especially on the right side of the abdomen." No redness or warmth was noted. In a different handwriting, the note states, "c/o of [complain of] pain at the RUQ right below costal...[illegible]...No hernia No redness No inflammation. A/P [advised Patient B] take Vitamin B Gabapentin[9] 30 mg 1 po qd #60 U/S with ... [illegible]."

45. On or about October 16, 2018, Patient B returned to Respondent, again complaining of abdominal bulging. It was noted that Patient B had some bulging in the mid abdomen with no pain, redness, or warmth. It was also noted that the incision was clean, dry, and intact. In a second handwriting, the note states, "see Maricuna to ... [illegible] ... additional exercise. D/C. patient + + +."

46. On or about February 26, 2019, Patient B returned to Respondent. The medical notes indicate, "Breast reduction." The medical notes state, "breast reduction with breast lift and liposuction of the back." The notes also state, "A/P: waist, hips, back, axilla inner thigh with FT, breast reduction."

47. On or about March 5, 2019, Patient B returned to Respondent to "go over and review areas." The remainder of the medical records are written in a second handwriting and illegible.

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[9] Gabapentin is an anticonvulsant and nerve pain medication, which can be used to treat seizures and pain caused by shingles.

48. A consent form purportedly signed and dated by Patient B on March 11, 2019 and by the attending physician on March 15, 2019 reads, "Liposuction with fat transfer to buttocks." The witness signature (also dated March 15, 2019) is crossed out.

49. On or about March 15, 2019, Respondent performed liposuction on Patient B. The pre-operative diagnosis was Lipodystrophy and small buttock. The procedures performed were liposuction of upper abdomen, waist front and back, hips upper and lower, middle back, lateral chest, upper back, axillae[10] back and middle, inner thigh front, middle back and fat transfer to buttocks. The total fat liposuctioned was listed as 2100 cc, the total fat retained after washing for injection was listed as 2200 cc and the fat injected in each buttock was listed as 700 cc. Patient B was instructed to return to Respondent in two (2) days.

50. On or about March 25, 2019, Patient B returned to Respondent for suture removal. It was noted that Patient B had no complaints and the areas that underwent liposuction were doing well. There were no signs of infection. Patient B was told to continue with previous post-operative instructions, to call the office if she had any concerns, and return to Respondent for follow-up in one (1) month.

51. On or about April 8, 2019, Patient B returned to Respondent. The medical record states that Patient B went to the ER with fever and flank pain. Patient B was given the flu vaccine, morphine,[11] ondansetron,[12] and clindamycin[13] 300 mg capsule, four (4) times per day. Patient B's vital signs were taken with a temperature of 98.1 degrees (F), heart rate of 104 and blood pressure of 128/85. The note states, "pain." It was also noted that "liposuction areas are well. No areas of redness or warmth. No cellulitis. No

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[10] Axilla refers to the space below the shoulder through which vessels and nerves enter and leave the upper arm; a person's armpit.

[11] Morphine is a narcotic, which can be used to treat moderate to severe pain.

[12] Ondansetron is an antiemetic, which can prevent nausea and vomiting. Antiemetic drugs are prescribed to help with nausea and vomiting that are side effects of other drugs.

[13] Clindamycin is an antibiotic, which can be used to treat various types of infections, including skin and vaginal infections.

drainage. Buttocks are well. Right buttock with a little protrusion. No pain. No redness." Patient B was instructed to continue taking clindamycin, continue with buttocks care and return in two (2) weeks.

52. On or about April 9, 2019, Patient B returned to Respondent. The medical notes state, among other things, "Patient [B] wants to [speak] to Dr. [Respondent] about the results." It was also noted that there were no signs of infection, Patient B was taking clindamycin, and the left buttock had a little bump. The medical notes are continued in a second handwriting, which is mostly illegible except an entry that states, "RTC in 6 months."

53. The final medical note from Respondent is dated July 17, 2019, and states, "Needs filler for the left buttocks. 3 syringes in September."

54. Between July 15, 2019 and January 10, 2020, Patient B sent multiple text messages, requesting an appointment to see Respondent.

55. On or about February 2, 2021, Patient B underwent percutaneous aspiration[14] of a seroma[15] in the right superior buttock by Dr. J. H. Approximately 6 cc's of fluid was drained.

56. On or about March 6, 2021, Patient B returned to Dr. J.H. for a follow-up. Patient B stated that the seroma was better, but was requesting an ultrasound to see if any residual fluid was present.

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[14] Percutaneous abscess drainage uses imaging guidance to place a needle or catheter through the skin into the abscess to remove or drain the infected fluid.

[15] Seroma is a build-up of clear bodily fluids in a place on your body where tissue has been removed by surgery.

57. Respondent committed repeated negligent acts in his care and treatment of Patient B, which included, but was not limited to, the following:

(a) Paragraphs 34 through 56, above, are hereby incorporated by reference and realleged as if fully set forth herein;

(b) Respondent failed to provide adequate informed consent to Patient B, based on, among other things, inadequate discussion and/or documentation of the risks or benefits associated with the proposed surgical procedure and alternatives, including the option of no surgery.

(c) Respondent failed to maintain adequate and accurate medical records on his care and treatment of Patient B, which included, but was not limited to, medical record documentation that was perfunctory and minimal, difficult to read, and which failed to adequately document the surgical options, risks, benefits of each surgical procedure and/or surgical plan.

Patient C

58. On or about January 30, 2018, Patient C presented to Respondent seeking a consultation for an abdominoplasty. At that time, Patient C was a forty-five (45) year-old female, with a weight of one hundred seventy (170) pounds, height of five (5) feet six (6) inches, and a BMI of 28. It was noted in the medical records, among other things, that Patient C had previously undergone liposuction of the abdomen, back axilla[16] and arms. The surgical plan was for a full tummy tuck and tightening of the muscles. Although Patient C purportedly signed a consent for "Full abdominoplasty with liposuction of the abdomen," Respondent failed to adequately discuss and/or failed to document having adequately discussed, with Patient C, the risks and benefits of the procedure(s), and any alternatives to the procedure(s), including no procedure. Respondent failed to discuss and/or failed to document having discussed, with Patient C, the proposed location of the scar(s) for the proposed procedure(s). Respondent also failed to document when Patient

[16] Axilla is an anatomical region under the shoulder joint where the arm connects to the shoulder.

C's incision markings were made.

59. On or about June 2, 2018, Patient C returned to Respondent for "Abdominoplasty and lipectomy of upper and mid abdomen." The medical records state, among other things, "local anesthesia was administered along the incision markings," "incision was made along the preoperative marking in the lower abdominal suprapubic area," and that staples were used to close the wound.

60. On or about June 4, 2018, Patient C returned to Respondent for a post-operation follow-up. The medical records, state, among other things, that Patient C is doing well.

61. On or about June 7, 2018, Patient C returned to Respondent for a post-operation follow-up. The medical records, state, among other things, that Patient C is doing well.

62. On or about June 11, 2018, Patient C returned to Respondent. At this visit, according to the medical records, every other staple was removed from Patient C's body.

63. On or about June 18, 2018, Patient C returned to Respondent. According to the medical records, the remaining staples from Patient C's body were removed.

64. On or about July 23, 2018, Patient C returned to Respondent for a post-operation follow-up. The medical records, state, among other things, that Patient C is doing well.

65. On or about September 11, 2018, Patient C returned to Respondent for a post-operation follow-up. According to the medical records, Patient C was unsatisfied with the location of the tummy tuck scar and stated that it was "too high." Respondent failed to adequately discuss and/or failed to document having adequately discussed, with Patient C, the location of Patient C's tummy tuck scar, appropriate interventions, if any, such as scar treatment(s) and/or surgical revision(s).

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66. Respondent committed repeated negligent acts in his care and treatment of Patient C, which included, but was not limited to, the following:

(a) Paragraphs 58 through 65, above, are hereby incorporated by reference and realleged as if fully set forth herein;

(b) Respondent failed to obtain and/or failed to document having obtained adequate informed consent prior to surgical procedure;

(c) Respondent failed to maintain adequate records regarding his care and treatment of Patient C; and

(d) Respondent failed to provide adequate post-operation care and/or treatment to Patient C.

Patient D

67. On or about January 8, 2019, Patient D first presented to Respondent seeking treatment for a double chin. At that time, Patient D was a twenty-seven (27) year-old female. The treatment plan was changed to liposuction of multiple body areas and fat transfer to the gluteal region.

68. On or about March 20, 2019, Patient D received a pre-operation call in preparation for surgery.

69. On or about March 21, 2019, Patient D purportedly signed surgical consent forms. However, the consent forms do not contain adequate details regarding the specific procedure(s) in question, liposuction and fat transfer to the gluteal region. Specifically, one or more of the following details are missing: an explanation and/or description of the proposed procedure, potential benefits and risks, a review of alternative treatments, and a discussion of any consequences of no treatment.

70. On or about March 21, 2019, pre-operative photographs were taken. Respondent performed liposuction and fat transfer to the gluteal region on Patient D, under general anesthesia.

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71. On or about March 28, 2022, during an interview with an investigator from the Department of Consumer Affairs, Division of Investigation, Health Quality Investigation Unit, Rancho Cucamonga Field Office, Respondent made a verbal representation that he is "board-certified" in Cosmetic Surgery by the International Board of Cosmetic Surgery, an organization that is not a member of the American Board of Medical Specialties (ABMS).

72. Respondent committed repeated negligent acts in his care and treatment of Patient D, which included, but was not limited to, the following:

(a) Paragraphs 67 through 71, above, are hereby incorporated by reference and realleged as if fully set forth herein;

(b) Respondent failed to obtain and/or failed to document having obtained adequate informed consent prior to surgical procedure(s); and

(c) Respondent represented that he is board-certified even though he is not board-certified by a member of the ABMS.

THIRD CAUSE FOR DISCIPLINE

(Incompetence)

73. Respondent is further subject to disciplinary action under sections 2227 and 2234, as defined by section 2234, subdivision (d), of the Code, in that he exhibited incompetence and/or a lack of knowledge in his care and treatment of Patient A, as more particularly alleged in paragraphs 31 (b) and 33 (c), above, which are incorporated by reference and realleged as if fully set forth herein.

FOURTH CAUSE FOR DISCIPLINE

(Failure to Maintain Adequate and Accurate Records)

74. Respondent is further subject to disciplinary action under sections 2227 and 2234, as defined by section 2266, of the Code, in that he failed to maintain adequate and accurate records in his care and treatment of Patient A, Patient B, Patient C, and Patient D, as more particularly alleged in paragraphs 9 through 73, above, which are hereby incorporated by reference and realleged as if fully set forth herein.

DISCIPLINARY CONSIDERATIONS

75. To determine the degree of discipline, if any, to be imposed on Respondent Fereydoun Sahafi, M.D., Complainant alleges that on or about December 11, 2007, in a prior disciplinary action entitled *In the Matter of the Accusation Against Fereydoun Sahafi, M.D.* before the Medical Board of California, in Case Number 06-2003-147565, Respondent's license was placed on five years' probation under various terms and conditions, which included an actual suspension of his license for 30 days, completion of an ethics course, appointment of a practice monitor, and the standard terms and conditions of probation, based on Respondent aiding and abetting the unlicensed practice of medicine, failing to maintain liability insurance, failing to maintain adequate and accurate medical records and/or gross negligence in regard to his care and treatment of seven patients. That decision is now final and is incorporated by reference as if fully set forth herein.

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 52188, issued to Respondent Fereydoun Sahafi, M.D.;

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

3. Ordering Respondent Fereydoun Sahafi, M.D., to pay the Board the costs of 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: OCT 11 2022

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