

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

In the Matter of the Accusation  
Against:

Derakhsh Fozouni, M.D.

Physician's & Surgeon's  
Certificate No A95051

Respondent.

Case No. 800-2016-027417

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 September 17, 2020.

IT IS SO ORDERED August 18, 2020.

MEDICAL BOARD OF CALIFORNIA

By: 

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

1 XAVIER BECERRA  
Attorney General of California  
2 ALEXANDRA M. ALVAREZ  
Supervising Deputy Attorney General  
3 ROSEMARY F. LUZON  
Deputy Attorney General  
4 State Bar No. 221544  
600 West Broadway, Suite 1800  
5 San Diego, CA 92101  
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6 San Diego, CA 92186-5266  
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8 *Attorneys for Complainant*

9  
10 **BEFORE THE**  
**MEDICAL BOARD OF CALIFORNIA**  
11 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**  
12

13 In the Matter of the Accusation Against:

Case No. 800-2016-027417

14 **Derakhsh Fozouni, M.D.**  
15 **555 E. Tachevah Drive**  
16 **Suite 2W-103**  
**Palm Springs, CA 92262**

OAH No. 2019110175

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

17 **Physician's and Surgeon's Certificate**  
18 **No. A 95051**

Respondent.

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

22 **PARTIES**

23 1. Christine J. Lally (Complainant) is the Interim Executive Director of the Medical  
24 Board of California (Board). This action was brought by then Complainant Kimberly  
25 Kirchmeyer solely in her official capacity.<sup>1</sup> Complainant is represented in this matter by Xavier  
26 Becerra, Attorney General of the State of California, by Rosemary F. Luzon, Deputy Attorney  
27 General.

28 <sup>1</sup> Ms. Kirchmeyer became the Director of the Department of Consumer Affairs on October 28, 2019.





1 agrees that in deciding whether or not to approve and adopt this Stipulated Settlement and  
2 Disciplinary Order, the Board may receive oral and written communications from its staff and/or  
3 the Attorney General's Office. Communications pursuant to this paragraph shall not disqualify  
4 the Board, any member thereof, and/or any other person from future participation in this or any  
5 other matter affecting or involving Respondent. In the event that the Board does not, in its  
6 discretion, approve and adopt this Stipulated Settlement and Disciplinary Order, with the  
7 exception of this paragraph, it shall not become effective, shall be of no evidentiary value  
8 whatsoever, and shall not be relied upon or introduced in any disciplinary action by either party  
9 hereto. Respondent further agrees that should this Stipulated Settlement and Disciplinary Order  
10 be rejected for any reason by the Board, Respondent will assert no claim that the Board, or any  
11 member thereof, was prejudiced by its/his/her review, discussion and/or consideration of this  
12 Stipulated Settlement and Disciplinary Order or of any matter or matters related hereto.

### 13 **ADDITIONAL PROVISIONS**

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

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

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

### 23 **DISCIPLINARY ORDER**

24 IT IS HEREBY ORDERED that Respondent Derakhsh Fozouni, M.D., Physician's and  
25 Surgeon's Certificate No. A 95051, shall be and is hereby Publicly Reprimanded pursuant to  
26 California Business and Professions Code section 2227, subdivision (a), subsection (4). This  
27 Public Reprimand is issued in connection with the allegations relating to Respondent's care and  
28 treatment of Patient A, which are set forth in Accusation No. 800-2016-027417, as follows:

1           1.    PUBLIC REPRIMAND:

2                   In or about June 2015, you failed to adequately manage and document the C-  
3                   section delivery of Patient A and you exhibited a lack of professional conduct during  
4                   a visit with Patient A, in violation of California Business and Professions Code  
5                   sections 2234 and 2266, as more fully described in Accusation No. 800-2016-027417.

6           2.    EDUCATION COURSE.

7                   Within 60 calendar days of the effective date of this Decision, Respondent shall submit to  
8                   the Board or its designee for its prior approval educational program(s) or course(s) which shall  
9                   not be less than 40 hours. The educational program(s) or course(s) shall be aimed at correcting  
10                  any areas of deficient practice or knowledge and shall be Category I certified. The educational  
11                  program(s) or course(s) shall be at Respondent's expense and shall be in addition to the  
12                  Continuing Medical Education (CME) requirements for renewal of licensure. Following the  
13                  completion of each course, the Board or its designee may administer an examination to test  
14                  Respondent's knowledge of the course. Within one (1) year of the effective date of this Decision,  
15                  Respondent shall provide proof of attendance for 65 hours of CME of which 40 hours were in  
16                  satisfaction of this condition.

17          3.    MEDICAL RECORD KEEPING COURSE.

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

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

6 Respondent shall submit a certification of successful completion to the Board or its  
7 designee not later than 15 calendar days after successfully completing the course, or not later than  
8 15 calendar days after the effective date of the Decision, whichever is later.

9 4. PROFESSIONALISM PROGRAM (ETHICS COURSE).

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

20 A professionalism program taken after the acts that gave rise to the charges in the  
21 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board  
22 or its designee, be accepted towards the fulfillment of this condition if the program would have  
23 been approved by the Board or its designee had the program been taken after the effective date of  
24 this Decision.

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

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1           5.     CLINICAL COMPETENCE ASSESSMENT PROGRAM.

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

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

17           At the end of the evaluation, the program will submit a report to the Board or its designee  
18 which unequivocally states whether the Respondent has demonstrated the ability to practice  
19 safely and independently. Based on Respondent's performance on the clinical competence  
20 assessment, the program will advise the Board or its designee of its recommendation(s) for the  
21 scope and length of any additional educational or clinical training, evaluation or treatment for any  
22 medical condition or psychological condition, or anything else affecting Respondent's practice of  
23 medicine. Respondent shall comply with the program's recommendations.

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

26           If Respondent fails to enroll, participate in, or successfully complete the clinical  
27 competence assessment program within the designated time period, Respondent shall receive a  
28 notification from the Board or its designee to cease the practice of medicine within three (3)



1 calendar days after being so notified. The Respondent shall not resume the practice of medicine  
2 until enrollment or participation in the outstanding portions of the clinical competence assessment  
3 program have been completed. If the Respondent did not successfully complete the clinical  
4 competence assessment program, the Respondent shall not resume the practice of medicine until a  
5 final decision has been rendered on the accusation and/or a petition to revoke probation. The  
6 cessation of practice shall not apply to the reduction of the probationary time period.

7 6. FAILURE TO COMPLY.

8 Any failure by Respondent to comply with the terms and conditions of the Disciplinary  
9 Order set forth above shall constitute unprofessional conduct and grounds for further disciplinary  
10 action.

11 7. FUTURE ADMISSIONS CLAUSE.

12 If Respondent should ever apply or reapply for a new license or certification, or petition for  
13 reinstatement of a license, by any other health care licensing action agency in the State of  
14 California, all of the charges and allegations contained in Accusation No. 800-2016-027417,  
15 except the allegations contained in the FOURTH CAUSE FOR DISCIPLINE (specifically,  
16 paragraphs 31 and 32, at page 8, lines 13-20), shall be deemed to be true, correct, and admitted by  
17 Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or  
18 restrict license.

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**ACCEPTANCE**

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Dennis Ames, Esq. and Pogey Henderson, Esq. I understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate No. A 95051. 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: 6/7/2020   
DERAKHSH FOZOUNI, M.D.  
*Respondent*

I have read and fully discussed with Respondent Derakhsh Fozouni, 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: June 08, 2020   
DENNIS AMES, ESQ.  
POGEY HENDERSON, ESQ.  
*Attorneys for Respondent*

**ENDORSEMENT**

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

DATED: \_\_\_\_\_ Respectfully submitted,  
XAVIER BECERRA  
Attorney General of California  
ALEXANDRA M. ALVAREZ  
Supervising Deputy Attorney General  
  
ROSEMARY F. LUZON  
Deputy Attorney General  
*Attorneys for Complainant*

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**ACCEPTANCE**

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Dennis Ames, Esq. and Pogey Henderson, Esq. I understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate No. A 95051. 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: \_\_\_\_\_  
DERAKHSH FOZOUNI, M.D.  
*Respondent*

I have read and fully discussed with Respondent Derakhsh Fozouni, 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: \_\_\_\_\_  
DENNIS AMES, ESQ.  
POGEY HENDERSON, ESQ.  
*Attorneys for Respondent*

**ENDORSEMENT**

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

DATED: 6-8-2020 \_\_\_\_\_ Respectfully submitted,  
XAVIER BECERRA  
Attorney General of California  
ALEXANDRA M. ALVAREZ  
Supervising Deputy Attorney General  
  
ROSEMARY F. LUZON  
Deputy Attorney General  
*Attorneys for Complainant*

**Exhibit A**

**Accusation No. 800-2016-027417**

1 XAVIER BECERRA  
Attorney General of California  
2 ALEXANDRA M. ALVAREZ  
Supervising Deputy Attorney General  
3 ROSEMARY F. LUZON  
Deputy Attorney General  
4 State Bar No. 221544  
600 West Broadway, Suite 1800  
5 San Diego, CA 92101  
P.O. Box 85266  
6 San Diego, CA 92186-5266  
Telephone: (619) 738-9074  
7 Facsimile: (619) 645-2061

8 *Attorneys for Complainant*

FILED  
STATE OF CALIFORNIA  
MEDICAL BOARD OF CALIFORNIA  
SACRAMENTO Sept. 20 20 19  
BY A. GERRONIA ANALYST

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

13 In the Matter of the Accusation Against:  
14 **Derakhsh Fozouni, M.D.**  
15 **555 E. Tachevah Drive**  
16 **Suite 2W-103**  
17 **Palm Springs, CA 92262**  
18 **Physician's and Surgeon's Certificate**  
19 **No. A 95051,**  
20 **Respondent.**

Case No. 800-2016-027417

**ACCUSATION**

20 Complainant alleges:

21 **PARTIES**

- 22 1. Kimberly Kirchmeyer (Complainant) brings this Accusation solely in her official  
23 capacity as the Executive Director of the Medical Board of California, Department of Consumer  
24 Affairs (Board).
- 25 2. On or about April 21, 2006, the Board issued Physician's and Surgeon's Certificate  
26 No. A 95051 to Derakhsh Fozouni, M.D. (Respondent). The Physician's and Surgeon's  
27 Certificate was in full force and effect at all times relevant to the charges brought herein and will  
28 expire on September 30, 2021, unless renewed.

1 JURISDICTION

2 3. This Accusation is brought before the Board, under the authority of the following  
3 laws. All section references are to the Business and Professions Code (Code) unless otherwise  
4 indicated.

5 4. Section 2220 of the Code states:

6 Except as otherwise provided by law, the board may take action against all  
7 persons guilty of violating this chapter. . .

8 5. Section 2227 of the Code states:

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

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

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

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

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

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

24 . . .

25 6. Section 2234 of the Code states:

26 The board shall take action against any licensee who is charged with  
27 unprofessional conduct. In addition to other provisions of this article, unprofessional  
28 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.

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

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

9 ...

10 7. Section 2266 of the Code states:

11 The failure of a physician and surgeon to maintain adequate and accurate  
12 records relating to the provision of services to their patients constitutes unprofessional  
13 conduct.

14 **FIRST CAUSE FOR DISCIPLINE**

15 **(Gross Negligence)**

16 8. Respondent has subjected his Physician's and Surgeon's Certificate No. A 95051 to  
17 disciplinary action under sections 2227 and 2234, as defined by section 2234, subdivision (b), of  
18 the Code, in that he committed gross negligence in his care and treatment of Patient A, as more  
19 particularly alleged hereinafter:<sup>1</sup>

20 9. On or about December 8, 2014, Patient A attended her first obstetric visit with  
21 Respondent. On this visit, Patient A was 10.5 weeks pregnant and her due date was July 2, 2015.  
22 Patient A continued to see Respondent through on or about June 22, 2015. During a visit that  
23 took place on or about May 18, 2015, Patient A's abdominal circumference measured at 37  
24 weeks, while the remaining measurements were at 33 weeks. Patient A was 34 weeks and 1 day  
25 pregnant on this visit. Respondent noted "poor nutrition" and that he discussed "poor outcome[s]  
26 and potential issues with birth and injury" with Patient A and her husband.

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<sup>1</sup> References to "Patient A" herein are used to protect patient privacy.

1           10. On or about the early morning of June 25, 2015, Patient A went to the hospital by  
2 ambulance. When speaking with Nurse P.M., the triage nurse, Patient A complained of leaking  
3 clear fluid before 3:00 a.m. At approximately 3:50 a.m., Nurse P.M. noted SROM (Spontaneous  
4 Rupture of Membranes), negative GBS (Group B Streptococcus), and “Fluid: thick meconium.”<sup>2</sup>  
5 The meconium was described as large in quantity and odorless. Patient A was admitted to the  
6 hospital at approximately 4:16 a.m.

7           11. At approximately 5:01 a.m., Nurse P.M. spoke with Respondent by telephone  
8 regarding Patient A. Nurse P.M. relayed Patient A’s complaints to Respondent, who then ordered  
9 Pitocin<sup>3</sup> to be started at 6:00 a.m.

10           12. At approximately 10:46 a.m., Nurse A.N. spoke with Respondent by telephone  
11 regarding Patient A and notified him of “prolonged decel[eration], SVE [sterile vaginal exam],  
12 contraction frequency, pitocin off, and interventions done.” Respondent ordered that they wait  
13 for half an hour more to restart Pitocin and, if the prolonged decelerations continued, to do an  
14 amnioinfusion.

15           13. At approximately 2:30 p.m., Respondent was at the nurse’s station reviewing the fetal  
16 heart rate (FHR) tracing. He was aware of Patient A’s decelerations. Nurse A.N. noted that no  
17 new orders were received from Respondent. Respondent did not document any corresponding  
18 assessment or plan, nor the rationale for his decision-making at that time.

19           14. At approximately 5:00 p.m., Respondent was at the nurse’s station and was notified  
20 of an SVE, Pitocin dose, and MVUs (Montevideo units). Nurse A.N. noted that no new orders  
21 were received. Respondent did not document any corresponding assessment or plan, nor the  
22 rationale for his decision-making at that time.

23           15. From approximately 6:15 a.m. until approximately 5:44 p.m., the presence of  
24 meconium was documented numerous times in the nurse notations. No subsequent notations  
25 regarding meconium were made until the next day during the C-section delivery.

26 \_\_\_\_\_  
27           <sup>2</sup> Meconium is the baby’s first stool, or poop, which is sticky, thick, and dark green. It is  
28 typically passed in the womb during early pregnancy and again in the first few days after birth.

<sup>3</sup> Pitocin is the synthetic version of oxytocin, a natural hormone that helps the uterus to  
contract during labor.



1           16. At approximately 7:19 p.m., Respondent was at the nurse's station and ordered that  
2 Pitocin be stopped at that time, restarted at 2:00 a.m., and then increased every 20 minutes  
3 thereafter by two milliunits. Respondent did not document any corresponding assessment or plan,  
4 nor the rationale for his decision-making at that time.

5           17. Between approximately 7:00 p.m. and 7:30 p.m., Respondent visited Patient A and  
6 her husband. According to a notation entered at approximately 7:15 p.m. by Nurse D.P., the plan  
7 of care was discussed with, and agreed to, by Patient A and her family. Respondent did not  
8 document this patient encounter, including any discussions he had with Patient A and her husband  
9 regarding the plan of care, the rationale for the plan of care, or any information relating to SROM,  
10 meconium, dilation, or the timing and need for a C-section.

11           18. At approximately 11:45 p.m., Respondent was at the nurse's station reviewing the  
12 FHR tracing. Nurse D.P. informed Respondent of Patient A's recurrent late decelerations.  
13 Respondent ordered Pitocin to be stopped and to prepare Patient A for a C-section in the morning.  
14 Respondent did not document any corresponding assessment or plan, nor the rationale for his  
15 decision-making regarding the C-section at that time.

16           19. The next day, on or about June 26, 2015, at approximately 4:32 a.m., Nurse D.P.  
17 spoke with Respondent and notified him of Patient A's recurrent late decelerations, UC (uterine  
18 contraction) pattern, and current temperatures, including a temperature of 100.1°F. Respondent  
19 stated that Terbutaline<sup>4</sup> may be given to Patient A and to consent Patient A for a C-section.  
20 Respondent further stated that he would perform a C-section in the morning.

21           20. At approximately 5:00 a.m., Patient A signed a hospital consent form for a primary  
22 C-section. According to a nursing note that was belatedly entered at approximately 7:50 a.m.,  
23 Respondent was at Patient A's bedside and obtained her informed consent for a C-section.

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28           <sup>4</sup> Terbutaline is a medication used to delay preterm labor. It belongs to a class of drugs  
called betamimetics, which help to prevent and slow contractions of the uterus.

1           21. According to a late entry nurse note, prior to approximately 7:39 a.m., Respondent  
2 was at the nurse's station. Nurse H.A. asked Respondent if he wanted to proceed with Patient A's  
3 case first or another scheduled case. Respondent decided to proceed with the other scheduled  
4 case.

5           22. According to a late entry nurse note, prior to approximately 7:45 a.m., Respondent  
6 was at the nurse's station reviewing the FHR tracings. Nurse L.N. noted that they were to get  
7 Patient A ready for a C-section "to follow the scheduled case."

8           23. On or about June 26, 2015, prior to the C-section surgery, Respondent completed and  
9 signed a "Physician Progress Note – Obstetrical Pre-Delivery Assessment Note." Respondent did  
10 not document the presence of thick meconium in his note.

11           24. At approximately 9:17 a.m., Patient A was transferred to the operating room.  
12 According to Respondent's operative report, the indication for surgery was "failure to dilate."

13           25. By the time of the C-section surgery, Patient A had been at 5 cm dilated since  
14 approximately 5:44 p.m. the previous day, a period of almost 16 hours. Patient A also had  
15 documented ruptured membranes for a period of almost 31 hours, having spontaneously ruptured  
16 at approximately 3:00 a.m. the previous day. In addition, Patient A had documented thick  
17 meconium. Since approximately 4:15 a.m. the previous day, Patient A also had nine SVEs and  
18 two internal devices placed, *i.e.*, an intrauterine pressure catheter and a fetal scalp electrode.

19           26. At approximately 9:56 a.m., Patient A gave birth to a baby girl. In his operative  
20 report, Respondent noted the presence of "[e]xtremely thick meconium" and "foul amniotic fluid"  
21 during the delivery. The baby required immediate resuscitation and intubation, and was promptly  
22 taken to the NICU department and, subsequently, to another hospital. The baby passed away later  
23 that night. The documented causes of death were cardiorespiratory failure, severe hypoxemia,  
24 severe hypotension, and septic shock from bacterial infection.

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1 (d) Respondent did not document any assessment or plan regarding his  
2 decision on or about June 25, 2015, to perform a C-section the following morning,  
3 nor did he document the rationale for his decision-making relating to the C-section.

4 **THIRD CAUSE FOR DISCIPLINE**

5 **(Failure to Maintain Adequate and Accurate Medical Records)**

6 30. Respondent has subjected his Physician's and Surgeon's Certificate No. A 95051 to  
7 disciplinary action under sections 2227 and 2234, as defined by section 2266, of the Code, in that  
8 he failed to maintain adequate and accurate records regarding his care and treatment of Patient A,  
9 as more particularly alleged in paragraphs 9 through 29, above, which are hereby incorporated by  
10 reference and re-alleged as if fully set forth herein.

11 **FOURTH CAUSE FOR DISCIPLINE**

12 **(General Unprofessional Conduct)**

13 31. Respondent has subjected his Physician's and Surgeon's Certificate No. A 95051 to  
14 disciplinary action under sections 2227 and 2234 of the Code, in that he has engaged in conduct  
15 which breaches the rules or ethical code of the medical profession, or conduct which is  
16 unbecoming to a member in good standing of the medical profession, and which demonstrates an  
17 unfitness to practice medicine, as more particularly alleged hereinafter:

18 32. On or about June 22, 2015, Patient A had her last office visit with Respondent.  
19 Patient A's spouse was also present during the visit. Respondent performed a cervical exam on  
20 Patient A, during which he stated to Patient A: "Oh, I bet you like that."

21 **PRAYER**

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

24 1. Revoking or suspending Physician's and Surgeon's Certificate No. A 95051, issued  
25 to Respondent Derakhsh Fozouni, M.D.;

26 2. Revoking, suspending or denying approval of Respondent Derakhsh Fozouni, M.D.'s  
27 authority to supervise physician assistants, pursuant to section 3527 of the Code, and advanced  
28 practice nurses;

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3. Ordering Respondent Derakhsh Fozouni, 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: September 26, 2019

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

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