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

In the Matter of the Accusation Against: Parviz Hiroshi Goshtasby, M.D. Physician's and Surgeon's Certificate No. A 110114 Respondent.	Case No.: 800-2019-053910

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 15, 2021.

IT IS SO ORDERED: November 15, 2021.

MEDICAL BOARD OF CALIFORNIA

Laurie Rose Lubiano, J.D., Chair
Panel A

ROB BONTA
Attorney General of California
MATTHEW M. DAVIS
Supervising Deputy Attorney General
MARTIN W. HAGAN
Deputy Attorney General
State Bar No. 155553
600 West Broadway, Suite 1800
San Diego, CA 92101
P.O. Box 85266
San Diego, CA 92186-5266
Telephone: (619) 738-9405
Facsimile: (619) 645-2061

Attorneys for Complainant

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

In the Matter of the Accusation Against: **PARVIZ HIROSHI GOSHTASBY, M.D.** **PO Box 15692** **Newport Beach, CA 92659-5692** **Physician's and Surgeon's Certificate No. A 110114** Respondent.	Case No. 800-2019-053910 OAH No. 2021010121 **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. William Prasifka (Complainant) is the Executive Director of the Medical Board of California (Board). He brought this action solely in his official capacity and is represented in this matter by Rob Bonta, Attorney General of the State of California, by Martin W. Hagan, Deputy Attorney General.

////

////

2. Respondent Parviz Hiroshi Goshtasby, M.D. (Respondent) is represented in this proceeding by attorney Raymond J. McMahon, Esq., whose address is 5440 Trabuco Road Irvine, CA 92620.

3. On or about November 25, 2009, the Board issued Physician's and Surgeon's Certificate No. A 110114 to Parviz Hiroshi Goshtasby, 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 Accusation No. 800-2019-053910, and will expire on July 31, 2023, unless renewed.

JURISDICTION

4. Accusation No. 800-2019-053910 was filed before the Board, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on November 20, 2020. Respondent timely filed his Notice of Defense contesting the Accusation. A true and correct copy of Accusation No. 800-2019-053910 is attached as Exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 800-2019-053910. Respondent has also carefully read, fully discussed with his counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

6. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the 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.

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

////

////

CULPABILITY

8. Respondent understands and agrees that the charges and allegations in Accusation No. 800-2019-053910, if proven at a hearing, constitute cause for imposing discipline upon his Physician's and Surgeon's Certificate. Respondent agrees that, at a hearing, Complainant could establish a prima facie case or factual basis for the charges in the Accusation, and that Respondent hereby gives up his right to contest those charges.

9. Respondent does not contest that, at an administrative hearing, complainant could establish a prima facie case with respect to the charges and allegations in Accusation No. 800-2019-053910, a true and correct copy of which is attached hereto as Exhibit A, and that he has thereby subjected his Physician's and Surgeon's Certificate, No. A 110114 to disciplinary action.

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

CONTINGENCY

11. 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.

12. Respondent agrees that if he ever petitions for early termination or modification of probation, or if an accusation and/or petition to revoke probation is filed against him before the Board, all of the charges and allegations contained in Accusation No. 800-2019-053910 shall be

deemed true, correct and fully admitted by respondent for purposes of any such proceeding or any other licensing proceeding involving Respondent in the State of California.

13. 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.

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

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 110114 issued to Respondent Parviz Hiroshi Goshtasby, M.D. is revoked. However, the revocation is stayed and Respondent is placed on probation for four (4) years on the following terms and conditions:

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

2. **MEDICAL RECORD KEEPING COURSE**. 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.

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

A professionalism program 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 program would have been approved by the Board or its designee had the program 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 program 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, 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 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 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 medicine 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.

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, subdivision (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' 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.

16. **FUTURE ADMISSIONS CLAUSE.** If Respondent should ever apply or reapply for a new license or certification, or petition for reinstatement of a license, by any other health care licensing action agency in the State of California, all of the charges and allegations contained in Accusation No. 800-2019-053910 shall be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or restrict license.

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Raymond J. McMahon, 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: 10/29/21

PARVIZ HIROSHI GOSHTASBY, M.D.
Respondent

I have read and fully discussed with Respondent Parviz Hiroshi Goshtasby, 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: Oct. 29, 2021

RAYMOND J. MCMAHON, 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: October 29, 2021

Respectfully submitted,

ROB BONTA
Attorney General of California
MATTHEW M. DAVIS
Supervising Deputy Attorney General

MARTIN W. HAGAN
Deputy Attorney General
Attorneys for Complainant

SD2020301985
83095770.docx

Exhibit A

XAVIER BECERRA
Attorney General of California
MATTHEW M. DAVIS
Supervising Deputy Attorney General
MARTIN W. HAGAN
Deputy Attorney General
State Bar No. 155553
600 West Broadway, Suite 1800
San Diego, CA 92101
P.O. Box 85266
San Diego, CA 92186-5266
Telephone: (619) 738-9405
Facsimile: (619) 645-2061

Attorneys for Complainant

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

In the Matter of the Accusation Against:	Case No. 800-2019-053910
PARVIZ HIROSHI GOSHTASBY, M.D. **P.O. BOX 15692** **NEWPORT BEACH CA 92659-5692** **Physician's and Surgeon's Certificate No. A 110114,** Respondent.	**A C C U S A T I O N**

PARTIES

1. William Prasifka (Complainant) brings this Accusation solely in his official capacity as the Executive Director of the Medical Board of California, Department of Consumer Affairs (Board).

2. On or about November 25, 2009, the Medical Board issued Physician's and Surgeon's Certificate Number A 110114 to Parviz Hiroshi Goshtasby, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought herein and will expire on July 31, 2021, unless renewed.

////

JURISDICTION

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

4. Section 2227 of the Code states:

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

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

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

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

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

(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.

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

STATUTORY PROVISIONS

5. Section 2234 of the Code, states:

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:

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

(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) 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.

(d) Incompetence.

. . .

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

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

6. 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.

7. Section 2271 of the Code states: Any advertising in violation of Section 17500, relating to false or misleading advertising, constitutes unprofessional conduct.

8. Section 17500 of the Code states:

It is unlawful for any person, firm, corporation or association, or any employee thereof with intent directly or indirectly to dispose of real or personal property or to perform services, professional or otherwise, or anything of any nature whatsoever or to induce the public to enter into any obligation relating thereto, to make or disseminate or cause to be made or disseminated before the public in this state, or to make or disseminate or cause to be made or disseminated from this state before the public in any state, in any newspaper or other publication, or any advertising device, or by public outcry or proclamation, or in any other manner or means whatever, including over the Internet, any statement, concerning that real or personal property or those services, professional or otherwise, or concerning any circumstance or matter of fact connected with the proposed performance or disposition thereof, which is untrue or misleading, and which is known, or which by the exercise of reasonable care should be known, to be untrue or misleading, or for any person, firm, or corporation to so make or disseminate or cause to be so made or disseminated any such statement as part of a plan or scheme with the intent not to sell that personal property or those services, professional or otherwise, so advertised at the price stated therein, or as so advertised. Any violation of the provisions of this section is a misdemeanor punishable by imprisonment in the county jail not exceeding six months, or by a fine not exceeding two thousand five hundred dollars ($2,500), or by both that imprisonment and fine.

////

9. Section 651 of the Code, states:

(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 picture, newspaper, book, list or directory of healing arts practitioners, Internet, or other electronic communication.

(b) A false, fraudulent, misleading, or deceptive statement, claim, or image includes a statement or claim 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.

...

(5) Contains other representations or implications that in reasonable probability will cause an ordinarily prudent person to misunderstand or be deceived.

...

(8)(e) Any person so licensed may not use any professional card, professional announcement card, office sign, letterhead, telephone directory listing, medical list, medical directory listing, or a similar professional notice or device if it includes a statement or claim that is false, fraudulent, misleading, or deceptive within the meaning of subdivision (b).

(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:

(1) A statement of the name of the practitioner.

(2) A statement of addresses and telephone numbers of the offices maintained by the practitioner.

(3) A statement of office hours regularly maintained by the practitioner.

(4) A statement of languages, other than English, fluently spoken by the practitioner or a person in the practitioner's office.

(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.

(B) A statement of certification by a practitioner licensed under Chapter 7 (commencing with Section 3000) shall only include a statement that he or she is certified or eligible for certification by a private or public board or parent association recognized by that practitioner's licensing board.

(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 and surgeon's licensing board, or (iii) a board or association with an Accreditation Council 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 an organization other than a board or association referred to in clause (i), (ii), or (iii) shall not use the term "board certified" in reference to that certification, unless the physician and surgeon is also licensed under Chapter 4 (commencing with Section 1600) and the use of the term "board certified" in reference to that certification is in accordance with subparagraph (A). 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.

For purposes of this subparagraph, a "multidisciplinary board or association" means an educational certifying body that has a psychometrically valid testing process, as determined by the Medical Board of California, for certifying medical doctors and other health care professionals that is based on the applicant's education, training, and experience.

For purposes of the term "board certified," as used in this subparagraph, the terms "board" and "association" mean an organization that is an American Board of Medical Specialties member board, an organization with equivalent requirements approved by a physician and surgeon's licensing board, or an organization with an Accreditation Council for Graduate Medical Education approved postgraduate training program that provides complete training in a specialty or subspecialty.

"...."

10. California Code of Regulations, title 16, section 1356.6, states:

(a) A liposuction procedure that is performed under general anesthesia or intravenous sedation or that results in the extraction of 5,000 or more cubic centimeters of total aspirate shall be performed in a general acute-care hospital or in a setting specified in Health and Safety Code Section 1248.1.

"...."

////

11. Unprofessional conduct under California Business and Professions Code section 2234 also includes 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, and which demonstrates an unfitness to practice medicine. (*Shea v. Board of Medical Examiners* (1978) 81 Cal.App.3d 564, 575.)

FIRST CAUSE FOR DISCIPLINE

(Gross Negligence)

12. Respondent is subject to disciplinary action under sections 2227 and 2234, as defined by section 2234, subdivision (b), in that he committed gross negligence in his care and treatment of Patient A,[1] as more particularly alleged hereinafter:

13. On or about February 28, 2018, Patient A, a then-51-year-old female, went to Athenix Body Sculpting Institute (Athenix), a cosmetic and plastic surgery center, to get information on "reducing stomach fat." After her initial visit, Patient A decided to get liposuction surgery at Athenix.

14. At some time prior to Patient A's scheduled liposuction surgery, there was a "Chart Review" documented on an undated note which indicated Patient A needed further testing which included TFT [thyroid functions tests] and an "earlier preop [with] M.D." The chart review form also contained notations indicating "moved pre-op to July 10th [and] sent thyroid panel." On another set of undated documents, Patient A's height was documented as 5'4", weight 205 pounds, BMI of 34, and a medical history that was positive for hypothyroidism treated with Synthroid; depression treated with Cymbalta; and sleep apnea with Patient A using a CPAP machine at night. Pre-operative EKG, thyroid function tests, and blood count were all normal.

15. On or about July 10, 2018, Patient A filled out various documentation related to her scheduled liposuction surgery. There was no documentation for the "pre-op" evaluation, referenced above, that was scheduled to take place on July 10, 2018.

16. On or about July 26, 2018, Patient A was advised that her originally scheduled surgeon, Dr. B.S., would not be doing her surgery because he was dealing with a medical issue. Another physician, Dr. K.C. was offered to do the surgery, but Patient A was concerned when she

[1] The patient herein is identified as Patient A in order to maintain patient confidentiality.

looked him up on the Board's website and discovered he had prior convictions for driving while under the influence of alcohol and she did not want him to perform the surgery. Athenix then called Patient A back and told her Respondent could do the surgery, which Patient A agreed to since "[t]hey said he was very skilled and [she] looked him up and he [was] board certified in 3 different areas of plastic surgery." Respondent's profile on the Athenix website provided that Respondent was "a triple board certified physician who specializes in cosmetic surgery of the face, body, and breast."[2]

17. On or about July 27, 2018, Patient A had her liposuction surgery which was performed by Respondent, who was meeting Patient A for the first time. According to Respondent, this was his last day working at Athenix. Respondent's pre-operative documentation set forth on an Athenix history and physical form was inadequate and perfunctory because, among other things, it failed to indicate any medical history, the physical exam list was very general in nature, the documented pulmonary examination was illegible, there was no documented cardiac examination, the abdominal exam merely listed "excess fat," and Respondent checked a box on Patient A's history and physical form indicating "[t]here are no changes from the initial History and Physical Examination dated [with no date listed]" even though there was no prior history and physical documented within the certified medical records for Patient A. Respondent's operative report listed the pre-operative diagnosis as "Lipodystrophy with excessive fat distributions throughout the trunk" and documented a body mass index (BMI) of 34. Power-assisted liposuction was performed over the abdomen, mons pubis, hips and flanks with 6500 cc's of fat solute being aspirated. The total surgery time was 1 hour and 49 minutes with spending 52 minutes in the recovery unit before she was discharged. Considering that 6500 cc's of fat were aspirated from Patient A, the surgery should have been performed in a hospital or Medicare-certified center, which it was not. Respondent's failure to perform Patient A's

[2] Respondent's profile on the Athenix website provided as follows, "With his extensive surgical background, Dr. Goshtasby has achieved double board-certification by the American Board of Surgery and the American Board of Plastic Surgery. Beyond these notable accomplishments, Dr. Goshtasby has attained additional certification in the Subspecialty of Surgery of the Hand, making him one of only a handful of surgeons to achieve triple certification in General Surgery, Plastic & Reconstructive Surgery, and Hand Surgery."

liposuction surgery in a hospital or Medicare certified surgical center exhibited a lack of knowledge and violated 16 California Code of Regulations, Section 1356.6.

18. On or about July 30, 2018, Patient A returned to Athenix for her first post-op visit by a medical assistant who changed her abdominal pads and "noted bruising on the abs, flanks, mon and [lateral] back [with] swelling." The office visit note indicated there was no drainage, mild swelling, mild to moderate bruising, no erythema and pain level of 5 on a 10 point scale. The office visit note also indicated that Respondent was "not in office/MA [medical assistant] texted [Respondent]." The plan was follow up in one week. In regard to the text and photos, Respondent indicated later that "I was not notified of anything" [and] "I did not receive a text."

19. On or about August 7, 2018, Patient A returned to Athenix regarding her concern of a "blister mid abdomen" noticed one week prior and swelling of her abdomen. The office visit note indicates there was no drainage, mild swelling, mild bruising and mild erythema. There was documentation of swelling at the mid-abdomen with bruising (9 cm x 5 cm). Photos were taken and Patient A was examined by another physician, Dr. K.C., who recommended the placement of a drain that was scheduled for the next day.

20. On or about August 8, 2018, Patient A returned to Athenix and filled out a consent form for "Drain Insertion" for "drainage of hematoma/seroma" to be performed by Dr. K.C. According to the procedure note for Patient A, "[t]here [was] an area of necrosis on her abdominal wall and persistent [sic] what appears to be trabeculated loculated seroma" which required drainage. An incision was made in a pre-existent C-section scar" with "[d]issection carried down into the abdominal wall and [a] good deal of fluid consisting of old blood and seroma was evacuated." A #19 Blake drain was placed at the base of the wound while Patient A was under general anesthesia and the injured skin in the upper right abdomen was treated with Betadine (a topical antiseptic cream) and bandages.

21. On or about August 13, 2018, Patient A returned to Athenix for follow up for the drain placement. The office visit note indicates there was mild drainage, mild swelling, mild bruising, mild erythema, and pain level of 5 on a 10 point scale. The medical assistant documented a wound of 7 x 5 cm on the abdomen and 1 x 2 cm at the left flank. Photos were

taken and Patient A was examined by Dr. K.C., who informed Patient A to apply Betadine on the mid-abdomen open wound twice a day and that the mid-abdomen would be surgically closed. The plan was for follow up in a few days.

22. On or about August 16, 2018, Patient A returned to Athenix with the patient concerns noted as "incisions were pulling." The office visit note indicates that "[Dr. K.C.] came in to take a look and skin is looking better [-] left side is still draining & hard in the area [-] mons pubic needs a little support." There was a notation of needing more compression in the mons pubic area and Patient A indicating it "feels super tight in the midsection" with a recommendation to wear stretch pants.

23. On or about August 27, 2018, Patient A returned to Athenix and her drain was removed by Dr. K.C., who noted "excellent progress" and that the "wound of the medial abdomen is healing well." Respondent was advised to continue with the Betadine every day and the use of a compression garment.

24. On or about September 5, 2018, Patient A's husband advised Athenix that his wife passed out at work. Patient A's husband was advised to bring his wife in for an appointment or, if the situation became more critical, to take his wife to a hospital or call 911. According to the communication form, Dr. K.C. was advised of the situation. Patient A came in later that day where she was examined, her vital signs were checked, and Dr. K.C. documented "no distress in office." Patient A was noted to be wearing her compression garment every day and the medical assistant applied Betadine and Tegaderm (a sterile surgical dressing).

25. On or about September 24, 2018, Patient A returned to Athenix to "recheck [abdomen]." The office visit note indicates there was mild drainage, mild swelling, no bruising, mild erythema, and no pain. Photos were taken and Patient A was examined by Dr. K.C. The medical assistant documented that Patient A was doing well but "still unhappy that it [the complication] happened. There was a notation that Patient A's "wound looks much better and is healing nicely with Dr. K.C. noting, among other things, "healing well" and "[n]o need for garment." The plan was to follow up in one month.

////

26. On or about October 22, 2018, Patient A returned to Athenix and reported concerns of blistering in a "burned area" and "a lot of pulling." The office visit note indicates no drainage, no swelling no bruising, mild erythema, and no pain. Photos were taken and Patient A was examined by Dr. K.C. The medical assistant noted that Patient A's wound "appears to be red and dry." Dr. K.C. instructed to keep the area moisturized and recommended massaging the area where Patient A complained of "a lot of pulling." The plan was to follow up in one month.

27. On or about November 26, 2018, Patient A returned to Athenix with concerns over contractions and tightness at night. Photos were taken and Patient A was examined by Dr. K.C., who recommended stretching and massaging to soften the tissues and other "next step" options such as a one or more steroid injections and/or surgical removal of tissue. The plan was to follow-up in two months.

28. On or about January 28, 2019, Patient A returned to Athenix with concerns over scar tissue from abdomen and her left flank. The office visit note indicates no drainage, no swelling no bruising, no erythema, and no pain. Photos were taken and patient was examined by Dr. K.C., who explained why Patient A was feeling tightness and also discussed the scar tissue on her left hip. The plan was to, among other things, follow up with Patient A at the end of March 2019. This was Patient A's last documented visit to Athenix.

29. Respondent has indicated, and advertises, that he is "triple board certified." As an example, Respondent's profile on the currently available website for Newport Plastic Surgery, Inc., has a section entitled "Meet Newport Plastic Surgeon Dr. Goshtasby" which makes repeated references to Respondent being "triple board certified." While Respondent is certified by the American Board of Plastic Surgery, which is one of the American Board of Medical Specialties (ABMS) member boards, he is no longer certified by the American Board of Surgery, and, thus, cannot claim to board certification for that ABMS member board.[3]

---

[3] Respondent also represented that he was "a triple board-certified plastic surgeon" in his letter to the Board of April 10, 2019. During his interview with a Department of Consumer Affairs, Division of Investigation, Health Quality Investigation Unit (HQIU) investigator of April 29, 2020, Respondent was asked if he was board certified and he indicated he was board certified in "plastic surgery, as well as hand surgery." (Interview Transcript, at p. 8.)

30. During his interview with an HQIU investigator, Respondent indicated that the risk of seroma/hematoma in liposuction is 5-10 percent, which exhibited a lack of knowledge. The actual risk of seroma is approximately 2.2 percent with power assisted liposuction and the risk of skin necrosis is approximately 0.6 percent.[4]

31. Respondent's lack of knowledge and failure to properly perform Patient A's liposuction surgery resulted in skin necrosis of the right upper abdomen and left flank, the development of a hematoma/seroma, and scarring and contour irregularity.

32. Respondent committed gross negligence in his care and treatment of Patient A which included, but was not limited to, the following:

(a) Respondent failed to maintain adequate and accurate medical records in regard to his documentation of Patient A's pre-operative condition;

(b) Respondent's lack of knowledge and failure to properly perform Patient A's liposuction surgery of July 27, 2018, resulted in skin necrosis; and

(c) Respondent's lack of knowledge and failure to properly perform Patient A's liposuction surgery of July 27, 2018, resulted in the development of a hematoma/seroma.

SECOND CAUSE FOR DISCIPLINE

(Repeated Negligent Acts)

33. Respondent is further subject to disciplinary action under sections 2227 and 2234, as defined by section 2234, subdivision (c), of the Code, in that Respondent committed repeated negligent acts in his care and treatment of Patient A, as more particularly alleged herein.

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

(a) Paragraphs 12 through 32, above, are hereby incorporated by reference and realleged as if fully set forth herein;

////

[4] Kim YH, Cha SM, Naidu S, Hwang WJ. *Analysis of Postoperative Complications for Superficial Liposuction: A Review of 2398 Cases. Plastic and Reconstructive Surgery*: 121(2) 863-871.

(b) Respondent failed to maintain adequate and accurate medical records in regard to his documentation of Patient A's pre-operative condition on July 27, 2018;

(c) Respondent's lack of knowledge and failure to properly perform Patient A's liposuction surgery of July 27, 2018, resulted in skin necrosis;

(d) Respondent's lack of knowledge and failure to properly perform Patient A's liposuction surgery of July 27, 2018, resulted in the development of a significant hematoma/seroma;

(e) Respondent failed to see Patient A in consultation prior to her treatment plan being determined; and

(f) Respondent inaccurately represented that he was triple board certified.

THIRD CAUSE FOR DISCIPLINE

(Incompetence)

35. Respondent is further subject to disciplinary action under sections 2227 and 2234, as defined by section 2234, subdivision (d), of the Code, in that he exhibited incompetence and/or a lack of knowledge in his care and treatment of Patient A, as more particularly alleged in paragraphs 12 through 34, above, which are incorporated by reference and realleged as if fully set forth herein.

FOURTH CAUSE FOR DISCIPLINE

(False and/or Misleading Advertising)

36. Respondent is further subject to disciplinary action under sections 2227 and 2234, as defined by sections 651, 2271 and 17500, of the Code, in that he has made and disseminated, or caused to be made and disseminated, false and/or misleading advertising in violation of section 17500 of the Code, as more particularly alleged in paragraph 28, above, which is hereby incorporated by reference and realleged as if fully set forth herein. The false and/or misleading statements included false representations that Respondent was "triple board certified" in his profiles on the website for Athenix where Patient A had her surgery and the website for Newport Plastic Surgery, Inc.

FIFTH CAUSE FOR DISCIPLINE

(Failure to Maintain Adequate and Accurate Records)

37. Respondent is further subject 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 records in his care and treatment of Patient A, as more particularly alleged in paragraphs 12 through 34, above, which are hereby incorporated by reference and realleged as if fully set forth herein.

SIXTH CAUSE FOR DISCIPLINE

(General Unprofessional Conduct)

38. Respondent is further subject to disciplinary action under sections 2227, and 2234, as defined by section 2234, in that he engaged in 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, and which demonstrates an unfitness to practice medicine, as more particularly alleged in paragraphs 12 through 37, 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 A 110114, issued to Respondent Parviz Hiroshi Goshtasby, M.D.;

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

3. Ordering Respondent Parviz Hiroshi Goshtasby, 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: NOV 20 2020

WILLIAM PRASIFKA
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

SD2020301985
82597914.docx