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

In the Matter of the First Amended Accusation Against Abbas Kashani, M.D. Physician's and Surgeon's License No. A82220 Respondent.	Case No. 800-2016-022369

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 August 28, 2020.

IT IS SO ORDERED: July 29, 2020.

MEDICAL BOARD OF CALIFORNIA

Ronald H. Lewis, M.D., Chair
Panel A

XAVIER BECERRA
Attorney General of California
ALEXANDRA M. ALVAREZ
Supervising Deputy Attorney General
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Attorneys for Complainant

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

In the Matter of the First Amended Accusation Against: **ABBAS KASHANI, M.D.** **1234 E. North St. Ste. 202** **Manteca, CA 95336** **Physician's and Surgeon's Certificate No. A 82220** Respondent.	Case No. 800-2016-022369 OAH No. 2019110855 **STIPULATED SETTLEMENT AND DISCIPLINARY ORDER**

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

PARTIES

1. Christine J. Lally (Complainant) is the Interim Deputy Director of the Medical Board of California (Board). This action was brought by then Complainant Kimberly Kirchmeyer solely in her official capacity.[1] Complainant is represented in this matter by Xavier Becerra, Attorney General of the State of California, by Aaron L. Lent, Deputy Attorney General.

[1] Ms. Kirchmeyer became the Director of the Department of Consumer Affairs on October 28, 2019.

2. Respondent Abbas Kashani, M.D. (Respondent) is represented in this proceeding by attorney John H. Dodd, Esq., whose address is: 2420 Camino Ramon, Suite 202 San Ramon, CA 94583-4202.

3. On or about March 7, 2003, the Board issued Physician's and Surgeon's Certificate No. A 82220 to Abbas Kashani, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in First Amended Accusation No. 800-2016-022369, and will expire on August 31, 2020, unless renewed.

JURISDICTION

4. The First Amended Accusation No. 800-2016-022369 was filed before the Board, and is currently pending against Respondent. The First Amended Accusation and all other statutorily required documents were properly served on Respondent on June 20, 2019. Respondent timely filed his Notice of Defense contesting the First Amended Accusation.

5. A copy of the First Amended Accusation No. 800-2016-022369 is attached as Exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in the First Amended Accusation No. 800-2016-022369. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

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

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

CULPABILITY

9. Respondent understands and agrees that the charges and allegations in the First Amended Accusation No. 800-2016-022369, if proven at a hearing, constitute cause for imposing discipline upon his Physician's and Surgeon's Certificate.

10. Respondent does not contest that, at an administrative hearing, Complainant could establish a *prima facie* case with respect to the charges and allegations contained in the First Amended Accusation No. 800-2016-022369 and that he has thereby subjected his license to disciplinary action.

11. Respondent agrees that if he ever petitions for early termination or modification of probation, or if the Board ever petitions for revocation of probation, all of the charges and allegations contained in the First Amended Accusation No. 800-2016-022369 shall be deemed true, correct and fully admitted by Respondent for purposes of that proceeding or any other licensing proceeding involving respondent in the State of California.

12. Respondent agrees that his Physician's and Surgeon's Certificate No. A 82220 is subject to discipline and he agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

RESERVATION

13. The admissions made by Respondent herein are only for the purposes of this proceeding, or any other proceedings in which the Medical Board of California or other professional licensing agency is involved, and shall not be admissible in any other criminal or civil proceeding.

CONTINGENCY

14. 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.

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 formal proceeding, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 82220 issued to Respondent Abbas Kashani, M.D. is revoked. However, the revocation is stayed and Respondent is placed on probation for three (3) years from the effective date of the decision on the following terms and conditions.

1. STANDARD STAY ORDER. However, revocation stayed and Respondent is placed on probation for three years upon the following terms and conditions.

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

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

A medical record keeping course taken after the acts that gave rise to the charges in the Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board or its designee, be accepted towards the fulfillment of this condition if the course would have been approved by the Board or its designee had the course been taken after the effective date of this Decision.

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

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

The Board or its designee shall provide the approved monitor with copies of the Decision(s) and Accusation(s), and a proposed monitoring plan. Within 15 calendar days of receipt of the

Decision(s), Accusation(s), and proposed monitoring plan, the monitor shall submit a signed statement that the monitor has read the Decision(s) and Accusation(s), fully understands the role of a monitor, and agrees or disagrees with the proposed monitoring plan. If the monitor disagrees with the proposed monitoring plan, the monitor shall submit a revised monitoring plan with the signed statement for approval by the Board or its designee.

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

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

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

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

replacement monitor is approved and assumes monitoring responsibility.

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

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

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

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

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

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

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

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9. GENERAL PROBATION REQUIREMENTS.

Compliance with Probation Unit

Respondent shall comply with the Board's probation unit.

Address Changes

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

Place of Practice

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

License Renewal

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

Travel or Residence Outside California

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

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

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

11. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or its designee in writing within 15 calendar days of any periods of non-practice lasting more than

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

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

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

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

Periods of non-practice for a Respondent residing outside of California will relieve Respondent of the responsibility to comply with the probationary terms and conditions with the exception of this condition and the following terms and conditions of probation: Obey All Laws; General Probation Requirements; Quarterly Declarations; Abstain from the Use of Alcohol and/or Controlled Substances; and Biological Fluid Testing.

12. 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. Upon successful completion of probation, Respondent's certificate shall be fully restored.

13. 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.

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

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

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ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, John H. Dodd. Esq. 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: 4/27/2020

ABBAS KASHANI, M.D
Respondent

I have read and fully discussed with Respondent Abbas Kashani, 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. 4/28/20

JOHN H. DODD, ESQ.
Attorney for Respondent

ENDORSEMENT

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

DATED: April 28, 2020

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
ALEXANDRA M. ALVAREZ
Supervising Deputy Attorney General

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Attorneys for Complainant

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO June 20 2019
BY: ANALYST

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

In the Matter of the First Amended Accusation Against: **ABBAS KASHANI, M.D.** **1234 E. North St. Ste. 202** **Manteca, CA 95336** **Physician's and Surgeon's Certificate No. A82220,** Respondent.	Case No. 800-2016-022369 **FIRST AMENDED ACCUSATION**

Complainant alleges:

PARTIES

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

2. On or about March 7, 2003, the Medical Board issued Physician's and Surgeon's Certificate No. A82220 to Abbas Kashani, M.D. (Respondent). Physician's and Surgeon's Certificate No. A82220 was in full force and effect at all times relevant to the charges brought herein and will expire on August 31, 2020, unless renewed.

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JURISDICTION

3. This First Amended Accusation, which supersedes the Accusation filed on May 3, 2019, 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 2227 of the Code states, in pertinent part:

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

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

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

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

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

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

"..."

5. Section 651 of the Code states, in pertinent part:

"(a) It is unlawful for any person licensed under this division or under any initiative act referred to in this division to disseminate or cause to be disseminated any form of public communication containing a false, fraudulent, misleading, or deceptive statement, claim, or image for the purpose of or likely to induce, directly or indirectly, the rendering of professional services or furnishing of products in connection with the professional practice or business for which he or she is licensed. A 'public

communication' as used in this section includes, but is not limited to, communication by means of mail, television, radio, motion pictures, newspaper, book, list or directly of healing arts practitioners, Internet, or other electronic communication.

"(b) A false, fraudulent, misleading, or deceptive statement, claim or image includes a statement that does any of the following:

"(1) Contains a misrepresentation of fact.

"(2) Is likely to mislead or deceive because of a failure to disclose material facts.

"...

"(f) Any person so licensed who violates this section is guilty of a misdemeanor. A bona fide mistake of fact shall be a defense to this subdivision, but only to this subdivision.

"(g) Any violation of this section by a person so licensed shall constitute good cause for revocation or suspension of his or her license or other disciplinary action.

"(h) Advertising by any person so licensed may include the following:

"...

"(5)(A) A statement that the practitioner is certified by a private or public board or agency or a statement that the practitioner limits his or her practice to specific fields.

"...

"(C) A physician and surgeon licensed under Chapter 5 (commencing with Section 2000) by the Medical Board of California may include a statement that he or she limits his or her practice to specific fields, but shall not include a statement that he or she is certified or eligible for certification by a private or public board or parent association, including, but not limited to, a multidisciplinary board or association, unless that board or association is (i) an American Board of Medical Specialties member board, (ii) a board or association with equivalent requirements approved by that physician's and surgeon's licensing board prior to January 1, 2019, or (iii) a board or association with an Accreditation Counsel for Graduate Medical Education approved postgraduate training program that provides complete training in that specialty or

subspecialty.... A physician and surgeon licensed under Chapter 5 (commencing with Section 2000) by the Medical Board of California who is certified by a board or association referred to in clause (i), (ii), or (iii) shall not use the term 'board certified' unless the full name of the certifying board is also used and given comparable prominence with the term 'board certified' in the statement.

"...

"(j) The Attorney General shall commence legal proceedings in the appropriate forum to enjoin advertisements disseminated or about to be disseminated in violation of this section and seek other appropriate relief to enforce this section. Notwithstanding any other provision of law, the costs of enforcing this section to the respective licensing boards or committees may be awarded against any licensee found to be in violation of any provision of this section....

"..."

6. Section 652 of the Code states, in pertinent part:

"Violation of this article in the case of a licensed person constitutes unprofessional conduct and grounds for suspension or revocation of his or her license by the board by whom he or she is licensed...."

7. Section 2234 of the Code states, in pertinent part:

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

"...

"(b) Gross negligence.

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

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

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

"...

"(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.

"..."

8. Unprofessional conduct under Section 2234 of the Code is conduct which breaches the rules or ethical code of the medical profession, or conduct which is unbecoming to a member in good standing of the medical profession, which demonstrates an unfitness to practice medicine. (*Shea v. Board of Medical Examiners* (1978) 81 Cal.App.3d 564, 575.)

9. 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."

FIRST CAUSE FOR DISCIPLINE

(Gross Negligence)

10. Respondent has subjected his Physician's and Surgeon's Certificate No. A82220 to disciplinary action under sections 2227 and 2234, as defined by section 2234, subdivision (b), of the Code, in that he committed gross negligence in his care and treatment of Patient A,[1] as more particularly alleged hereafter:

[1] To protect the privacy of the patients involved, patient names were not included in this pleading. Respondent is aware of the identity of each patient.

PATIENT A

11. On or about February 26, 2015, Patient A, then a twenty-nine-year old male, saw Respondent, a physician specializing in otolaryngology, for a plugged left ear. Respondent's handwritten note, which is difficult to decipher, appears to note "L[eft] otomycosis." In an interview with Board investigators, Respondent explained that he suctioned Patient A's left ear and prescribed Amoxicillin for a fungal infection. Patient A was to return for a follow up in one week, but canceled the appointment.

12. On or about July 2, 2015, Patient A returned to Respondent's office for a different complaint. Patient A told Respondent that his voice was hoarse, and it had started when he lost his voice during his son's baseball season. According to Respondent's near illegible handwritten notes for this visit, Respondent performed a "FDL," later explained to be a flexible direct laryngoscopy. He documented that Patient A had a vocal cord nodule and deviated nasal septum to the left with a 90% occlusion. Respondent documented no subjective signs and symptoms or physical exam findings that would indicate chronic sinusitis including purulence, tissue edema, or nasal polyps. Respondent prescribed "QNasl," or beclomethasone dipropionate nasal aerosol, a steroid, and Claritin.

13. Eighteen days later, on or about July 20, 2015, Patient A returned to Respondent's office to follow up on "laryngitis." Patient A reported no change in his symptoms, despite taking the medications prescribed. Respondent recommended surgical treatment, writing "BS/SM," which referred to a balloon sinuplasty and submucosal resection.

14. In a typed letter documenting this visit, Respondent noted that Patient A had chronic sinus infections and eustachian tube dysfunction for his entire life, and that his "sinuses constantly drain and are recalcitrant to medical treatment." For medical treatment, Respondent noted that Patient A had been tried on QNasl spray, Claritin, and Amoxicillin, despite the fact that Respondent had prescribed Patient A Amoxicillin for his clogged left ear rather than his hoarse voice. The letter also documented his findings from an endoscopic examination of Patient A's nose which include "a severely deviated nasal septum in excess of 90% to the left side that he has discomfort...no evidence of any polyposis" and "piriform sinuses that are filled with mucus and

vocal cord nodules caused by constant throat clearing." Respondent diagnosed Patient A with chronic sinus disease, and concluded by stating that Patient A would be an "excellent candidate" for septoplasty, reduction of the turbinates, and endoscopic sinus surgery.

15. Over four months later, on or about November 30, 2015, Patient A returned to Respondent's office for a pre-operative visit. Patient A had elected to follow Respondent's recommended treatment. Respondent's handwritten notes, which are difficult to decipher, appear to document a heart and lung exam, and a prescription for Tylenol with codeine and an antibiotic. Respondent also wrote "Q/A." Respondent later told Board investigators that that notation meant he had a question and answer session with Patient A about the upcoming procedure. Respondent did not document what questions he answered, nor could he remember during his interview with the Board what exactly was discussed. Respondent's note fails to document any subjective findings or diagnoses. Respondent failed to order and review a CT scan of Patient A's sinuses to confirm that surgery was indicated or to view the anatomy.

16. On a form submitted to the hospital to schedule the procedure signed by Respondent on or about November 20, 2015, Respondent's assessment for Patient A included a deviated nasal septum, chronic sinusitis, vocal cord nodule, and turbinate hypertrophy.

17. Respondent's records for Patient A include a typed preoperative history and physical dated on or about November 30, 2015. Respondent's physical examination was only significant for Patient A's deviated septum.

18. On or about December 1, 2015, Respondent performed surgery on Patient A at a local hospital. In his operative report, Respondent noted that Patient A had chronic sinus disease, nasal airway obstruction, headaches, sore throat, postnasal drip, and cough. Respondent performed the following procedures: (1) bilateral endoscopic total ethmoidectomies; (2) bilateral endoscopic balloon sphenoidotomies; (3) bilateral endoscopic balloon maxillary antrostomies; (4) bilateral endoscopic balloon frontal sinusotomies; (5) septoplasty; and (6) bilateral reduction of the inferior turbinates. Patient A was discharged from the hospital the same day.

19. On or about December 2, 2015, Patient A returned to Respondent's office to remove the packing that had been placed on either side of his nose following the procedure.

20. On or about December 17, 2015, Patient A returned to Respondent's office for a three-week follow-up. Patient A reported some congestion and no headaches, and was still rinsing with saline solution. Respondent's handwritten notes are illegible, but he told Board investigators he examined Patient A's nasal cavities with a flexible endoscope. According to Respondent, Patient A had no complications, perforations, scarring, or adhesions. Respondent also performed an endoscopic sinus debridement and told Patient A to follow up in three months.

21. On or about March 16, 2016, Patient A returned to Respondent's office for his three-month follow-up. Patient A reported that his hoarseness and sore throat had not improved. Respondent performed another fiberoptic direct laryngoscopy and documented a polyp on Patient A's right vocal cord. The rest of Respondent's handwritten note is difficult to decipher, but Respondent later told Board investigators that he recommended another surgery to remove the polyp.

22. Respondent committed gross negligence in his care and treatment of Patient A for performing the surgical procedures mentioned above without a preoperative sinus CT to document sinus anatomy and locate sinus pathology and without attempting maximal medical therapy first.

SECOND CAUSE FOR DISCIPLINE

(Repeated Negligent Acts)

23. Respondent has further subjected his Physician's and Surgeon's Certificate No. A82220 to disciplinary action under sections 2227 and 2234, as defined by section 2234, subdivision (c), of the Code, in that he committed repeated negligent acts in his care and treatment of Patients A and B, as more particularly alleged hereinafter:

PATIENT B

24. On or about February 1, 2016, Patient B, a then seven-year old male, presented to Respondent with complaints of obstructive sleep apnea. After a physical examination, Respondent diagnosed the patient with snoring and adenotonsillary hypertrophy, and recommended a tonsillectomy and adenoidectomy. Respondent's very brief chart notes for this visit are handwritten and difficult to decipher.

25. On or about March 21, 2016, Patient B presented to Respondent for a preoperative appointment. Respondent's very brief chart notes for this visit are handwritten and difficult to decipher.

26. On or about March 29, 2016, Respondent performed a tonsillectomy and adenoidectomy on Patient B under general anesthesia, but did not administer an intraoperative dose of intravenous dexamethasone.[2] After the surgery, Patient B was discharged home.

27. On or about March 30, 2016, Patient B's mother called Respondent's office, stating that Patient B had been vomiting and had already been given Zofran,[3] which was not helping. Respondent recommended the patient use over-the-counter anti-nausea medication and to drink fluids.

28. On or about April 1, 2016, Patient B's mother called Respondent's office, stating that Patient B was still vomiting within one hour after eating. Respondent referred the patient to his pediatrician for treatment of possible gastroenteritis. When the patient's mother was dissatisfied with this recommendation, Respondent spoke with the mother personally. During this discussion, Respondent did not offer the patient any medication to treat his symptoms, did not refer the patient to the emergency room, and did not prepare any notes in the patient's chart documenting his discussion with the patient's mother.

29. On or about April 1, 2016, Patient B presented to the emergency room with complaints of nausea and vomiting for three (3) days, and was diagnosed with post-operative nausea and vomiting, and severe dehydration. Respondent examined Patient B in the emergency room and requested the patient be given medication to reduce inflammation. Respondent's chart notes do not contain any reference to his examination of Patient B in the emergency room or his recommended treatment.

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

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[2] Dexamethasone is a steroid used to treat inflammation.

[3] Zofran, brand name for Ondansetron, is a prescription medication that blocks the actions of chemicals in the body that can trigger nausea and vomiting.

(a) Paragraphs 11 through 29, above, are hereby incorporated by reference and realleged as if fully set forth herein;

(b) Respondent incorrectly diagnosed Patient A with chronic sinusitis without documenting or finding the proper medical indications of the condition;

(c) Respondent failed to properly treat Patient A for chronic sinusitis either with antibiotics or steroids for a long enough period of time to determine their efficacy prior to surgical intervention;

(d) Respondent failed to adequately and accurately document his treatment and care of Patient A by maintaining legible notes and by documenting the following: (1) Patient A's symptoms and the subjective findings, including possible vocal trauma; (2) details from the question and answer session during the preoperative visit; (3) information that would support Respondent's recommendation that surgery was medically indicated; and (4) Respondent's post-surgical findings in the three-month follow up visit;

(e) Respondent failed to administer an intraoperative dose of intravenous dexamethasone to Patient B on or about March 29, 2016;

(f) Respondent failed to provide Patient B with a prescription for an anti-emitic, or to refer Patient B to the emergency room for intravenous fluids and medication on or about April 1, 2016; and

(g) Respondent failed to adequately and accurately document his treatment and care of Patient B by maintaining legible notes and by failing to document the following: (1) his phone conversation with Patient B's mother on or about April 1, 2016; and (2) details from his examination and treatment of the patient in the emergency room on or about April 1, 2016.

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THIRD CAUSE FOR DISCIPLINE

(Failure to Maintain Adequate and Accurate Medical Records)

31. Respondent has further subjected his Physician's and Surgeon's Certificate No. A82220 to disciplinary action under sections 2227 and 2234, as defined by section 2266, of the Code, in that he failed to maintain adequate and accurate medical records for Patients A and B, as more particularly alleged in paragraphs 11 through 30, above, which are hereby incorporated by reference and re-alleged as if fully set forth herein.

FOURTH CAUSE FOR DISCIPLINE

(Public Communication Containing a False, Misleading or Deceptive Statement)

32. Respondent has further subjected his Physician's and Surgeon's Certificate No. A82220 to disciplinary action under sections 2227 and 2234, as defined by sections 651 and 652 of the Code, in that he made a public communication containing a false, misleading or deceptive statement, as more particularly alleged hereafter:

33. On January 29, 2019, Respondent provided investigators for the Board with his curriculum vitae, which claims Respondent was board certified by the American Board of Otolaryngology and the American Board of Facial Plastic and Reconstructive Surgery in May 2001.

34. On or about January 29, 2019, Respondent was interviewed by investigators for the Board. During the interview, he stated that he was currently board certified by the American Board of Otolaryngology and the American Board of Facial Plastic and Reconstructive Surgery, and that he never needed to renew his certification.

35. On or about March 20, 2019, an investigator for the Board reviewed Respondent's website, abbaskashani.com. On a page entitled, "Meet Our Doctor," it stated, "As an American Academy of Otolaryngology Board Certified in Head and Neck Surgery, Facial Plastic & Reconstructive Surgery for over 20 years, Dr. Abbas Kashani has been practicing in Manteca, CA since February 2009."

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36. On or about March 20, 2019, the same investigator for the Board confirmed that Respondent is neither board certified by the American Board of Facial Plastic and Reconstructive Surgery nor the American Academy of Facial Plastic and Reconstructive Surgery.

FIFTH CAUSE FOR DISCIPLINE

(Dishonesty or Corruption)

37. Respondent has further subjected his Physician's and Surgeon's Certificate No. A82220 to disciplinary action under sections 2227 and 2234, as defined by section 2234, subdivision (e), of the Code, in that he has committed an act or acts of dishonesty or corruption, as more particularly alleged in paragraphs 32 through 36, above, which are hereby incorporated by reference and realleged as if fully set forth herein.

PRAYER

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

1. Revoking or suspending Physician's and Surgeon's Certificate Number A82220, issued to Respondent Abbas Kashani, M.D.;

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

3. Ordering Respondent Abbas Kashani, 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: June 20, 2019

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

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