

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

In the Matter of the Amended Accusation)

Against:)

Hooshang Tabibian, M.D.)

Case No. 800-2015-016954

**Physician's and Surgeon's)
Certificate No. A 40845)**

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 December 13, 2019.

IT IS SO ORDERED: November 13, 2019.

MEDICAL BOARD OF CALIFORNIA



**Kristina D. Lawson, J.D., Chair
Panel B**

1 XAVIER BECERRA
Attorney General of California
2 E. A. JONES III
Supervising Deputy Attorney General
3 WENDY WIDLUS
Deputy Attorney General
4 State Bar No. 82958
California Department of Justice
5 300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
6 Telephone: (213) 897-2867
Facsimile: (213) 897-9395
7 E-mail: Wendy.Widlus@doj.ca.gov
Attorneys for Complainant

8
9 **BEFORE THE**
MEDICAL BOARD OF CALIFORNIA
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12
13 In the Matter of the Amended Accusation
Against:

14 **HOOSHANG TABIBIAN, M.D.**
15 **4347 Slauson Avenue**
16 **Maywood, CA 90270**

17 **Physician's and Surgeon's Certificate No. A**
18 **40845,**

19 **Respondent.**

Case No. 800-2015-016954

OAH No. 2018120337

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

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

23 **PARTIES**

24 1. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical Board
25 of California (Board). She brought this action solely in her official capacity and is represented in
26 this matter by Xavier Becerra, Attorney General of the State of California, by Wendy Widlus,
27 Deputy Attorney General.

28 2. Respondent Hooshang Tabibian, M.D. (Respondent) is represented in this proceeding

1 by attorney Peter R. Osinoff, whose address is: Bonne Bridges Mueller O'Keefe & Nichols - Los
2 Angeles, 355 South Grand Avenue, Suite 1750, Los Angeles, California 90071.

3 3. On or about May 21, 1984, the Board issued Physician's and Surgeon's Certificate
4 No. A 40845 to Hooshang Tabibian, M.D. (Respondent). The Physician's and Surgeon's
5 Certificate was in full force and effect at all times relevant to the charges brought in Amended
6 Accusation No. 800-2015-016954, and will expire on September 30, 2019, unless renewed.

7 JURISDICTION

8 4. Amended Accusation No. 800-2015-016954 was filed before the Board, and is
9 currently pending against Respondent. The Amended Accusation and all other statutorily
10 required documents were properly served on Respondent on October 4, 2018. Respondent timely
11 filed his Notice of Defense contesting the Amended Accusation.

12 5. A copy of Amended Accusation No. 800-2015-016954 is attached as exhibit A and
13 incorporated herein by reference.

14 ADVISEMENT AND WAIVERS

15 6. Respondent has carefully read, fully discussed with counsel, and understands the
16 charges and allegations in Amended Accusation No. 800-2015-016954. Respondent has also
17 carefully read, fully discussed with counsel, and understands the effects of this Stipulated
18 Settlement and Disciplinary Order.

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

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

28 //

1 **CULPABILITY**

2 9. Respondent does not contest that, at an administrative hearing, Complainant could
3 establish a prima facie case with respect to the charges and allegations contained in Accusation
4 No. 800-2015-016954, and agrees that he has thereby subjected his Physician's and Surgeon's
5 Certificate No. G 69368 to disciplinary action

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

9 **CONTINGENCY**

10 11. This stipulation shall be subject to approval by the Medical Board of California.
11 Respondent understands and agrees that counsel for Complainant and the staff of the Medical
12 Board of California may communicate directly with the Board regarding this stipulation and
13 settlement, without notice to or participation by Respondent or his counsel. By signing the
14 stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek
15 to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails
16 to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary
17 Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal
18 action between the parties, and the Board shall not be disqualified from further action by having
19 considered this matter.

20 12. The parties understand and agree that Portable Document Format (PDF) and facsimile
21 copies of this Stipulated Settlement and Disciplinary Order shall have the same force and effect as
22 the originals.

23 13. In consideration of the foregoing admissions and stipulations, the parties agree that
24 the Board may, without further notice or formal proceeding, issue and enter the following
25 Disciplinary Order:

26 **DISCIPLINARY ORDER**

27 **IT IS HEREBY ORDERED** that Physician's and Surgeon's Certificate No. A 40845
28 issued to Respondent Hooshang Tabibian, M.D. is revoked. However, the revocation is stayed

1 and Respondent is placed on probation for five (5) years on the following terms and conditions.

2 1. COMMUNITY SERVICE - FREE SERVICES. Within 60 calendar days of the
3 effective date of this Decision, Respondent shall submit to the Board or its designee for prior
4 approval a community service plan in which Respondent shall, within the first 2 years of
5 probation, provide 100 hours of free services (e.g., medical or nonmedical) to a community or
6 non-profit organization. If the term of probation is designated for 2 years or less, the community
7 service hours must be completed not later than 6 months prior to the completion of probation.

8 Prior to engaging in any community service, Respondent shall provide a true copy of the
9 Decision(s) to the chief of staff, director, office manager, program manager, officer, or the chief
10 executive officer at every community or non-profit organization where Respondent provides
11 community service and shall submit proof of compliance to the Board or its designee within 15
12 calendar days. This condition shall also apply to any change(s) in community service.

13 Community service performed prior to the effective date of the Decision shall not be
14 accepted in fulfillment of this condition.

15 2. PROFESSIONALISM PROGRAM (ETHICS COURSE). Within 60 calendar days of
16 the effective date of this Decision, Respondent shall enroll in a professionalism program, that
17 meets the requirements of Title 16, California Code of Regulations (CCR) section 1358.1.
18 Respondent shall participate in and successfully complete that program. Respondent shall
19 provide any information and documents that the program may deem pertinent. Respondent shall
20 successfully complete the classroom component of the program not later than six (6) months after
21 Respondent's initial enrollment, and the longitudinal component of the program not later than the
22 time specified by the program, but no later than one (1) year after attending the classroom
23 component. The professionalism program shall be at Respondent's expense and shall be in
24 addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

25 A professionalism program taken after the acts that gave rise to the charges in the Amended
26 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board
27 or its designee, be accepted towards the fulfillment of this condition if the program would have
28 been approved by the Board or its designee had the program been taken after the effective date of

1 this Decision.

2 Respondent shall submit a certification of successful completion to the Board or its
3 designee not later than 15 calendar days after successfully completing the program or not later
4 than 15 calendar days after the effective date of the Decision, whichever is later.

5 3. PROHIBITED PRACTICE. During probation, Respondent is prohibited from having
6 any affiliation with or ownership of a medical spa or laser clinic or any similar type of facility.
7 After the effective date of this Decision, all patients being treated by the Respondent shall be
8 notified that the Respondent is prohibited from having any affiliation with or ownership of a
9 medical spa or laser clinic or any similar type of facility. Any new patients must be provided this
10 notification at the time of their initial appointment.

11 Respondent shall maintain a log of all patients to whom the required oral notification was
12 made. The log shall contain the: 1) patient's name, address and phone number; 2) patient's
13 medical record number, if available; 3) the full name of the person making the notification; 4) the
14 date the notification was made; and 5) a description of the notification given. Respondent shall
15 keep this log in a separate file or ledger, in chronological order, shall make the log available for
16 immediate inspection and copying on the premises at all times during business hours by the Board
17 or its designee, and shall retain the log for the entire term of probation.

18 4. NOTIFICATION. Within seven (7) days of the effective date of this Decision, the
19 Respondent shall provide a true copy of this Decision and Amended Accusation to the Chief of
20 Staff or the Chief Executive Officer at every hospital where privileges or membership are
21 extended to Respondent, at any other facility where Respondent engages in the practice of
22 medicine, including all physician and locum tenens registries or other similar agencies, and to the
23 Chief Executive Officer at every insurance carrier which extends malpractice insurance coverage
24 to Respondent. Respondent shall submit proof of compliance to the Board or its designee within
25 15 calendar days.

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

27 5. OBEY ALL LAWS. Respondent shall obey all federal, state and local laws, all rules
28 governing the practice of medicine in California and remain in full compliance with any court

1 ordered criminal probation, payments, and other orders.

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

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

7 7. GENERAL PROBATION REQUIREMENTS.

8 Compliance with Probation Unit

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

10 Address Changes

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

16 Place of Practice

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

20 License Renewal

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

23 Travel or Residence Outside California

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

27 In the event Respondent should leave the State of California to reside or to practice,
28 Respondent shall notify the Board or its designee in writing 30 calendar days prior to the dates of

1 departure and return.

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

5 9. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or
6 its designee in writing within 15 calendar days of any periods of non-practice lasting more than
7 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is
8 defined as any period of time Respondent is not practicing medicine as defined in Business and
9 Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct
10 patient care, clinical activity or teaching, or other activity as approved by the Board. If
11 Respondent resides in California and is considered to be in non-practice, Respondent shall
12 comply with all terms and conditions of probation. All time spent in an intensive training
13 program which has been approved by the Board or its designee shall not be considered non-
14 practice and does not relieve Respondent from complying with all the terms and conditions of
15 probation. Practicing medicine in another state of the United States or Federal jurisdiction while
16 on probation with the medical licensing authority of that state or jurisdiction shall not be
17 considered non-practice. A Board-ordered suspension of practice shall not be considered as a
18 period of non-practice.

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

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

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

26 Periods of non-practice for a Respondent residing outside of California will relieve
27 Respondent of the responsibility to comply with the probationary terms and conditions with the
28 exception of this condition and the following terms and conditions of probation: Obey All Laws;

1 General Probation Requirements; Quarterly Declarations; Abstain from the Use of Alcohol and/or
2 Controlled Substances; and Biological Fluid Testing.

3 10. COMPLETION OF PROBATION. Respondent shall comply with all financial
4 obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the
5 completion of probation. Upon successful completion of probation, Respondent's certificate shall
6 be fully restored.

7 11. VIOLATION OF PROBATION. Failure to fully comply with any term or condition
8 of probation is a violation of probation. If Respondent violates probation in any respect, the
9 Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and
10 carry out the disciplinary order that was stayed. If an Amended Accusation, or Petition to Revoke
11 Probation, or an Interim Suspension Order is filed against Respondent during probation, the
12 Board shall have continuing jurisdiction until the matter is final, and the period of probation shall
13 be extended until the matter is final.

14 12. LICENSE SURRENDER. Following the effective date of this Decision, if
15 Respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy
16 the terms and conditions of probation, Respondent may request to surrender his or her license.
17 The Board reserves the right to evaluate Respondent's request and to exercise its discretion in
18 determining whether or not to grant the request, or to take any other action deemed appropriate
19 and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent
20 shall within 15 calendar days deliver Respondent's wallet and wall certificate to the Board or its
21 designee and Respondent shall no longer practice medicine. Respondent will no longer be subject
22 to the terms and conditions of probation. If Respondent re-applies for a medical license, the
23 application shall be treated as a petition for reinstatement of a revoked certificate.

24 13. PROBATION MONITORING COSTS. Respondent shall pay the costs associated
25 with probation monitoring each and every year of probation, as designated by the Board, which
26 may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of
27 California and delivered to the Board or its designee no later than January 31 of each calendar
28 year.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

14. SUPERVISION OF PHYSICIAN ASSISTANTS AND ADVANCED PRACTICE

NURSES During probation, respondent is prohibited from supervising physician assistants and advanced practice nurses.

//

//

//

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ACCEPTANCE

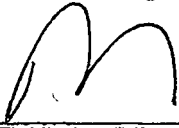
I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Peter R. Osinoff. I understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement and Disciplinary Order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

DATED: 10-15-19


HOOSHANG TABIBIAN, M.D.
Respondent

I have read and fully discussed with Respondent Hooshang Tabibian, 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: 10/15/19


PETER R. OSINOFF
Attorney for Respondent

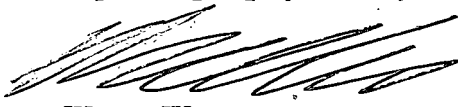
ENDORSEMENT

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

Dated: 10/18/19

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
E. A. JONES III
Supervising Deputy Attorney General


WENDY WIDLUS
Deputy Attorney General
Attorneys for Complainant

LA2018502051
Stipulated settlement agreement revised Tabibian.docx

Exhibit A

Amended Accusation No. 800-2015-016954

1 XAVIER BECERRA
Attorney General of California
2 E. A. JONES III
Supervising Deputy Attorney General
3 WENDY WIDLUS
Deputy Attorney General
4 State Bar No. 82958
California Department of Justice
5 300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
6 Telephone: (213) 897-2867
Facsimile: (213) 897-9395
7 E-mail: Wendy.Widlus@doj.ca.gov
Attorneys for Complainant
8

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO OCTOBER 4 2018
BY JIMMY WAGNER ANALYST

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

12 In the Matter of the First Amended Accusation
Against:

Case No. 800-2015-016954

13 **Hooshang Tabibian, M.D.**
14 **4347 Slauson Avenue**
15 **Maywood, CA 90270-2837**

FIRST AMENDED ACCUSATION

16 **Physician's and Surgeon's Certificate**
No. A 40845,

17 Respondent.
18

19 Complainant alleges:

20 **PARTIES**

21 1. Kimberly Kirchmeyer (Complainant) brings this First Amended Accusation solely in
22 her official capacity as the Executive Director of the Medical Board of California, Department of
23 Consumer Affairs (Board).

24 2. On or about May 21, 1984, the Medical Board issued Physician's and Surgeon's
25 Certificate Number A 40845 to Hooshang Tabibian, M.D. (Respondent). The Physician's and
26 Surgeon's Certificate was in full force and effect at all times relevant to the charges brought
27 herein and will expire on September 30, 2019, unless renewed. On January 26, 2017, an Order
28 was issued in *The People of the State of California v. Hooshang Tabibian, M.D.*, Los Angeles

1 County Superior Court, Case No. 6GD02106 by Sherilyn Garnett, Judge Presiding. Under the
2 Order, as a condition of bail, Respondent's license is restricted, effective January 26, 2017, as
3 follows:

4 a. Until the completion of the criminal proceeding, Respondent is prohibited from acting
5 as a Medical Director of any practice other than his existing practice at 11611 San Vicente
6 Boulevard, Brentwood, California, 90049.

7 b. Respondent is prohibited from delegating services relating to his patients to any
8 unlicensed individual.

9 c. Respondent is required to report in writing all locations in which he practices
10 medicine to the Medical Board of California within seven (7) days of the signing of this Order.

11 d. Respondent is required to report in writing any changes to the locations in which he
12 practices medicine to the Medical Board of California within 72 hours of a location change.

13 JURISDICTION

14 3. This First Amended Accusation is brought before the Board under the authority of the
15 following laws. All section references are to the Business and Professions Code unless otherwise
16 indicated.

17 4. Section 2229 of the Code states:

18 "Protection of the public shall be the highest priority for the Division of Medical Quality,¹
19 the California Board of Podiatric Medicine, and administrative law judges of the Medical Quality
20 Hearing Panel in exercising their disciplinary authority.

21 "(b) In exercising his or her disciplinary authority an administrative law judge of the
22 Medical Quality Hearing Panel, the division, or the California Board of Podiatric Medicine, shall,
23 wherever possible, take action that is calculated to aid in the rehabilitation of the licensee, or
24 where, due to a lack of continuing education or other reasons, restriction on scope of practice is
25 indicated, to order restrictions as are indicated by the evidence.

26 "(c) It is the intent of the Legislature that the division, the California Board of Podiatric
27

28 ¹ Pursuant to Business and Professions Code section 2002, references to the "Division of
Medical Quality" will be deemed to refer to the Board.

1 Medicine, and the enforcement program shall seek out those licensees who have demonstrated
2 deficiencies in competency and then take those actions as are indicated, with priority given to
3 those measures, including further education, restrictions from practice, or other means, that will
4 remove those deficiencies. Where rehabilitation and protection are inconsistent, protection shall
5 be paramount.”

6 5. Section 2227 of the Code states:

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

11 “(1) Have his or her license revoked upon order of the board.

12 “(2) Have his or her right to practice suspended for a period not to exceed one year upon
13 order of the board.

14 “(3) Be placed on probation and be required to pay the costs of probation monitoring upon
15 order of the board.

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

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

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

26 6. Section 2234 of the Code states:

27 “The board shall take action against any licensee who is charged with unprofessional
28 conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not

1 limited to, the following:

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

4 “(b) Gross negligence.

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

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

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

15 “(d) Incompetence.

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

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

19 “(g) The practice of medicine from this state into another state or country without meeting
20 the legal requirements of that state or country for the practice of medicine. Section 2314 shall not
21 apply to this subdivision. This subdivision shall become operative upon the implementation of the
22 proposed registration program described in Section 2052.5.

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

26 7. Section 2051 of the Code states:

27 “The physician's and surgeon's certificate authorizes the holder to use drugs or devices in
28 or upon human beings and to sever or penetrate the tissues of human beings and to use any and all

1 other methods in the treatment of diseases, injuries, deformities, and other physical and mental
2 conditions.”

3 8. Section 2052 of the Code states:

4 “(a) Notwithstanding Section 146, any person who practices or attempts to practice, or who
5 advertises or holds himself or herself out as practicing, any system or mode of treating the sick or
6 afflicted in this state, or who diagnoses, treats, operates for, or prescribes for any ailment,
7 blemish, deformity, disease, disfigurement, disorder, injury, or other physical or mental condition
8 of any person, without having at the time of so doing a valid, unrevoked, or unsuspended
9 certificate as provided in this chapter or without being authorized to perform the act pursuant to a
10 certificate obtained in accordance with some other provision of law is guilty of a public offense,
11 punishable by a fine not exceeding ten thousand dollars (\$10,000), by imprisonment pursuant to
12 subdivision (h) of Section 1170 of the Penal Code, by imprisonment in a county jail not
13 exceeding one year, or by both the fine and either imprisonment.

14 “(b) Any person who conspires with or aids or abets another to commit any act described in
15 subdivision (a) is guilty of a public offense, subject to the punishment described in that
16 subdivision.

17 “(c) The remedy provided in this section shall not preclude any other remedy provided by
18 law.”

19 9. Section 2264 of the Code states:

20 “The employing, directly or indirectly, the aiding, or the abetting of any unlicensed person
21 or any suspended, revoked, or unlicensed practitioner to engage in the practice of medicine or any
22 other mode of treating the sick or afflicted which requires a license to practice constitutes
23 unprofessional conduct.”

24 **Factual Assertions**

25 10. On or about November 3, 2015, the Medical Board of California received a complaint
26 which alleged that on or about August 5, 2015, during a single visit an unlicensed person, A,²

27
28 ² The name of the patient and any witnesses are anonymized to protect privacy rights. The names will be
provided to Respondent upon written request for discovery.

1 performed laser hair removal on patient 1 at the *Smooth Skin Laser Clinic* located at 1016 E.
2 Broadway, Suite 107, Glendale, CA. During the investigation the investigator determined that A
3 had applied for a business license for *Smooth Skin Laser Clinic*, was the guarantor on the *Smooth*
4 *Skin Laser Clinic* commercial lease agreement, and was the registered owner of *Smooth Skin*
5 *Laser Clinic*.

6 11. The *Smooth Skin Laser Clinic* website listed medical treatments available at the clinic
7 which included filler injections, laser hair removal, laser acne treatment, acne scar removal, laser
8 scar and acne scar removal, laser tattoo removal, skin rejuvenation laser anti-aging, laser
9 pigmented skin, laser vascular treatment, vascular treatment, sclerotherapy injection for varicose
10 veins, and laser dermatitis treatments. Testimonials on the website stated Respondent is a doctor
11 at the facility and that A performed the medical treatments.

12 12. On or about June 8, 2016, investigators interviewed Respondent regarding the *Smooth*
13 *Skin Laser Clinic* complaint. During the interview Respondent stated he was not the owner of the
14 *Smooth Skin Laser Clinic*. The investigators showed Respondent a picture of A wearing a white
15 smock obtained from the *Smooth Skin Laser Clinic* website. After viewing the picture
16 Respondent acknowledged that he worked for A, the owner and manager of the clinic.

17 13. Respondent stated he had been A's employee for approximately one year and A paid
18 him \$1000 a month. Respondent stated that all patient medical charts belonged to A and the
19 clinic, that Respondent did not have the keys to the clinic or access to any of the bank accounts.

20 14. Respondent confirmed A is not a doctor, physician assistant, or nurse practitioner.
21 Respondent stated he never saw or asked to see any credentials or licenses for A. Respondent
22 stated he believed A had a laser technician license and a physical therapist license but admitted he
23 never verified A's licensure status by requesting to see those purported licenses. Respondent
24 stated that he knew practicing medicine without a license is a criminal violation.

25 15. Respondent stated he had visited the clinic four or five times during the year.
26 During those visits Respondent stated he had seen all of the clinic's patients and given orders for
27 A or B to perform all of the patients' medical procedures. Respondent stated his most recent visit
28 had been two weeks earlier. At Respondent's most recent visit he did not see any patients but

1 simply collected money from A.

2 16. Respondent confirmed that A wears a white smock at the clinic and Respondent, as
3 well as all of the clinic employees, address A as "doctor." Respondent did not know how long A
4 had performed medical treatments on patients, but does know A had done so during the time he
5 was employed by A.

6 17. Respondent stated A and a licensed physician assistant, B, performed the medical
7 treatments at the clinic. When the investigators asked Respondent questions regarding his
8 treatment of clinic patients Respondent initially stated he examined patients, and provided orders
9 for A or B to perform treatments which orders included laser treatments. However, Respondent
10 equivocated when the investigators requested him to provide any details regarding his patient
11 examinations and treatments.

12 18. B has never been licensed as a physician and surgeon. Respondent stated he did not
13 know anything about B's qualifications or experience. Respondent stated because B performed
14 laser treatments and procedures he assumed B had the requisite experience and knowledge to do
15 so.

16 19. Respondent stated there were no standardized supervision procedures or protocols in
17 place but nevertheless claimed he supervised and consulted with B about patient care.
18 Respondent did not know B's name, nor could he describe B's appearance and was unable to
19 explain when and how he consulted with B regarding patient care.

20 20. The investigators asked Respondent about patient 1 and Respondent said he did not
21 remember the patient. The investigators showed Respondent a copy of patient 1's medical
22 records. Respondent then confirmed he examined patient 1 and verbally ordered either B or A to
23 perform patient 1's laser hair removal treatment. Respondent said he was able to verify this
24 information because he observed his initials on patient 1's medical records.

25 21. Respondent did not recognize the handwriting on patient 1's medical record or recall
26 whether A or B performed patient 1's laser hair removal treatment. The investigators asked why
27 the order to perform patient 1's laser hair removal treatment was written by someone other than
28 Respondent and he replied that was done to save time.

22. Patient 1's medical records shows Respondent's and B's typed names as providers at the top of the page. On the bottom of the medical record B's name is typed and there is an indecipherable signature next to the handwritten date "8/5/15." On the bottom of the medical record underneath B's typed name is Respondent's typed name with an indecipherable signature to the right of Respondent's typed name.

23. The standard of care regarding supervision of physician assistants requires the physician to know the physician assistant's name, to verify the physician assistant's training and abilities, to periodically meet with the physician assistant and to review with the physician assistant the standards and expectations regarding when the physician would want to be directly involved in a patient's care.

24. The standard of care requires that medical procedures such as laser hair removal and many of the other services advertised on the *Smooth Skin Laser Clinic* website may only be performed by a physician or by a physician assistant under a physician's supervision.

25. The standard of care for medical procedures such as laser hair removal and many of the other services advertised on the *Smooth Skin Laser Clinic* website does not permit a physician assistant to independently perform these treatments, nor may a cosmetologist perform them under any circumstances.

26. The standard of care does not permit a physician to act as an employee of a business owned by non-physician.

27. The standard of care requires that a physician who provides an order for a medical procedure is aware of the patient's medical condition and assigns a trained, capable, and appropriately licensed person to perform the medical procedure.

FIRST CAUSE FOR DISCIPLINE

(Aiding and Abetting the Unlicensed Practice of Medicine)

(Bus. & Prof. Code, §§ 2052, subd. (b), 2234, subd. (a), and 2264)

28. Respondent is subject to disciplinary action under California Business and Professions Code sections 2052, subdivision (b), 2234, subdivision (a), and 2264, in that between August 5, 2015, and June 8, 2016, Respondent aided and abetted the unlicensed practice of

1 medicine. The circumstances are as follows:

2 29. The facts and circumstances alleged in paragraphs 10 through 27 are incorporated
3 here as if fully set forth.

4 30. Respondent aided and abetted the unlicensed practice of medicine when he accepted
5 employment and worked at *Smooth Skin Laser Clinic*, which was owned by an unlicensed
6 individual and where medical procedures were performed.

7 31. Respondent aided and abetted the unlicensed practice of medicine when he authorized
8 and/or condoned the provision of medical services by an unlicensed individual (A) at *Smooth Skin*
9 *Laser Clinic*.

10 SECOND CAUSE FOR DISCIPLINE

11 (Dishonesty or Corruption)

12 (Bus. & Prof. Code, § 2234, subd. (e))

13 32. Respondent is further subject to disciplinary action under sections 2227 and 2234 as
14 defined by section 2234, subdivision (e), of the Code, in that Respondent committed an act or acts
15 of dishonesty or corruption as set forth in paragraphs 10 through 27 which are incorporated here
16 as if fully set forth.

17 THIRD CAUSE FOR DISCIPLINE

18 (Gross Negligence)

19 (Bus. & Prof. Code, § 2234, subd. (b))

20 33. Respondent is subject to disciplinary action under Code section 2234, subdivision (b),
21 in that Respondent was grossly negligent in the practice of medicine. The circumstances are as
22 follows:

23 34. The facts and circumstances alleged in in paragraphs 10 through 27 are incorporated
24 here as if fully set forth.

25 35. Respondent was grossly negligent when he failed to properly supervise physician
26 assistant B at *Smooth Skin Laser Clinic*.

27 36. Respondent was grossly negligent when he authorized and/or condoned the provision
28 of medical services by an unlicensed individual (A) at *Smooth Skin Laser Clinic*.

37. Respondent was grossly negligent when he accepted employment and worked at *Smooth Skin Laser Clinic*, which was owned by an unlicensed individual and where medical procedures were performed.

FOURTH CAUSE FOR DISCIPLINE

(Repeated Negligent Acts)

(Bus. & Prof. Code, § 2234, subd. (c))

38. Respondent is subject to disciplinary action under section Code section 2234, subdivision (c), in that he was repeatedly negligent in the practice of medicine. The circumstances are as follows:

39. The facts and circumstances alleged in paragraphs 10 through 27 are incorporated here as if fully set forth.

40. Respondent was negligent when he failed to properly supervise physician assistant B at *Smooth Skin Laser Clinic*.

41. Respondent was negligent when he authorized and/or condoned the provision of medical services by an unlicensed individual (A) at *Smooth Skin Laser Clinic*.

42. Respondent was negligent when he accepted employment and worked at *Smooth Skin Laser Clinic*, which was owned by an unlicensed individual and where medical procedures were performed.

FIFTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct)

(Bus. & Prof. Code, § 2234)

43. Respondent is subject to disciplinary action under section 2234 of the Code in that he engaged in unprofessional conduct. The circumstances are as follows:

44. The facts and circumstances set forth in paragraphs 10 through 42 are incorporated by reference as if set forth in full herein.

//

//

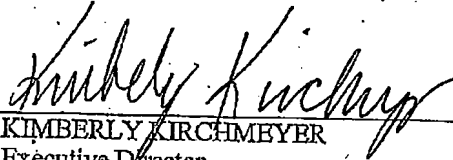
//

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 Number A 40845, issued to Hooshang Tabibian, M.D.;
2. Revoking, suspending or denying approval of Hooshang Tabibian, M.D.'s authority to supervise physician assistants and advanced practice nurses;
3. Ordering Hooshang Tabibian, M.D., if placed on probation, to pay the Board the costs of probation monitoring; and
4. Taking such other and further action as deemed necessary and proper.

DATED: October 4, 2018


KIMBERLY KIRCHMEYER
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

LA2018502051
53087821.docx