

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

In the Matter of the Accusation Against:

Raul Andres Vernal, M.D.

**Physician's and Surgeon's
Certificate No. A 25770**

Respondent.

Case No. 800-2023-098526

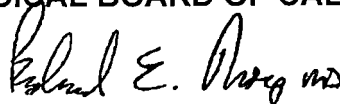
DECISION

The attached Proposed Decision 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 March 24, 2025.

IT IS SO ORDERED February 20, 2025.

MEDICAL BOARD OF CALIFORNIA



**Richard E. Thorp, M.D., Chair
Panel B**

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Respondent.

Agency Case No. 800-2023-098526

OAH No. 2024110832

PROPOSED DECISION

Administrative Law Judge Holly M. Baldwin, State of California, Office of Administrative Hearings, heard this matter on January 10, 2025, by videoconference and telephone.

Deputy Attorney General Caitlin Ross represented complainant Reji Varghese, Executive Director of the Medical Board of California, Department of Consumer Affairs.

Respondent Raul Andres Vernal, M.D., represented himself.

The record closed and the matter was submitted for decision on January 10, 2025.

FACTUAL FINDINGS

1. The Medical Board of California (Board) issued Physician's and Surgeon's Certificate Number A 25770 to respondent Raul Andres Vernal, M.D., on February 19, 1974. Respondent is a neurosurgeon. There is no prior discipline against his certificate.

2. On July 25, 2024, an Interim Suspension Order was issued after an administrative hearing pursuant to Government Code section 11529, suspending respondent from practicing medicine on a temporary basis, pending the outcome of disciplinary proceedings. The Interim Suspension Order remains in effect.

3. Respondent's certificate expired on July 31, 2024, and it has not been renewed.

4. On August 1, 2024, complainant Reji Varghese, in his official capacity as Executive Director of the Board, issued an Accusation against respondent. Complainant alleges that respondent is unable to practice medicine safely due to his physical conditions of significant vision and hearing impairments, and seeks to revoke respondent's certificate.¹ Respondent filed a notice of defense; this hearing followed.

Board Investigation

5. In June 2023, the Board received an anonymous complaint raising concerns that respondent may be cognitively impaired. The Board conducted an

¹ The Accusation states that complainant seeks to recover the Board's costs of investigation and enforcement. However, complainant's counsel confirmed at hearing that the Board is not pursuing a costs claim in this matter.

investigation. Two investigators from the Division of Investigation for the Department of Consumer Affairs contacted respondent, as described below.

6. Investigator Daniel Schuman testified credibly at hearing. Schuman spoke with respondent in late August 2023. Respondent's speech was labored and slow, with respondent taking a significant amount of time to respond during conversation.

7. On March 1, 2024, Schuman called respondent by telephone to schedule an interview. Respondent said he needed to check his schedule and would call Schuman back the following Tuesday (March 5). On March 5, 2024, Schuman called respondent and respondent was very surprised, saying that he had been expecting Schuman to come to his office. Schuman reminded respondent that he was simply calling to schedule an interview. Respondent seemed confused and asked about the purpose of the interview, which Schuman had previously explained to him.

8. Investigator Michelle Metcalf also testified credibly at hearing. In the late morning on March 4, 2024, Metcalf went to respondent's office but found that it was closed. Metcalf then went to respondent's home and spoke with respondent at the front door. Metcalf identified herself and provided her business card and identification. Respondent explained that his office hours were in the late afternoon and evening. Metcalf stated that during this conversation, respondent's dog ran outside, and she asked respondent to come outside and close the door so the dog would not get away, or alternatively asked if she could come inside. Respondent appeared not to hear or not to understand Metcalf's requests. Metcalf told respondent she preferred to speak with his attorney, and it took respondent some time to remember the attorney's name. (Metcalf later learned that the attorney no longer represented respondent.)

Metcalf was attempting to obtain copies of patient medical records as part of her investigation. During this conversation, respondent stated his records were at his office and that Metcalf could go to his office and make copies, but that he had a scheduled medical appointment that day and could not go to his office immediately.

9. On March 5, 2024, Metcalf made an unannounced visit to respondent's office during his business hours, in an attempt to obtain copies of medical records. Respondent did not appear to recognize Metcalf despite speaking with her the day before. He asked for identification and she again showed her state identification. Respondent stated that Metcalf had long hair when she spoke to him the day before; she did not (she has an extremely short hair cut). Respondent was speaking to Metcalf through a clear plastic partition at the office reception area, and he attempted to grab Metcalf's identification through the barrier instead of through the pass-through area at the bottom of the partition. Metcalf struggled to communicate effectively with respondent while discussing her request for patient medical records. She had to repeat herself multiple times, and was not sure whether respondent was having trouble hearing her or processing her speech. This problem persisted even when Metcalf came around the partition to speak with respondent through an open door without a barrier, and respondent still had difficulty understanding and answering her questions.

10. Metcalf obtained a CURES (Controlled Substance Utilization Review and Evaluation System) report that showed the past year of respondent's prescribing of controlled substances (May 2023 to May 2024). The CURES report showed that during that year, respondent had prescribed controlled substances to 22 patients, including opioids, benzodiazepines, amphetamines, barbiturates, and muscle relaxants.

Neuropsychological and Medical Examinations of Respondent

11. Respondent met with two evaluators at the request of the Board, as described below. Because of respondent's vision and hearing impairments, neither examiner was able to evaluate respondent's cognitive ability fully.

DR. MOGANNAM

12. Rami S. Mogannam, Ph.D., testified credibly at hearing and provided a written report dated May 16, 2024. Dr. Mogannam is a clinical psychologist who works in private practice and specializes in forensic evaluations. He has performed about 2,500 neuropsychological evaluations.

13. The Board retained Dr. Mogannam to conduct a neuropsychological evaluation of respondent. Dr. Mogannam met with respondent on May 9, 2024. He noted that respondent spoke at a slow rate, low volume, and odd tempo, and that there was a notable long response latency before he responded to questions.

Although respondent was friendly and forthcoming, Dr. Mogannam was unable to complete the evaluation due to respondent's vision and hearing impairments. He attempted to administer psychological tests that require the subject to see and respond to visual stimuli, and to hear and answer spoken questions, but could not conduct the evaluation using conventional protocols. Respondent had problems seeing colors and visual stimuli in the testing. Moreover, respondent had problems hearing. Dr. Mogannam had to yell in order for respondent to hear him, and had to repeat one phrase more than 20 times over a period of minutes before respondent could hear it and repeat it back. In Dr. Mogannam's opinion, if he continued with the neuropsychological evaluation, the test results would not be valid. He did not make any recommendations because he could not complete respondent's evaluation.

DR. HIXSON

14. John David Hixson, M.D., testified credibly at hearing and wrote a report dated May 21, 2024. Dr. Hixson is a physician who is a professor of clinical neurology at the University of California, San Francisco (UCSF), and maintains a neurology practice at UCSF and the San Francisco Veterans Administration Medical Center.

15. Dr. Hixson performed a medical evaluation of respondent on May 15, 2024. Dr. Hixson interviewed respondent, took a professional and medical history, and conducted a neurologic examination. Respondent reported vision conditions of bilateral glaucoma (right eye worse than left), bilateral cataracts (planning for a repeat cataract surgery on right eye), and macular degeneration in the left eye. Respondent was no longer driving due to his vision issues. He reported issues watching television due to his vision, having to rely on the audio for content.

16. In discussing his medical practice, respondent stated he had not performed surgery since 2011. He had maintained an outpatient practice at his office but recently closed the office after the lease ended. Respondent continued to treat some existing patients, stating his caseload at that time was approximately 35 to 40 patients, mostly former spinal surgery patients with new or ongoing symptoms. Respondent's treatment of these patients included prescribing pain medications such as opiates. Respondent had no plan to return to surgical practice, but he wanted to continue seeing existing patients and performing workers' compensation evaluations and second opinions.

17. Dr. Hixson administered a cognitive screening assessment, on which respondent scored in the normal range, although he completed many of the tasks

slowly, did not accurately complete two tasks that were related to visuospatial and executive functioning, and was unable to complete one task due to vision limitations.

18. An examination of respondent's cranial nerves revealed both vision and hearing impairments. Respondent had visual challenges throughout the testing, with abnormal visual field results, and both central and scattered peripheral vision loss, with worse acuity in the left eye. At hearing, Dr. Hixson explained that this testing is part of a neurological screening examination, but is not a comprehensive vision test. Respondent also had decreased hearing bilaterally, with worse hearing ability in the left ear. Dr. Hixson conducted a screening measure only, not a comprehensive audiological examination.

19. Dr. Hixson concluded that he could not identify any definitive neurologic diagnosis that would impact respondent's ability to practice medicine. However, Dr. Hixson opined that a full neuropsychological assessment should be completed because respondent missed points on the cognitive screening in the visuospatial and executive category. (As described in Factual Finding 13, Dr. Mogannam attempted to conduct just such a neuropsychological evaluation, but was unable to complete it.)

20. Dr. Hixson opined that respondent's significant vision and hearing impairments affected his ability to practice medicine safely without restrictions. Dr. Hixson concluded that respondent should be precluded from performing surgery, and any type of medical practice that relies on visual acuity or detailed hearing, including review of imaging and potentially other forms of medical records.

21. Dr. Hixson noted that his assessment did not address respondent's professional competency and clinical decision-making, or his organizational skills

pertaining to running an outpatient medical practice, which were beyond the scope of the evaluation he was retained to perform.

Additional Evidence

22. Respondent is 86 years old. At hearing in this matter, respondent emphasized his qualifications, training, and experience.

23. At the interim suspension hearing in July 2024, respondent reported that he closed his medical office in May 2024, but he was still treating 10 to 15 existing patients by telephone, including prescribing medications.

24. At this hearing, respondent described himself as "effectively retired." Respondent confirmed that he had not prescribed medications or otherwise practiced medicine since the Interim Suspension Order was issued on July 25, 2024. He did not renew his certificate when it expired on July 31, 2024.

25. At the interim suspension hearing and the hearing in this matter, respondent stated that he had been prescribing medications to longstanding patients with chronic, intractable pain, such as patients with failed spinal surgeries. Respondent stated that he never prescribed without taking a history and knowing the patient. However, respondent did not describe any examination, contemporaneous evaluation or observation of these patients' pain or other symptoms, or other steps needed to ensure safe prescribing of controlled substances (such as laboratory testing).

26. Respondent emphasized that he had not received any complaints from patients. He characterized this proceeding as "grossly unfair" and "one-sided," and seeking to penalize him for prescribing medications to patients with intractable

medical problems. Respondent contends he made appropriate concessions for his visual and auditory impairments in his medical practice.

LEGAL CONCLUSIONS

1. It is complainant's burden to establish the truth of the allegations by "clear and convincing evidence to a reasonable certainty," and that the allegations constitute cause for discipline of respondent's certificate. (*Ettinger v. Board of Medical Quality Assurance* (1982) 135 Cal.App.3d 853, 856.)

2. The expiration of respondent's certificate does not deprive the board of jurisdiction to proceed with this disciplinary action.

3. The Board may take disciplinary action to revoke or suspend a medical license if respondent's ability to practice medicine safely is impaired due to his physical illness affecting competency. (Bus. & Prof. Code, § 822; see also *id.*, § 2227 [setting forth range of disciplinary actions Board may take].) The evidence established that respondent's physical conditions of significant visual and hearing impairments impair his ability to practice medicine safely. (Factual Findings 11-21.) Cause exists for action under Business and Professions Code section 822.

4. The purpose of this proceeding is not to punish respondent but to protect the public, which is the Board's paramount concern in exercising its disciplinary functions. (Bus. & Prof. Code, § 2229, subd. (a).)

5. Respondent reports that he is effectively retired, and his patients have not complained. However, this does not adequately protect the public. Before his certificate was suspended, respondent was prescribing controlled substances that are

by definition subject to abuse or dependence, to multiple patients, without conducting contemporaneous examinations or taking other necessary steps to ensure safe prescribing. (Factual Findings 10, 16, 23, 25.) Respondent was practicing in this manner at a time when his vision and hearing were so impaired that a full neuropsychological evaluation could not be completed. (Factual Finding 13.) The observations of the Board's investigators and their difficulties communicating with respondent (Factual Findings 6-9), underscore the concerns of the medical and neuropsychological examiners. The evidence established that revocation of respondent's license is required to protect the public.

ORDER

Physician's and Surgeon's Certificate Number A 25770 issued to respondent Raul Andres Vernal, M.D., is revoked.

DATE: **02/04/2025**



HOLLY M. BALDWIN

Administrative Law Judge

Office of Administrative Hearings