

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

In the Matter of the Accusation Against:

Gagik Khoylyan, M.D.

**Physician's and Surgeon's
Certificate No. A 100597**

Case No.: 800-2022-091226

Respondent.

DECISION

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

This Decision shall become effective at 5:00 p.m. on November 25, 2024.

IT IS SO ORDERED: October 24, 2024.

MEDICAL BOARD OF CALIFORNIA

Michelle A. Bholat, MD

**Michelle A. Bholat, M.D. , Interim Chair
Panel A**

1 ROB BONTA
Attorney General of California
2 JUDITH T. ALVARADO
Supervising Deputy Attorney General
3 CATHERINE B. KIM
Deputy Attorney General
4 State Bar No. 201655
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8 **BEFORE THE**
9 **MEDICAL BOARD OF CALIFORNIA**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. 800-2022-091226

12 **GAGIK KHOYLYAN, M.D.**
13 **5148 Sky Ridge Drive**
Glendale, CA 91214-1025

OAH No. 2024040693

14 **Physician's and Surgeon's Certificate**
15 **No. A 100597,**

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

16 Respondent.

17
18 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
19 entitled proceedings that the following matters are true:

20 **PARTIES**

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

25 2. Respondent Gagik Khoylyan, M.D. (Respondent) is represented in this proceeding by
26 attorney Michael D. Gonzalez, whose address is: 101 N. Brand Boulevard, Suite 1880
27 Glendale, CA 91203.

28 ///

1 3. On or about June 29, 2007, the Board issued Physician's and Surgeon's Certificate
2 No. A 100597 to Respondent. The Physician's and Surgeon's Certificate was in full force and
3 effect at all times relevant to the charges brought in Accusation No. 800-2022-091226, and will
4 expire on December 31, 2024, unless renewed.

5 **JURISDICTION**

6 4. Accusation No. 800-2022-091226 was filed before the Board, and is currently
7 pending against Respondent. The Accusation and all other statutorily required documents were
8 properly served on Respondent on November 27, 2023. Respondent timely filed his Notice of
9 Defense contesting the Accusation.

10 5. A copy of Accusation No. 800-2022-091226 is attached as exhibit A and incorporated
11 herein by reference.

12 **ADVISEMENT AND WAIVERS**

13 6. Respondent has carefully read, fully discussed with counsel, and understands the
14 charges and allegations in Accusation No. 800-2022-091226. Respondent has also carefully read,
15 fully discussed with his counsel, and understands the effects of this Stipulated Settlement and
16 Disciplinary Order.

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

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

25 **CULPABILITY**

26 9. Respondent understands and agrees that the charges and allegations in Accusation
27 No. 800-2022-091226, if proven at a hearing, constitute cause for imposing discipline upon his
28 Physician's and Surgeon's Certificate.

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

11. 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.

CONTINGENCY

12. 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.

13. 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 agreement of the parties in this above-entitled 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 Accusation No. 800-2022-091226 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.

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

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

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 100597 issued to Respondent GAGIK KHOYLYAN, M.D. is revoked. However, the revocation is stayed and Respondent is placed on probation for thirty-five (35) months on the following terms and conditions:

1. 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.

2. MEDICAL RECORD KEEPING COURSE-CONDITION SATISFIED. 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

1 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board
2 or its designee, be accepted towards the fulfillment of this condition if the course would have
3 been approved by the Board or its designee had the course been taken after the effective date of
4 this Decision.

5 Respondent shall submit a certification of successful completion to the Board or its
6 designee not later than 15 calendar days after successfully completing the course, or not later than
7 15 calendar days after the effective date of the Decision, whichever is later.

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

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

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

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

23 6. INVESTIGATION/ENFORCEMENT COST RECOVERY. Respondent is hereby
24 ordered to reimburse the Board its costs of investigation and enforcement, including, but not
25 limited to, expert review, amended accusations, legal reviews, investigation(s), and subpoena
26 enforcement, as applicable, in the amount of \$25,165.80 (twenty-five thousand one hundred
27 sixty-five dollars and eighty cents). Costs shall be payable to the Medical Board of California.
28 Failure to pay such costs shall be considered a violation of probation.

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

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

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

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

12 8. GENERAL PROBATION REQUIREMENTS.

13 Compliance with Probation Unit

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

15 Address Changes

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

21 Place of Practice

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

25 License Renewal

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

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1 Travel or Residence Outside California

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

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

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

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

25 In the event Respondent's period of non-practice while on probation exceeds 18 calendar
26 months, Respondent shall successfully complete the Federation of State Medical Boards's Special
27 Purpose Examination, or, at the Board's discretion, a clinical competence assessment program
28 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; Abstain from the Use of Alcohol and/or Controlled Substances; and Biological Fluid Testing.

11. 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.

12. 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.

13. 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

1 designee and Respondent shall no longer practice medicine. Respondent will no longer be subject
2 to the terms and conditions of probation. If Respondent re-applies for a medical license, the
3 application shall be treated as a petition for reinstatement of a revoked certificate.

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

9 15. FUTURE ADMISSIONS CLAUSE. If Respondent should ever apply or reapply for
10 a new license or certification, or petition for reinstatement of a license, by any other health care
11 licensing action agency in the State of California, all of the charges and allegations contained in
12 Accusation No. 800-2022-091226 shall be deemed to be true, correct, and admitted by
13 Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or
14 restrict license.

15
16 ACCEPTANCE

17 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
18 discussed it with my attorney, Michael D. Gonzalez. I understand the stipulation and the effect it
19 will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement and
20 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the
21 Decision and Order of the Medical Board of California.

22
23 DATED: 9/25/2024

24 GAGIK KHOYLYAN, M.D.
Respondent

25 ///

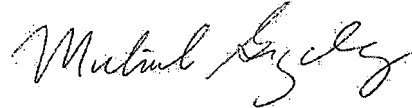
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28 ///

I have read and fully discussed with Respondent Gagik Khoilyan, 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: 09/25/2024



MICHAEL D. GONZALEZ
Attorney for Respondent

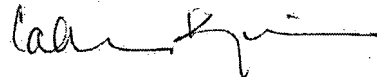
ENDORSEMENT

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

DATED: 09/25/2024

Respectfully submitted,

ROB BONTA
Attorney General of California
JUDITH T. ALVARADO
Supervising Deputy Attorney General



CATHERINE B. KIM
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 800-2022-091226

1 ROB BONTA
Attorney General of California
2 JUDITH T. ALVARADO
Supervising Deputy Attorney General
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8 **BEFORE THE**
9 **MEDICAL BOARD OF CALIFORNIA**
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STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. 800-2022-091226

12 **GAGIK KHOYLYAN, M.D.**
13 **5148 Sky Ridge Drive**
Glendale, CA 91214-1025

A C C U S A T I O N

14 **Physician's and Surgeon's Certificate**
15 **No. A 100597,**

16 Respondent.

17
18 **PARTIES**

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

22 2. On or about June 29, 2007, the Medical Board issued Physician's and Surgeon's
23 Certificate Number A 100597 to Gagik Khoylyan, M.D. (Respondent). The Physician's and
24 Surgeon's Certificate was in full force and effect at all times relevant to the charges brought
25 herein and will expire on December 31, 2024, unless renewed.

26 ///

27 ///

28 ///

JURISDICTION

3. 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.

4. Section 2004 of the Code states:

The board shall have the responsibility for the following:

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

(b) The administration and hearing of disciplinary actions.

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

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

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

(f) Approving undergraduate and graduate medical education programs.

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

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

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

5. 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.

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

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

9 STATUTORY PROVISIONS

10 6. Section 2234 of the Code, states:

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

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

16 (b) Gross negligence.

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

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

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

(d) Incompetence.

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

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

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

7. 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.

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

1 that board's licensing act provides for recovery of costs in an administrative
2 disciplinary proceeding.

3 FACTUAL ALLEGATIONS

4 9. At all relevant times, Respondent was a physician and surgeon with a specialization
5 in pediatrics working as an independent contractor for All For Health, Health For All Community
6 Health Center (All for Health).

7 10. The Board was notified on August 26, 2022 by California Immunization Registry
8 Medical Exemption (CAIR-ME), a branch of the California Department of Public Health
9 (CDPH), that CDPH had revoked five vaccine exemptions issued by Respondent.

10 11. CAIR-ME operates a website for physicians to issue and manage standardized
11 medical exemptions for children in school or child care. In his Medical Board interview on
12 January 6, 2023, Respondent denied submitting the medical exemptions to CAIR-ME for the
13 patients referenced herein and stated he was unaware of the exemptions that had been issued
14 under his name.

15 Patient 1¹

16 12. Patient 1, then a 12-year-old female child, was seen by Respondent and a medical
17 assistant on May 13, 2022 for a well-child visit. On June 20, 2022, Patient 1 was issued Medical
18 Exemption No. 117615 due to physician-documented immunity to varicella secondary to a history
19 of varicella disease. A permanent exemption was written to expire at the end of 12th Grade. The
20 supporting lab documentation done on May 27, 2022 submitted with the exemption indicated that
21 the varicella antibody titer was negative, which meant Patient 1 did not have immunity to
22 varicella.

23 13. Patient 1's medical chart contains no follow up on review of the medical record
24 regarding the negative varicella titer result nor recommendation to the patient's parents to
25 immunize their child to chickenpox as per standard protocol.

26 Patient 2

27 14. Patient 2, then a 12-year-old female child, was seen by Respondent and a medical
28 assistant on February 11, 2022 for a well-child visit. On February 12, 2022, Patient 2 was issued

¹ Patients are referenced by numbers in this Accusation to protect their privacy.

1 Medical Exemption No. 114277 for varicella due to physician-documented immunity secondary
2 to history of varicella disease. A permanent exemption was written to expire at the end of 12th
3 Grade. The supporting lab documentation from the blood drawn on February 16, 2021 did not
4 include the requisite varicella titers to check for varicella immunity.

5 15. Patient 2 had been under Respondent's care since approximately February 11, 2019.
6 Until after the Board notified Respondent of its investigation, Patient 2's medical chart contained
7 no documentation that her varicella status was addressed by Respondent. There is no record of
8 varicella vaccination and no documentation of parental refusal to vaccinate the child for varicella.
9 Later, on November 14, 2022, varicella titers were drawn on Patient 2 and resulted positive,
10 indicating immunity to varicella.

11 **Patient 3**

12 16. Patient 3, then a 15-year-old male child, was seen by Respondent and a medical
13 assistant on February 2, 2022 for an office visit. On February 16, 2022, Patient 3 was issued
14 Medical Exemption No. 113997 due to physician-documented immunity to varicella. A
15 permanent exemption was written to expire at the end of 12th Grade. The exemption was
16 submitted with lab documentation pertaining to a different patient, not Patient 3. Although
17 Patient 3's records contained a February 9, 2022 lab report showing a positive varicella antibody,
18 indicating that he had immunity to varicella, this lab documentation was not submitted with the
19 exemption.

20 **Patient 4**

21 17. Patient 4, then a 13-year-old male child, was issued Medical Exemption No. 113614
22 on January 21, 2022, due to physician-documented immunity to varicella. A permanent
23 exemption was written to expire at the end of 12th Grade. The lab documentation submitted with
24 the exemption was dated June 29, 2021, and contained no varicella antibody titers.

25 18. Patient 4 had been under Respondent's care since approximately April 14, 2020.
26 Prior to November 1, 2022, Patient 4's medical chart contained no documentation that his
27 varicella status was addressed by Respondent. There is no record of a varicella vaccination and
28 no documentation of parental refusal to vaccinate the child for varicella. On November 1, 2022,

1 after the Board had notified Respondent of its investigation, varicella titers were drawn on Patient
2 4 which indicated that the child had immunity to varicella.

3 **Patient 5**

4 19. Patient 5, then an 8-year-old male child, was issued Medical Exemption No. 113538
5 on January 19, 2022, due to physician-documented immunity to varicella. A permanent
6 exemption was written to expire at the end of 6th Grade. The supporting lab documentation that
7 was submitted with the exemption dated January 11, 2022, contained no varicella antibody titers.

8 20. Patient 5 was seen by Respondent and a medical assistant on January 3, 2022 and on
9 May 17, 2022, for office visits. There is no documentation that the patient's varicella status was
10 addressed. There is no record of the administration of the varicella vaccine and no documentation
11 of parental refusal to vaccinate the child for varicella. There are no lab draws for varicella titers
12 to check for immunity either before or after the exemption was issued.

13 **Patient 6**

14 21. Patient 6, then a 6-year-old female child, was issued Medical Exemption No. 105872
15 on July 13, 2021, due to "Other Condition" which stated "[p]er mother child had chicken pox
16 disease." A permanent exemption was written to expire at the end of 6th Grade. There was no
17 supporting lab documentation submitted with the exemption.

18 22. Patient 6 came under Respondent's care on or about December 1, 2020, and was last
19 seen by Respondent and a medical assistant on January 11, 2021, prior to the exemption being
20 issued. Patient 6's records contain no documentation that her varicella status was addressed by
21 Respondent. There is no documentation of parental refusal to vaccinate the child for varicella.
22 Patient 6's records contain no laboratory studies until November 11, 2022, after the Board had
23 notified Respondent of its investigation, at which time varicella titers were drawn indicating her
24 immunity to varicella.

25 **FIRST CAUSE FOR DISCIPLINE**

26 **(Unprofessional Conduct: Repeated Negligent Acts)**

27 23. Respondent Gagik Khoilyan, M.D. is subject to disciplinary action under section
28 2234, subdivision (c), of the Code in that Respondent committed acts and omissions constituting

1 repeated acts of negligence in the care and treatment of Patients 1, 2, 4, 5, and 6. The
2 circumstances are as follows:

3 24. Paragraphs 9 through 22 are incorporated herein by reference as if fully set forth.

4 25. Respondent was negligent in his care and treatment of Patient 1 in that Respondent
5 failed to notify Patient 1's parents that Patient 1 was not immune to varicella and failed to
6 recommend vaccinations after the May 27, 2022 laboratory result indicated Patient 1 was not
7 immune. It is the standard of care to notify patients of non-urgent laboratory results within a
8 reasonable amount of time and to make appropriate recommendations for a vaccination regimen
9 based on the results.

10 26. Respondent was negligent in his care and treatment of Patient 2 in that:

11 A. Respondent was negligent in the management of Patient 2's varicella status. It is
12 the standard of care to review a child patient's vaccination records and depending
13 on shared decision making with parents, (1) to order appropriate immunizations to
14 meet the CDC Advisory Committee on Immunization Practices (ACIP) and the
15 American Academy of Pediatrics (AAP) recommendations (hereinafter
16 "CDC/ACIP/AAP recommendations") for children and adolescents; or (2) to
17 order appropriate titers to verify immunity. Patient 2 had been under
18 Respondent's care since approximately February 11, 2019, and Respondent failed
19 to address Patient 2's varicella status by offering a catch-up routine for varicella
20 vaccines or verify Patient 2's immunity to varicella by checking her varicella
21 titers, until after receiving Board notification of investigation.

22 B. Respondent was negligent in failing to document parental refusal to vaccinate
23 Patient 2 for varicella. It is the standard of care to document parental refusal to
24 vaccinate for recommended routine vaccines in the patient's chart. Respondent
25 failed to document parental refusal for the vaccination of varicella despite
26 Respondent's stated practice to offer the varicella vaccination to all families
27 where the child does not have documentation of the varicella vaccine series or
28 positive titers.

1 27. Respondent was negligent in his care and treatment of Patient 4 in that:

2 A. Respondent was negligent in the management of Patient 4's varicella status. It is
3 the standard of care to review a child patient's vaccine records and depending on
4 shared decision making with parents, (1) to order appropriate immunizations to
5 meet CDC/ACIP/AAP recommendations for children and adolescents; or (2) to
6 order appropriate titers to verify immunity. Patient 4 had been under
7 Respondent's care since approximately April 14, 2020, and Respondent failed to
8 address Patient 4's varicella status by offering catch-up routine varicella vaccines
9 or verify Patient 4's immunity to varicella by checking varicella titers, until after
10 receiving Board notification of investigation.

11 B. Respondent was negligent in failing to document parental refusal to vaccinate
12 Patient 4 for varicella. It is the standard of care to document parental refusal to
13 vaccinate for recommended routine vaccines in the patient's chart. Respondent
14 failed to document parental refusal for the vaccination of varicella despite
15 Respondent's stated practice to offer the varicella vaccination to all families
16 where the child does not have documentation of the varicella vaccine series or
17 positive titers.

18 28. Respondent was negligent in his care and treatment of Patient 5 in that:

19 A. Respondent was negligent in the management of varicella status in Patient 5. It is
20 the standard of care to review a child patient's vaccine records and depending on
21 shared decision making with parents, (1) to order appropriate immunizations to
22 meet CDC/ACIP/AAP recommendations for children and adolescents; or (2) to
23 order appropriate titers to verify immunity. Despite documented office visits with
24 Patient 5 on January 3, 2022 and on May 17, 2022, Respondent failed to address
25 Patient 5's varicella status by offering catch-up routine varicella vaccines or
26 verify Patient 5's immunity to varicella by checking his varicella titers.

27 B. Respondent was negligent in failing to document parental refusal to vaccinate
28 Patient 5 for varicella. It is the standard of care to document parental refusal to

1 vaccinate for recommended routine vaccines in the chart. Respondent failed to
2 document parental refusal for the vaccination of varicella despite Respondent's
3 stated practice to offer the varicella vaccination to all families where the child
4 does not have documentation of the Varicella vaccine series or positive titers.

5 29. Respondent was negligent in his care and treatment of Patient 6 when:

6 A. Respondent was negligent in the management of varicella status in Patient 6. It is
7 the standard of care to review a child patient's vaccine records and depending on
8 shared decision making with parents, (1) to order appropriate immunizations to
9 meet CDC/ACIP/AAP recommendations for children and adolescents; or (2) to
10 order appropriate titers to verify immunity. Despite documented office visits with
11 Patient 6 on or about December 1, 2020 and January 11, 2021, Respondent failed
12 to address Patient 6's varicella status by offering catch-up routine varicella
13 vaccines or verify Patient 6's immunity to varicella by checking her varicella
14 titers.

15 B. Respondent was negligent in failing to document parental refusal to vaccinate
16 Patient 6 for varicella. It is the standard of care to document parental refusal to
17 vaccinate for recommended routine vaccines in the chart. Respondent failed to
18 document parental refusal for the vaccination of varicella despite Respondent's
19 apparent discussion with Patient 6's parents that elicited the mother's statement
20 that the child already had chicken pox disease, or confirm immunity by drawing
21 laboratory testing for varicella titers.

22 **SECOND CAUSE FOR DISCIPLINE**

23 **(Unprofessional Conduct: Failure to Maintain Adequate and Accurate Records)**

24 30. Respondent Gagik Khoilyan, M.D. is subject to disciplinary action under sections
25 2234 and 2266 of the Code in that Respondent failed to maintain adequate and accurate records of
26 his care and treatment of Patients 1, 2, 3, 4, 5, and 6. The circumstances are as follows:

27 31. Paragraphs 9 through 22 are incorporated herein by reference as if fully set forth.

28 ///

1 32. The facts and allegations set forth in the First Cause for Discipline are incorporated
2 herein by reference as if fully set forth.

3 33. Respondent is further subject to disciplinary action under sections 2234 and 2266 of
4 the Code in that Respondent failed to maintain adequate and accurate records of his care and
5 treatment of Patient 3.

6 34. As noted above, on February 16, 2022, Patient 3 was issued Medical Exemption No.
7 113997 due to physician-documented immunity to varicella. A permanent exemption was written
8 to expire at the end of 12th Grade. The exemption was submitted with lab documentation
9 pertaining to a different patient, not Patient 3. Patient 3's medical records contained a February 9,
10 2022 lab report revealing a positive titer for varicella. However, Patient 3's documentation was
11 not submitted with the exemption request and CAIR-ME denied the exemption.

12 **PRAYER**

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

15 1. Revoking or suspending Physician's and Surgeon's Certificate Number A 100597,
16 issued to Respondent Gagik Khoilyan, M.D.;

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

19 3. Ordering Respondent Gagik Khoilyan, M.D., to pay the Board the costs of the
20 investigation and enforcement of this case, and if placed on probation, the costs of probation
21 monitoring; and

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

23
24 DATED: NOV 27 2023



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

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