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

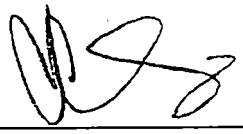
In the Matter of the First Amended Accusation Against: Roozbeh Badii, M.D. Physician's & Surgeon's Certificate No C 143701 Petitioner.	Case No.: 800-2020-068036

ORDER DENYING PETITION FOR RECONSIDERATION

The Petition filed by Michael A. Firestone, Esq., attorney for Roozbeh Badii, M.D., for the reconsideration of the decision in the above-entitled matter having been read and considered by the Medical Board of California, is hereby denied.

This Decision remains effective at 5:00 p.m. on March 25, 2022.

IT IS SO ORDERED: March 28, 2022



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

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

In the Matter of the First Amended Accusation Against: **Roozbeh Badii, M.D.** **Physician's & Surgeon's Certificate No. C 143701** **Respondent**	**Case No. 800-2020-068036** **ORDER GRANTING STAY** **(Government Code Section 11521)**

Marvin Firestone. Esq. on behalf of Respondent, Roozbeh Badii M.D., has filed a Request for Stay of execution of the Decision in this matter with an effective date of February 25, 2022, at 5:00 P.M.

Execution is stayed until March 25, 2022, at 5:00 p.m.

This stay is granted solely for the purpose of allowing the Respondent to file a Petition for Reconsideration.

DATED: February 16, 2022

William Prasifka
Executive Director
Medical Board of California

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

In the Matter of the First Amended Accusation Against: **Roozbeh Badii, M.D.** **Physician's and Surgeon's Certificate No. C 143701** **Respondent.**	**Case No. 800-2020-068036**

DECISION

The attached Proposed Decision is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on February 25, 2022.

IT IS SO ORDERED January 27, 2022.

MEDICAL BOARD OF CALIFORNIA

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

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

In the Matter of the First Amended Accusation Against:

ROOZBEH BADII, M.D.,

Physician's and Surgeon's Certificate No. C 143701

Respondent.

Agency Case No. 800-2020-068036

OAH No. 2021080720

PROPOSED DECISION

Administrative Law Judge Karen Reichmann, State of California, Office of Administrative Hearings, heard this matter on December 2, 2021, by videoconference.

Supervising Deputy Attorney General Jane Zack Simon represented complainant William Prasifka, Executive Director of the Medical Board of California.

Attorney Marvin Firestone, M.D., represented respondent Roozbeh Badii, M.D., who was present.

The record closed and the matter was submitted for decision on December 2, 2021.

FACTUAL FINDINGS

Jurisdictional Matters

1. On July 11, 2016, the Medical Board of California (Board) issued Physician's and Surgeon's Certificate No. C 143701 (Certificate) to respondent Roozbeh Badii, M.D. The Certificate was in full force and effect at all times relevant to the charges in the First Amended Accusation. The Certificate will expire on September 30, 2023, unless renewed.

2. On April 30, 2021, complainant William Prasifka filed the First Amended Accusation solely in his official capacity as the Board's Executive Director. Complainant seeks to discipline respondent's Certificate based on discipline imposed on his medical licenses in Maryland and Connecticut, and for mental impairment.

Maryland Discipline

3. On April 20, 2020, the Maryland State Board of Physicians (Maryland Board) issued a Final Decision and Order suspending respondent's Maryland license to practice medicine for a minimum of one year, based on mental incompetence and respondent's failure to cooperate with a Maryland Board investigation into a complaint of over-prescribing high-cost prescription medications. The Maryland Board found that respondent failed to respond to letters, telephone calls and subpoenas during the investigation and failed to appear for an interview, and that these actions resulted in the Maryland Board being unable to complete its investigation. The Maryland Board further noted that an independent evaluator found respondent was not competent to practice safely due to anger, irritability, impulsivity, and poor insight and judgment. The Maryland Board concluded that respondent is incompetent, and suspended his

license for a minimum of one year and until he is determined to be safe to return to practice. Respondent was directed to attend the Maryland Professional Rehabilitation Program.

Respondent petitioned for judicial review of the Maryland Board's Final Decision and Order in the Circuit Court for Baltimore City. The Circuit Court affirmed, and respondent then appealed in the Court of Special Appeals of Maryland. His appeal was denied on August 13, 2021. Respondent filed a petition for writ of certiorari, which was denied on November 22, 2021.

Connecticut Discipline

4. On February 16, 2021, the Connecticut Medical Examining Board (Connecticut Board) issued a Consent Order restricting respondent from providing in-person clinical care in Connecticut without first notifying the Connecticut Board and only after he has been evaluated and found safe to provide clinical care. Respondent's Connecticut license was placed on probation for two years on conditions including retaining a practice supervisor. By agreeing to the Consent Order, respondent waived his right to contest allegations that he has mental health conditions that, if not appropriately managed, do and/or may affect his practice as a physician and surgeon.

Prior Board Discipline

5. On June 8, 2018, the Board issued a Public Letter of Reprimand to respondent, arising from a November 1, 2016, Consent Order issued by the Maryland Board in which respondent was reprimanded for pre-signing prescription forms and authorizing a nurse to complete them. Respondent's actions constituted violations of Business and Professions Code sections 141, subdivision (a), 2234, and 2305.

Expert Report and Testimony

6. In light of the Maryland Board's disciplinary action, the Board directed respondent to submit to a psychiatric evaluation. The evaluation was performed by psychiatrist Nicholas Badre, M.D., on October 30, 2020. Dr. Badre wrote a report and testified at the hearing.

7. Dr. Badre noted that during his interview of respondent, respondent expressed many conspiratorial and unusual beliefs, but ultimately Dr. Badre concluded that these beliefs were not delusional. He found respondent's insight and judgment were reasonable.

Respondent revealed to Dr. Badre a history of medication non-compliance, admitting that he had ordered medication from abroad and did not notify his treating psychiatrist. Dr. Badre believed that respondent was compliant with treatment at the time of his interview. He noted that respondent was taking Lamotrigine (frequently prescribed for bipolar disorder) and Wellbutrin (an antidepressant). Dr. Badre performed a urine drug screen, and respondent tested positive for these substances and not for any other substances. Respondent reported that he had previously taken Zyprexa (an antipsychotic medication commonly prescribed for bipolar disorder) for many years.

Dr. Badre diagnosed respondent with unspecified depression and adjustment disorder. At hearing, he described respondent's mental illness as "severe," and he agreed that his findings were not inconsistent with respondent's treating physician's diagnoses of seasonal affective disorder and probable bipolar disorder.

Dr. Badre wrote that respondent does not have a mental illness which impairs his ability to practice safely, as long as the Board ensures that respondent continues to

seek psychiatric treatment and follow treatment recommendations. At hearing, Dr. Badre reiterated that treatment is necessary for respondent to be safe to practice, regardless of whether he has depression or bipolar disorder. Dr. Badre believes that respondent is willing to comply with Board oversight. He does not believe that respondent is capable of consistently monitoring his own condition without oversight.

Respondent's Evidence

8. Respondent was born in Iran where his parents were prominent computer science professors. The family immigrated to the United States in 1987, when respondent was 12 years old. Respondent graduated from medical school in January 2003. He was treated at a psychiatric hospital during medical school. Respondent testified that he suffered depression after the death of family members in Iran, and sought advice from a "nobel laureate" at the medical school. When he asked to take time off from school, the dean insisted that he seek psychiatric hospitalization because there had recently been a tragic incident involving a medical student with schizophrenia. In his interview with Dr. Badre, respondent stated that he was asked to seek psychiatric care while in medical school because he appeared depressed and had sought career guidance from faculty members after not enjoying his clinical rotations. Respondent reported to Dr. Badre that he was diagnosed as bipolar during this hospitalization. Respondent questions the bipolar diagnosis and asserted that he has never experienced a manic episode.

9. Respondent reported that he achieved high grades in surgery, but wanted to pursue a specialty that would enable him to have a family life so he "settled" on internal medicine. He completed a residency in internal medicine in 2007. Respondent became board certified in internal medicine in 2007 and he recertified in 2019.

10. Respondent stated that he worked as a hospitalist in Connecticut from 2007 through 2011, and that he earned a good reputation for "diagnosing diseases nobody else could." In 2011, he went to work at a hospital in Massachusetts. He reported that he left this position because the facility's elevators were always broken and he injured his calf walking up and down stairs. He also reported that while living in Massachusetts, he began to feel depressed during the winter months and wanted to move to a sunnier climate.

11. Respondent then moved to Virginia where he worked as a hospitalist until 2016. He reported that he was named "doctor of the year" during his tenure. He also began working in telemedicine in approximately 2012.

12. In 2016, respondent had a business dispute with his partner and there was a 28-day-long period of rain which made him suffer from depression. He sought psychiatric help and was diagnosed with seasonal affective disorder. His physician prescribed Lamotrigine. Respondent explained that the physician decided it was best "to assume the worst diagnosis," namely bipolar disorder, when deciding what to prescribe. Respondent added that Lamotrigine is sometimes prescribed off-label to treat depression.

13. Respondent moved to San Diego in 2016. He works in telemedicine and reported that he is the medical director of three entities. Respondent became estranged from his wife and reported that he would soon be awarded full custody of his three children.

14. Respondent believes that he suffers from seasonal affective disorder and is not otherwise mentally impaired. He reported that he becomes depressed after three days of poor weather, and that he will not work beginning on the fourth day

until the weather improves. He stated that it is "risky" for him to work on the fourth day, and that he will stay home and drink coffee. He stated that he moved to San Diego due to his condition, and that he now only has debilitating episodes about once a year due to the favorable weather conditions. Respondent reported that he and his psychiatrist check the weather every day. Pursuant to his psychiatrist's advice, he takes an extra Wellbutrin when the forecast is for more than three consecutive cloudy days. Respondent stated that taking time off from work when there are more than three consecutive days of poor weather is not disruptive to patient care because he is only involved in low acuity urgent care and not with chronic care and there are other physicians who can see his patients. Respondent believes he can manage his condition and does not believe he needs oversight to practice safely. Respondent disputes the Maryland Board's discipline, alleging that it is based on "false information."

15. Respondent has been treated by psychiatrist Barbara Smith, M.D., Ph.D., since at least 2018. He asserted that he is in compliance with her recommendations and that he intends to continue treatment with her. Respondent did not provide corroboration for this testimony.

16. Respondent reported that as a result of the Maryland Board's suspension, his Virginia medical license was automatically suspended. Because his DEA license was registered in Virginia it was also automatically revoked. Respondent reported that a federal judge ruled against his application for a DEA permit, but that he was eventually successful in obtaining an unrestricted DEA permit. Respondent did not corroborate this testimony.

17. Respondent made a number of implausible statements during his testimony. He stated that his wife falsified his personal medical records and sent them to his former business partner who sold them for $250,000. He asserted this his

records were worth this sum because he is the plaintiff in an antitrust action against a former employer. He also asserted that he had been interviewed by FBI agents who advised him not to make a report to the local police, and that the FBI matter is still pending.

18. Respondent's demeanor during the hearing and his tangential, hyperbolic, and at times implausible testimony severely undermined his credibility and undermined the persuasiveness of Dr. Badre's opinion that respondent is safe to practice as long as he is in treatment.

LEGAL CONCLUSIONS

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

2. Business and Professions Code sections 2305 and 141 provide that the Board may discipline the certificate of a physician who has been disciplined by another state for conduct which would be cause for discipline in California. Respondent's discipline in Maryland involved conduct which would be cause for discipline in California under Business and Professions Code sections 2234 (unprofessional conduct), 2234, subdivision (h) (failing to attend a Board interview), 2225 (failure to comply with a Board subpoena), and 822 (mental impairment). Cause for discipline based on the Maryland Final Decision and Order was established, in light of the matters set forth in Factual Finding 3. Respondent's discipline in Connecticut involved impairment due to mental illness, which would be cause for discipline in California

under Business and Professions Code section 822. Cause for discipline based on the Connecticut Consent Order was established in light of the matters set forth in Factual Finding 4.

3. Business and Professions Code sections 2227 and 822 provide that the Board may take action against a licensee whose ability to practice medicine safely is impaired by mental or physical illness. The evidence established that respondent suffers from mental impairment that if not appropriately treated impairs his ability to practice safely. Cause for discipline was established in light of the matters set forth in Factual Finding 7.

4. In exercising its disciplinary functions, protection of the public is the Board's highest priority. (Bus. & Prof. Code, § 2229, subd. (a).) The Board is also required to take disciplinary action that is calculated to aid the rehabilitation of the physician whenever possible, as long as the Board's action is not inconsistent with public safety. (Bus. & Prof. Code, § 2229, subds. (b), (c).)

5. The Board's Manual of Disciplinary Orders and Disciplinary Guidelines (12th ed., 2016; Cal. Code Regs., tit. 16, § 1361) provide for a minimum discipline of five years' probation and a maximum discipline of revocation for licensees who have been impaired by mental illness or who have committed unprofessional conduct. Complainant recommends a five-year period of probation with several special conditions to provide rehabilitation and monitoring of respondent's practice. Respondent believes no discipline is warranted.

6. Respondent has suffered from mental illness since medical school that has at times impaired his ability to practice medicine safely. He has a history of prior non-compliance with treatment. He unconvincingly asserts that he is only minimally

impaired by seasonal affective disorder and that he is capable of managing his condition. Respondent's presentation at hearing did not allay concerns about his mental condition and fitness to practice safely. There was no evidence that he complied with the Maryland Board's order directing him to attend a physician rehabilitation program. He continues to challenge the validity of the Maryland Board's discipline. Respondent asserts that he is in compliance with psychiatric treatment, but did not provide testimony or a letter from his treating physician. Nor did respondent submit any letters from physicians attesting to his competence. He has a history of prior Board discipline consisting of a public letter of reprimand. Under these circumstances, revocation is the appropriate discipline. It would be against the public interest to permit respondent to retain his physician and surgeon's certificate, even on probationary conditions.

ORDER

Physician's and Surgeon's Certificate No. C 143701, issued to respondent Roozbeh Badii, M.D., is revoked.

DATE: 12/20/2021

Karen Reichmann

KAREN REICHMANN

Administrative Law Judge

Office of Administrative Hearings

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

In the Matter of the First Amended Accusation Against: **Roozbeh Badii, M.D.** **449 B Ave.** **Coronado, CA 92118-1818** **Physician's and Surgeon's Certificate No. C 143701,** Respondent.	Case No. 800-2020-068036 **FIRST AMENDED ACCUSATION**

PARTIES

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

2. On July 11, 2016, the Medical Board issued Physician's and Surgeon's Certificate Number C 143701 to Roozbeh Badii, 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 September 30, 2021, unless renewed.

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JURISDICTION

3. This First Amended Accusation is brought before the Medical Board of California (Board) under the authority of the following sections of the California Business and Professions Code (Code) and other relevant statutory enactments:

4. Section 2227 of the Code provides, in part, that the Board may revoke, suspend for a period not to exceed one year, or place on probation, the license of any licensee who has been found guilty under the Medical Practice Act, and may recover the costs of probation monitoring.

5. Section 2305 of the Code provides, in part, that the revocation, suspension, or other discipline, restriction or limitation imposed by another state upon a license to practice medicine issued by that state, or the revocation, suspension, or restriction of the authority to practice medicine by any agency of the federal government, that would have been grounds for discipline in California under the Medical Practice Act, constitutes grounds for discipline for unprofessional conduct against the licensee in California.

6. Section 141 of the Code provides:

> (a) For any licensee holding a license issued by a board under the jurisdiction of a department, a disciplinary action taken by another state, by any agency of the federal government, or by another country for any act substantially related to the practice regulated by the California license, may be a ground for disciplinary action by the respective state licensing board. A certified copy of the record of the disciplinary action taken against the licensee by another state, an agency of the federal government, or by another country shall be conclusive evidence of the events related therein.
>
> (b) Nothing in this section shall preclude a board from applying a specific statutory provision in the licensing act administered by the board that provides for discipline based upon a disciplinary action taken against the licensee by another state, an agency of the federal government, or another country.

7. Business and Professions Code section 822 provides that the Board may take action against a licensee whose ability to safely practice medicine is impaired because of mental illness or physical illness affecting competency.

FIRST CAUSE FOR DISCIPLINE

(Discipline, Restriction, or Limitation Imposed by Other States)

8. Respondent Roozbeh Badii, M.D. is subject to disciplinary action under Code sections 2305 and 141 in that the Maryland State Board of Physicians (Maryland Board) and the

Connecticut Medical Examining Board (Connecticut Board) have taken action against Respondent's licenses in those states.[1]

9. On April 20, 2020, the Maryland Board issued a Final Decision and Order that suspended Respondent's license to practice medicine for a minimum of one year. Additional suspension terms apply. The Maryland Final Decision and Order was based on both Respondent's mental incompetence and his failure to cooperate with the Maryland Board's investigation of Respondent. According to the Maryland Order of Mandatory Suspension, Respondent has a mental condition, lacked adequate insight into his condition, and failed to appropriately manage and control his mental condition. According to the Maryland Order of Mandatory Suspension, Respondent's failure to cooperate with the Maryland Board's investigation included failing to appear for his Board interview and failing to respond to a subpoena for patient medical records. (A copy of the Maryland Board's Final Decision and Order is attached as Exhibit A.)

10. On February 16, 2021, the Connecticut Medical Examining Board (Connecticut Board) issued a Consent Order. The Connecticut Consent Order resolved allegations that Respondent has mental health conditions that, if not appropriately managed, do and/or may affect his medical practice. The Consent Order noted that Respondent practices telehealth, and has not practiced in-person clinical medicine since 2017. Respondent's Connecticut license was restricted in that he may not provide in-person clinical care without providing the Connecticut Board advance notice of his intention to do so and only after he has been evaluated and determined safe to provide safe and competent clinical care. Respondent's Connecticut license was placed on probation for two years. He must periodically provide a list of Connecticut residents for whom he has provided telehealth services. Respondent must retain a Connecticut physician supervisor to meet regularly with Respondent and conduct a chart review. (A copy of the Connecticut Board's Consent Order is attached as Exhibit B.)

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[1] On May 12, 2020, the Virginia Department of Health Professions (Virginia Board) entered an order of Mandatory Suspension that suspended Respondent's license to practice medicine. The Virginia Board's Order of Mandatory Suspension was based on the Maryland Board's suspension decision. The Virginia suspension remains in effect.

11. Respondent's conduct and the actions of the Maryland Board as set forth above constitute unprofessional conduct within the meaning of section 2305 and conduct subject to discipline within the meaning of section 141 subdivision (a).

SECOND CAUSE FOR BOARD ACTION

(Impairment Due to Psychiatric Disorder)

12. Respondent underwent an evaluation by a Board-appointed California psychiatrist. The evaluator concluded that Respondent has a psychiatric disorder, which in the absence of appropriate treatment and monitoring, can impair his ability to safely practice medicine. The evaluator noted that at the time of his assessment, Respondent had been in regular treatment with a psychiatrist who diagnosed Respondent with seasonal affective disorder and a probable bipolar disorder. The evaluator further noted that Respondent has done well with his treatment, which has included prescription drugs commonly prescribed to treat bipolar disorder and depression or seasonal affective disorder. The evaluator concluded that Respondent's psychiatric disorder requires ongoing treatment and monitoring. Because he is currently adhering to his treatment plan, Respondent is able to safely practice medicine. However, due to his psychiatric disorder, Respondent must remain in treatment in order to ensure he can safely practice medicine.

13. Respondent is subject to action by the Board pursuant to sections 2227 and 822 of the Code in he is impaired in his ability to safely practice medicine as a result of mental illness.

DISCIPLINARY CONSIDERATIONS

14. To determine the degree of discipline, if any, to be imposed on Respondent Roozbeh Badii, M.D., Complainant alleges that on June 8, 2018, in a prior disciplinary action before the Medical Board of California, Case Number 800-2016-027675, Respondent's license was issued a public letter of reprimand arising from a Consent Order issued by the Maryland State Board of Physicians whereby Respondent was reprimanded for pre-signing prescription forms and authorizing a nurse to complete the prescription forms. Those actions constituted a violation of California Business and Professions Code sections 141(a), 2234, and 2305.

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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 C 143701, issued to Roozbeh Badii, M.D.;

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

3. Ordering Roozbeh Badii, 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: APR 30 2021

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

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EXHIBIT A

MAY 04 2020
DHP

IN THE MATTER OF	*	**BEFORE THE**
ROOZBEH BADII, M.D.	*	**MARYLAND STATE**
Respondent.	*	**BOARD OF PHYSICIANS**
License Number D73228	*	**Case Numbers 2218-0147; 2219-0026**

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FINAL DECISION AND ORDER

INTRODUCTION

On April 11, 2019, Disciplinary Panel B ("Panel B") of the Maryland State Board of Physicians ("Board") charged Roozbeh Badii, M.D. under the Maryland Medical Practice Act with the following disciplinary grounds: Is professionally, physically, or mentally incompetent, in violation of Md. Code Ann., Health Occ. ("Health Occ.") § 14-404(a)(4); and Fails to cooperate with a lawful investigation conducted by the Board or a disciplinary panel, in violation of Health Occ. § 14-404(a)(33). Dr. Badii requested an evidentiary hearing on the charges. On June 3, 2019, the case was forwarded to the Office of Administrative Hearings ("OAH") for an evidentiary hearing on the charges.

A three-day hearing was held before an Administrative Law Judge ("ALJ") at the OAH. Both parties offered testimony from fact witnesses and from expert witnesses who testified regarding Dr. Badii's competency to practice medicine. On November 22, 2019, the ALJ issued a proposed decision concluding that Dr. Badii failed to cooperate with the Board's investigation, in violation of Health Occ. § 14-404(a)(33). The ALJ did not uphold the charge that Dr. Badii was professionally, physically, or mentally incompetent, in violation of Health Occ. § 14-404(a)(4). The ALJ recommended that Dr. Badii's license be suspended for a period not to

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COMMONWEALTH'S EXHIBIT
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exceed one year, which could be reduced after the Board determined that Dr. Badii had fully complied with the Board's investigation.

On December 11, 2019, Dr. Badii filed exceptions to the ALJ's proposed decision and the State filed a response. The State filed exceptions to the ALJ's proposed decision on December 13, 2019. On February 12, 2020, both parties appeared before Disciplinary Panel A ("Panel A" or "the Panel") of the Board for an exceptions hearing.

FINDINGS OF FACT

Panel A adopts the ALJ's joint stipulations of fact, numbers 1-18, and the ALJ's proposed findings of fact, numbers 1-50, and, numbers 54-59.[1] *See* ALJ proposed decision, attached as **Exhibit 1**.[2] These facts were proven by a preponderance of the evidence and are incorporated by reference into the body of this document as if set forth in full. The Panel also adopts the ALJ's discussion set forth on pages 24-28 regarding the failure to cooperate charge, which is incorporated into the body of this document as if set forth in full. The Panel does not adopt the remaining findings of fact or the ALJ's discussion on pages 28-34 regarding the professional, physical, or mental incompetence charge.

Dr. Badii was licensed by the Board to practice medicine in the State of Maryland on October 17, 2011. His license expired on September 30, 2018.[3] In or around February 2018, the Board initiated an investigation of Dr. Badii, under case number 2218-0147B, following a complaint filed by a pharmacy benefit management organization regarding Dr. Badii's telemedicine prescribing practices. As part of this investigation into Dr. Badii's prescribing

[1] The Panel does not adopt the last sentence of finding of fact 33.
[2] The ALJ proposed decision has been redacted to remove confidential information from public view.
[3] Pursuant to section 14-403 of the Health Occupations Article, the license of an individual regulated by the Board may not "lapse by operation of law while the individual is under investigation or while charges are pending." The investigation in both cases began before the expiration of Dr. Badii's license. Therefore, by operation of law, Dr. Badii's license did not expire during these proceedings.

practices, the Board issued a subpoena to Dr. Badii for the complete medical records of ten patients and a subpoena to Dr. Badii to appear at the Board for an interview on July 12, 2018. Dr. Badii failed to comply with either subpoena despite numerous requests for the information.[4]

During the course of the Board's investigation of case number 2218-0147B, Dr. Badii filed a complaint against another physician accusing the physician of a series of professional improprieties.[5] After investigating the complaint, the Board ultimately decided to close the case with no action. Information submitted by Dr. Badii with his complaint raised concerns regarding Dr. Badii's ability to practice medicine safely and a new case was opened, under case number 2219-0026B, to investigate whether Dr. Badii was competent to practice medicine. The Board subpoenaed Dr. Badii's treatment records from the various physicians who had evaluated or treated him over the years and sent Dr. Badii for an independent evaluation by a Board-certified forensic psychiatrist to assess Dr. Badii's competency. The psychiatrist reviewed all of the evaluations and treatment records concerning Dr. Badii, as well as records from Dr. Badii's divorce proceeding and relevant portions of the Board's investigative file, and concluded that Dr. Badii was unable to safely practice medicine safely due to his anger, irritability, impulsivity, poor insight and judgment.

EXCEPTIONS

Pursuant to the Board's regulations, any party may file exceptions to an ALJ's proposed decision within 15 days of its issuance. COMAR 10.32.02.05B(1)(a). The exceptions must be related to the ALJ's proposed decision and the disciplinary panel is not permitted to accept additional evidence through the written exceptions process. COMAR 10.32.02.05B(1)(e). Both

[4] The ALJ found that, as of the date of the OAH evidentiary hearing, Dr. Badii had still not appeared for the Board interview or produced the records for nine out of the ten patients named in the subpoena.
[5] The details of the complaint and the identity of the physician who was the subject of the complaint are confidential Board records and not subject to disclosure.

parties filed exceptions in this case. The Panel will address the exceptions related to the ALJ's proposed decision and the charges in this case below.

DISCUSSION

I. Failure to Cooperate

Dr. Badii takes exception to the ALJ's conclusion that he failed to cooperate with the Board's investigation and disagrees with many of the ALJ's proposed findings of fact related to this charge. The Panel has carefully reviewed the ALJ's proposed findings of fact regarding Dr. Badii's failure to cooperate and finds that each of the proposed findings of fact were established in the record and supported by a preponderance of the evidence.

In connection with the complaint regarding Dr. Badii overprescribing prescription drugs to his telemedicine patients, the Board sent Dr. Badii several letters and two subpoenas via first-class mail to his address of record. The letters and subpoenas were not returned to the Board as undelivered. When Dr. Badii did not respond to the initial communications sent to his address of record, the compliance analyst sent an email to Dr. Badii, on April 30, 2018, and called Dr. Badii, on May 15, 2018, using the email address and phone number that Dr. Badii provided to the Board on his renewal application. The compliance analyst spoke to Dr. Badii on the phone, on May 15, 2018, and Dr. Badii confirmed his email address and informed the compliance analyst that his mailing address had changed and that the address he had provided to the Board was no longer valid. The compliance analyst sent all of the prior communications that were sent to Dr. Badii by first-class mail to Dr. Badii at the email address that Dr. Badii confirmed on the phone and gave Dr. Badii until May 30, 2018 to comply with the first Board subpoena, which requested the medical records of 10 named patients. Dr. Badii did not respond to the subpoena for medical records by May 30, 2018. The compliance analyst followed up with phone calls to

Dr. Badii on June 4 and June 7, 2018, and Dr. Badii produced the records for one of the ten patients named in the subpoena on June 7, 2018. On June 11, 2018, a subpoena ad testificandum for Dr. Badii to appear at the Board for an interview on July 12, 2018 was mailed to Dr. Badii by first-class mail at the new address of record that Dr. Badii provided to the Board. The subpoena was not returned to the Board as undelivered. Dr. Badii did not appear for the interview on July 12, 2018 and has never made any attempts to belatedly comply with the Board's subpoena.

Dr. Badii argues that he never received the Board subpoenas and argues that there was no evidence that the Board subpoenas and other documents were mailed or delivered to him. Licensees are required to update their addresses with the Board and have an obligation to cooperate with the Board's investigation. *See* Health Occ. § 14-316(f). Licensees who fail to cooperate with the Board's investigation are subject to discipline under the Medical Practice Act. *See* Health Occ. § 14-404(a)(33). Dr. Badii acknowledged that he failed to update his address with the Board and admitted that he only checked his mail once a month and that the post office stopped delivering mail when his mailbox was full. Because of the requirement to update the Board of their address and the importance of the Board being able to investigate complaints, licensees cannot avoid discipline if they fail to update their address and thwart the Board's ability to investigate. *See Maryland State Bd. of Nursing v. Sesay*, 224 Md. App. 432, 453-54 (2015) ("Ms. Sesay's argument could provide an incentive to licensees in the midst of administrative proceedings in which charges have been brought against them—or even before any such proceedings commence if they believe charges may be brought—to fail to update their address with the appropriate regulatory body.").

Dr. Badii also argued in his exceptions that he never received phone calls from the Board on May 15, 2018 and June 4, 2018 and accused the Board's compliance analyst of lying about

the phone calls and about mailing the subpoenas. This statement contradicts Dr. Badii's testimony before the ALJ at OAH, where he admitted that he received a phone call from the compliance analyst on June 4, 2018. Next, Dr. Badii points to a statement in the Report of Investigation where the compliance analyst stated that the June 11, 2018 subpoena ad testificandum was mailed and emailed to Dr. Badii and argues that this is evidence that the compliance analyst lied because there was no evidence that the subpoena was ever emailed to him. The compliance analyst was asked about this statement in her testimony and she corrected the error in the report during her testimony and confirmed that the June 11, 2018 subpoena was mailed by first-class mail to Dr. Badii at his address of record, but was not emailed to him. As a result, the ALJ found that the Board mailed the subpoena to Dr. Badii, on June 11, 2018, and the ALJ did not find that the subpoena was emailed to Dr. Badii on June 11, 2018. The Panel agrees with the ALJ that a preponderance of evidence supports the finding that the June 11, 2018 subpoena was sent to Dr. Badii by first-class mail to his address of record and was not emailed to him. The ALJ was unpersuaded by Dr. Badii's assertions that the compliance analyst was lying, and instead, found that the analyst's testimony was clear, concise, and consistent in explaining all her attempts to obtain the requested information from Dr. Badii on multiple occasions. The Panel adopts the ALJ's credibility determinations concerning the Board's compliance analyst and agrees that there is no credible evidence to support that she lied in her sworn testimony.

Dr. Badii argues that, assuming the truth of the compliance analyst's statements, he responded to the Board's subpoena only 7 days late and argues that he should not be sanctioned for his late compliance. Dr. Badii, however, fails to address that he only produced one of the ten patient records requested and that he has never produced the remaining nine patient records in compliance with the Board's subpoena. Dr. Badii argued that he was not able to produce the

records because the telemedicine companies maintained the records and he no longer had access to the records or some of the companies were no longer in business. The ALJ found that Dr. Badii was required to maintain his own patient records regardless of whether he practiced telemedicine or saw patients in-person and did not find that Dr. Badii's excuse that the telemedicine companies maintained the records excused him from his independent responsibility to keep patient records. In addition, Dr. Badii never responded to the Board's June 11, 2018 subpoena, which required Dr. Badii to appear at the Board for an interview. The ALJ found that Dr. Badii's failure to respond to repeated requests from the Board's compliance analyst continued to delay the Board's ability to investigate Dr. Badii's prescribing practices and fully supported a finding that Dr. Badii failed to comply with a lawful investigation by the Board or a disciplinary panel. The Panel agrees. Dr. Badii's exceptions are denied.

II. Professional, Physical, or Mental Incompetence

During the Board's investigation of Dr. Badii's prescribing practices, Dr. Badii submitted a complaint to the Board regarding another physician, which contained attachments from a California court proceeding, including a financial statement in which Dr. Badii reported a lower income due to a medical diagnosis and inability to work as a physician. As a result of the information provided to the Board in the complaint, the Board initiated an investigation to determine whether Dr. Badii was competent to practice medicine and referred Dr. Badii for an independent evaluation, which revealed that Dr. Badii was not competent to safely practice medicine due to his anger, irritability, impulsivity, poor insight and judgment.[6]

The evidence showed that Dr. Badii has been evaluated by several medical professionals over the course of his medical career with different focuses and reasons for the evaluations. Dr.

[6] The details of the evaluations, diagnoses, and specific medications are not disclosed in this document in order to protect Dr. Badii's private health information.

Badii has had several treating psychiatrists who evaluated Dr. Badii as a patient on a clinical basis. Dr. Badii was ordered to undergo an evaluation as part of a child custody dispute in California. Dr. Badii was ordered by the Board in this case to undergo an independent forensic evaluation to determine whether he was competent to practice medicine and Dr. Badii hired his own expert in this case to conduct an evaluation. There is a lack of consensus between the medical professionals on a diagnosis, but Dr. Badii's treatment history is largely undisputed. Outside of the two evaluations conducted pursuant to this case, none of the other medical professionals were specifically asked to evaluate whether Dr. Badii is competent to practice medicine. The Panel gives little weight to the opinions and reports of the other medical professionals who evaluated Dr. Badii in different contexts, who were not asked to opine on the specific question at issue in this case, and who were not called as witnesses in this case.

At the OAH hearing, the State offered testimony from the independent evaluator who conducted the evaluation of Dr. Badii as part of the Board's investigation. Dr. Badii offered testimony from the psychiatrist that he hired to conduct an evaluation of him. The ALJ accepted both physicians as experts in forensic psychiatry and the evaluation reports of both experts were admitted into evidence.

The State's expert explained that a medical diagnosis in and of itself does not mean that someone is incompetent to practice medicine and acknowledged that there are many physicians who have mental conditions who are able to competently practice medicine. The individual, however, must have insight into the condition in order to ensure the condition is being properly monitored and they are getting the appropriate treatment. The State's expert testified that Dr. Badii exhibited poor judgment and insight into his condition, explaining that Dr. Badii believed he was misdiagnosed, that the doctors who diagnosed him were wrong, and that Dr. Badii

contacted a prior psychiatrist in order to convince the psychiatrist to change his diagnosis. The State's expert concluded that given Dr. Badii's anger, irritability, impulsivity, poor insight and judgment, Dr. Badii was unable to safely practice medicine.

Dr. Badii's expert, on the other hand, stated that, according to Dr. Badii's reports, Dr. Badii was insightful as to his condition and that Dr. Badii does not take telemedicine consultations when he is symptomatic. Dr. Badii's expert noted that Dr. Badii acknowledges he has a condition, although he may disagree about the specific label, and that he has been continuously taking his medications for a significant period of time, recognizes the need to take the medication on a regular, daily basis and is agreeable to continuing to take the medication for the foreseeable future. Dr. Badii's expert administered psychological testing, which revealed that Dr. Badii minimalized his faults, denied any problems, and was not very introspective or insightful about his behavior. In addition, the psychological testing revealed that Dr. Badii is likely to project an excessively positive self-image, externalize blame, see other people as being responsible for his difficulties, and is unlikely to seek treatment or cooperate fully with treatment if it is implemented. Dr. Badii's expert, however, reviewed the patient comments and ratings provided by Dr. Badii and opined that it was highly doubtful that Dr. Badii would have received the positive feedback and performance ratings if his condition was impacting his ability to practice medicine safely. The opinion of Dr. Badii's expert, therefore, relied more on the patient feedback selected and provided by Dr. Badii and an interview conducted with Dr. Badii's girlfriend than on the objective psychological testing. As a result, Dr. Badii's expert concluded that Dr. Badii did not display anger, irritability, impulsivity, poor insight and judgment that would render him unable to safely practice medicine, and that Dr. Badii was not professionally, physically, or mentally incompetent.

The ALJ compared the reports of the experts and noted that Dr. Badii's history and background was generally consistent in both reports. The difference, according to the ALJ, was in how the experts viewed Dr. Badii's work history and whether they considered the quality of medical care provided by Dr. Badii in determining whether he was mentally competent to practice medicine. In reaching the conclusion that Dr. Badii was not mentally incompetent to practice medicine, the ALJ gave greater weight to the testimony of Dr. Badii's expert than to the testimony of the State's expert. The ALJ pointed out that Dr. Badii's expert considered patient reviews provided by Dr. Badii, the lack of any patient complaints or malpractice lawsuits filed against Dr. Badii, and interviewed Dr. Badii's live in girlfriend, all of which the State's expert did not take into consideration in formulating his opinion. The ALJ found that Dr. Badii was currently under the care of a psychiatrist and that Dr. Badii had insight into his condition and recognized when he needed to take his medications and when he should not be treating patients using telemedicine. The ALJ found that Dr. Badii's condition was being managed and that there was no evidence that he was putting his patients at risk and, therefore, concluded that Dr. Badii was not mentally incompetent to practice medicine. The ALJ found that there was no evidence presented or allegations that suggested Dr. Badii was professionally or physically incompetent to practice medicine.

The State takes exception to the ALJ's proposed finding that the charge of professional, physical, or mental incompetence should be dismissed. The State argues that the ALJ's conclusions were based on unreliable evidence, such as online patient reviews, and testimony from biased witnesses, such as Dr. Badii's girlfriend and an expert that Dr. Badii paid to testify on his behalf. The State points out that Dr. Badii has made different representations to different professionals regarding the medications he is taking and his medication management and,

therefore, the State contends that, contrary to the ALJ's belief and the opinion of Dr. Badii's expert, there is no reliable evidence that Dr. Badii's condition is being properly managed. The State argues that the ALJ erroneously relied on Dr. Badii's board-certification and unverified patient surveys to conclude that Dr. Badii was competent to practice medicine.

The Panel owes no deference to the non-demeanor based credibility findings of the ALJ and makes "its own decisions about bias, interest, credentials of expert witnesses, the logic and persuasiveness of their testimony, and the weight to be given their opinions." *See State Bd. of Physicians v. Bernstein*, 167 Md. App. 714, 761 (2006). Both experts agree that Dr. Badii has a medical condition and further agree that a medical condition in and of itself does not mean that someone is incompetent to practice medicine and acknowledged that there are many physicians who have mental conditions who are able to competently practice medicine. The relevant consideration, however, is whether the physician has sufficient insight into the condition and is aware of the symptoms, so that they are able to participate in treatment and ensure that the condition is being appropriately managed and controlled.

The State's expert opined that Dr. Badii demonstrated poor insight into his condition while Dr. Badii's expert opined that Dr. Badii reported being insightful into his condition. Dr. Badii's expert's opinion and the ALJ's proposed decision were based on assumptions that Dr. Badii was being prescribed medication on a daily basis by his treating psychiatrist, that he had been taking the medication regularly since 2017, and that he saw his psychiatrist on a regular basis for pharmacologic management. Dr. Badii's expert also relied on the statements made by Dr. Badii that he recognized the need to take his medication on a regular, daily basis and agreed to continue taking the medication for the foreseeable future. These assumptions were directly contradicted by Dr. Badii in his own testimony. Dr. Badii explained that he has been taking two

medications off and on to treat his condition and that he decides whether to take one or both medications based on his mood. Dr. Badii told his expert that his treating psychiatrist had been prescribing one of the medications since 2017, but then stated during his testimony that he had just informed his psychiatrist three or four months prior to the hearing that he was taking the medication. Dr. Badii admitted that his treating psychiatrist had not prescribed the medication and that he had ordered it on his own from overseas due to the cost. The Panel is unpersuaded by the unsupported assumptions of Dr. Badii's expert's and the contradictory testimony of Dr. Badii and does not defer to the ALJ's findings on this issue.

Dr. Badii's expert also explained that he considered the feedback from Dr. Badii's telemedicine patients and the interview with Dr. Badii's girlfriend as a more reliable measure of Dr. Badii's temperament and professional competence in comparison to the objective psychological tests. The Panel is similarly unpersuaded by this testimony and the basis for the testimony. The fact that there have been no patient complaints against Dr. Badii made to the Board is of little relevance to whether Dr. Badii is competent to practice medicine and does not alter the potential for patient harm if Dr. Badii continues to practice medicine while his condition is not under control. The Panel does not have to wait for patient harm to occur in order to act. *See Pickert v. Maryland Bd. of Physicians*, 180 Md. App. 490, 505 (2008) ("No proof of injury or harm is required to take disciplinary actions against a physician's license."). A Maryland medical license allows an individual to practice in any specialty and the Board cannot control or guarantee that Dr. Badii will continue to work in the telemedicine field in a low stress environment where his interactions with patients are limited and his schedule is flexible where he can choose not to work on days that he feels symptomatic. The Panel gives little weight to the

patient reviews and testimony of Dr. Badii's girlfriend regarding Dr. Badii's telemedicine practice.

The Panel agrees with the testimony and conclusion of the State's expert that Dr. Badii's insight into his condition is insufficient to ensure that his condition is being appropriately monitored and he is getting appropriate treatment. Dr. Badii continues to dispute the diagnoses of several medical professionals, has self-diagnosed himself based on his reluctant admittance to any sort of condition, and has self-medicated by ordering medications from overseas that were not prescribed by, monitored by, or disclosed to his current psychiatrist. The Panel, therefore, does not adopt the ALJ's findings that Dr. Badii has adequate insight into his condition and that his condition is being appropriately managed and under control. After the considering the entirety of the record, the Panel finds that the State has met its burden of proving that Dr. Badii is mentally incompetent by a preponderance of the evidence. The State's exceptions are granted, in part.[7]

CONCLUSIONS OF LAW

Panel A concludes that Dr. Badii is professionally, physically, or mentally incompetent, in violation of Health Occ. § 14-404(a)(4), and that Dr. Badii failed to cooperate with a lawful investigation conducted by the Board or a disciplinary panel, in violation of Health Occ. § 14-404(a)(33).

[7] The Panel grants the State's exception with regard to mental incompetence and finds that Dr. Badii is mentally incompetent to practice medicine. The Panel, however, agrees with the ALJ that there is insufficient evidence in the record to support a conclusion that Dr. Badii is professionally or physically incompetent to practice medicine. The focus of the Board's investigation and the State's expert report was on whether Dr. Badii was mentally competent to practice medicine. The State's expert clarified that he was not asked to evaluate the quality of Dr. Badii's care, but rather whether Dr. Badii had any mental condition that would affect his ability to practice medicine safely.

SANCTION

The ALJ recommended that Dr. Badii's license be suspended for a period not to exceed one year, which could be reduced after the Board determined that Dr. Badii had fully complied with the investigation. Dr. Badii argues that the sanction proposed by the ALJ is too harsh for, what he describes as, a seven-day delay in providing the subpoenaed medical records. The State argues that Dr. Badii's license should be suspended for a minimum of one year and until he has fully cooperated with the Board's investigation.

As discussed above, Dr. Badii fails to appreciate that his actions have resulted in the Board being unable to investigate a complaint alleging that Dr. Badii overprescribed high cost drugs to telemedicine patients. In addition, the Panel has also found that Dr. Badii is professionally, physically, or mentally incompetent, in violation of Health Occ. § 14-404(a)(4). Pursuant to the Board's sanctioning guidelines, the minimum sanction for a violation of Health Occ. § 14-404(a)(4) is suspension until competence is established to the Board's satisfaction. COMAR 10.32.02.10B(4). The Panel finds that a suspension for a minimum period of one year, and until the Panel determines that it is safe for Dr. Badii to return to the practice of medicine, with a referral to the Maryland Professional Rehabilitation Program is necessary.

ORDER

On an affirmative vote of a majority of a quorum of Disciplinary Panel A, it is hereby

ORDERED that the license of Roozbeh Badii, M.D. to practice medicine in Maryland, license number D73228, is **SUSPENDED**[8] for a minimum of one (1) year.[9] During the suspension, Dr. Badii shall comply with the following terms and conditions of the suspension:

[8] Dr. Badii's license expired on September 30, 2018. The time period of the suspension and the conditions of suspension are tolled until Dr. Badii applies for reinstatement and administratively reinstates his license. The suspension and any conditions will go into effect if and when Dr. Badii's license is administratively reinstated. COMAR 10.32.02.05C(3)(a).

(a) Dr. Badii shall enroll in the Maryland Professional Rehabilitation Program (MPRP);

(b) Within 5 business days, Dr. Badii shall contact MPRP to schedule an initial consultation for enrollment;

(c) Within 15 business days, Dr. Badii shall enter into a Participant Rehabilitation Agreement and Participant Rehabilitation Plan with MPRP;

(d) Dr. Badii shall fully and timely cooperate and comply with all MPRP's referrals, rules, and requirements, including, but not limited to, the terms and conditions of the Participant Rehabilitation Agreement(s) and Participant Rehabilitation Plan(s) entered with MPRP, and shall fully participate and comply with all therapy, treatment, evaluations, and screenings as directed by MPRP;

(e) Dr. Badii shall sign and update the written release/consent forms requested by the Board and MPRP, including release/consent forms to authorize MPRP to make verbal and written disclosures to the Board and to authorize the Board to disclose relevant information from MPRP records and files in a public order. Dr. Badii shall not withdraw his release/consent;

(f) Dr. Badii shall also sign any written release/consent forms to authorize MPRP to exchange with (i.e., disclose to and receive from) outside entities (including all of Dr. Badii's current therapists and treatment providers) verbal and written information concerning Dr. Badii and to ensure that MPRP is authorized to receive the medical records of Dr. Badii, including, but not limited to, mental health and drug or alcohol evaluation and treatment records. Dr. Badii shall not withdraw his release/consent;

(g) Dr. Badii's failure to comply with any of the above terms or conditions including terms or conditions of the Participant Rehabilitation Agreement(s) or Participant Rehabilitation Plan(s) constitutes a violation of this Order; and it is further

ORDERED that Dr. Badii shall not apply for early termination of suspension; and it is further

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[9] (a) During the suspension period, Dr. Badii shall not:

(1) practice medicine;

(2) take any actions after the effective date of this Order to hold himself out to the public as a current provider of medical services;

(3) authorize, allow or condone the use of Dr. Badii's name or provider number by any health care practice or any other licensee or health care provider;

(4) function as a peer reviewer for the Board or for any hospital or other medical care facility in the state;

(5) prescribe or dispense medications; or

(6) perform any other act that requires an active medical license; and

(b) Dr. Badii shall establish and implement a procedure by which his patients may obtain their medical records without undue burden and notify all patients of that procedure.

ORDERED that after the minimum period of suspension imposed by the Order has passed, Dr. Badii has fully and satisfactorily complied with all terms and conditions for the suspension, and MPRP finds and notifies the Board that Dr. Badii is safe to return to the practice of medicine, Dr. Badii may submit a written petition to the disciplinary panel to terminate the suspension of Dr. Badii's license. Dr. Badii may be required to appear before the disciplinary panel to discuss his petition for termination. If the disciplinary panel determines that it is safe for Dr. Badii to return to the practice of medicine, the suspension will be terminated through an order of the disciplinary panel, and the disciplinary panel may impose any terms and conditions it deems appropriate on Dr. Badii's return to practice, including, but not limited to, probation and/or continuation of Dr. Badii's enrollment in MPRP. If the disciplinary panel determines that it is not safe for Dr. Badii to return to the practice of medicine, the suspension shall be continued through an order of the disciplinary panel until the disciplinary panel determines that it is safe for Dr. Badii to return to the practice of medicine, and the disciplinary panel may impose any additional terms and conditions it deems appropriate; and it is further

ORDERED that, if Dr. Badii allegedly fails to comply with any term or condition imposed by this Order, Dr. Badii shall be given notice and an opportunity for a hearing. If the disciplinary panel determines there is a genuine dispute as to a material fact, the hearing shall be before an Administrative Law Judge of the Office of Administrative Hearings followed by an exceptions process before a disciplinary panel; and if the disciplinary panel determines there is no genuine dispute as to a material fact, Dr. Badii shall be given a show cause hearing before a disciplinary panel; and it is further

ORDERED that after the appropriate hearing, if the disciplinary panel determines that Dr. Badii has failed to comply with any term or condition imposed by this Order, the disciplinary

panel may reprimand Dr. Badii, place Dr. Badii on probation with appropriate terms and conditions, or suspend with appropriate terms and conditions, or revoke Dr. Badii's license to practice medicine in Maryland. The disciplinary panel may, in addition to one or more of the sanctions set forth above, impose a civil monetary fine on Dr. Badii; and it is further

ORDERED that Dr. Badii is responsible for all costs incurred in fulfilling the terms and conditions of this Order; and it is further

ORDERED that the effective date of the Order is the date the Order is signed by the Executive Director of the Board or her designee. The Executive Director or her designee signs the Order on behalf of the disciplinary panel which has imposed the terms and conditions of this Order; and it is further

ORDERED that this is a public document. *See* Health Occ. §§ 1-607, 14-411.1(b)(2) and Gen. Prov. § 4-333(b)(6).

04/20/2020
Date

Signature on File

Christine A. Farrelly, Executive Director
Maryland State Board of Physicians

I HEREBY ATTEST AND CERTIFY UNDER PENALTY OF PERJURY ON 04/27/2020 THAT THE FORGOING DOCUMENT IS A FULL, TRUE AND CORRECT COPY OF THE ORIGINAL ON FILE IN MY OFFICE AND IN MY LEGAL CUSTODY.

Christine A. Farrelly

EXECUTIVE DIRECTOR
MARYLAND BOARD OF PHYSICIANS

NOTICE OF RIGHT TO PETITION FOR JUDICIAL REVIEW

Pursuant to Md. Code Ann., Health Occ. § 14-408, Dr. Badii has the right to seek judicial review of this Final Decision and Order. Any petition for judicial review shall be filed within thirty (30) days from the date of mailing of this Final Decision and Order. The cover letter accompanying this Final Decision and Order indicates the date the decision is mailed. Any petition for judicial review shall be made as provided for in the Administrative Procedure Act, Md. Code Ann., State Gov't § 10-222 and Title 7, Chapter 200 of the Maryland Rules of Procedure.

If Dr. Badii files a Petition for Judicial Review, the Board is a party and should be served with the court's process at the following address:

Christine A. Farrelly, Executive Director
Maryland State Board of Physicians
4201 Patterson Avenue
Baltimore, Maryland 21215

Notice of any Petition for Judicial Review should also be sent to the Board's counsel at the following address:

Stacey M. Darin, Assistant Attorney General
Office of the Attorney General
Maryland Department of Health
300 West Preston Street, Suite 302
Baltimore, Maryland 21201

EXHIBIT B

STATE OF CONNECTICUT
DEPARTMENT OF PUBLIC HEALTH

Deidre S. Gifford, MD, MPH
Acting Commissioner

Ned Lamont
Governor
Susan Bysiewicz
Lt. Governor

CONNECTICUT MEDICAL EXAMINING BOARD

February 16, 2021

Cody Guamieri, Esq.
Brown, Paindiris & Scott
100 Pearl Street
Hartford, CT 06103

VIA EMAIL (cguamierigbpslawers.com)

Brittany Allen, Staff Attorney
Department of Public Health
410 Capitol Avenue, MS #12LEG
PO Box 340380
Hartford, CT 06134-0308

VIA EMAIL ONLY

RE: Roozbeh Badii, M.D.- Petition No. 2020-417

NOTICE OF HEARING CANCELLATION

The Connecticut Medical Examining Board, at its monthly meeting on February 16, 2021, adopted a Consent Order in the above-referenced matter.

Therefore, the hearing scheduled for February 22, 2021 is cancelled.

FOR: CONNECTICUT MEDICAL EXAMINING BOARD

/s/ *Jeffrey A. Kardys*

Jeffrey A. Kardys, Administrative Hearings Specialist/Board Liaison
Department of Public Health
410 Capitol Avenue, MS #13PHO
PO Box 340308
Hartford, CT 06134-0308
Tel. (860) 509-7566 FAX (860) 707-1904

c: Panel Members, Connecticut Medical Examining Board
Kerry Colson, Assistant Attorney General

STATE OF CONNECTICUT
DEPARTMENT OF PUBLIC HEALTH
HEALTHCARE QUALITY AND SAFETY BRANCH
CONNECTICUT MEDICAL EXAMINING BOARD

In re: Roozbeh Badii, M.D. Petition No. 2020-417

CONSENT ORDER

WHEREAS, Roozbeh Badii, M.D., of Coronado, California (hereinafter "respondent") has been issued license number 045831 to practice as a physician and surgeon by the Department of Public Health (hereinafter "the Department") pursuant to Chapter 370 of the General Statutes of Connecticut, as amended; and,

WHEREAS, the Department alleges that:

1. That the respondent has certain mental health conditions that, if not appropriately managed, do and/or may affect his practice as a physician and surgeon. On or about April 20, 2020, the Maryland Board of Physicians issued a Final Decision and Order regarding respondent's license in which it found that respondent had failed to cooperate with its investigation of a complaint against him and secondly that he is "professionally, physically, or mentally incompetent" to practice as a physician. On or about October 20, 2020, the Circuit Court for Baltimore City affirmed the Final Decision and Order. Said decision of the Circuit Court is presently appealed in the Maryland Court of Special Appeals. On or about October 31, 2020, respondent underwent a comprehensive psychiatric and psychological evaluation pursuant to an order issued by the California Board of Medicine, by a Board-approved forensic psychiatrist. On or about December 2, 2020, said psychiatrist issued the evaluation report, which found that said mental health conditions are currently treated appropriately, and concluded that Dr. Badii can practice medicine safely and effectively if he remains in appropriate treatment.
2. The above described facts constitute grounds for disciplinary action pursuant to the General Statutes of Connecticut, §20-13c(2) and §19a-17(f).

WHEREAS, Respondent has not practiced in-person clinical medicine since 2017. Since that time, he has practiced telemedicine through various telehealth platforms, including occasionally for persons located in Connecticut. Some or all of respondent's telemedicine practice in other states may or may not meet the statutory requirements for telehealth practice in Connecticut.

WHEREAS, respondent, in consideration of this Consent Order, has chosen not to contest this matter and agrees that for purposes of this or any future proceedings before the Connecticut Medical Examining Board (hereinafter "the Board"), this Consent Order shall have the same effect as if proven and ordered after a full hearing held pursuant to §§19a-10, 19a-14 and 20-13c of the General Statutes of Connecticut.

NOW THEREFORE, pursuant to §§19a-14, 19a-17 and 20-13c of the General Statutes of Connecticut, respondent hereby stipulates and agrees to the following:

1. Respondent waives his right to a hearing on the merits of this matter.
2. Respondent's license number 045831 to practice as a physician and surgeon in the State of Connecticut is hereby restricted such that he will not provide in-person clinical care in Connecticut nor in-person clinical care to any person in Connecticut without first providing the Department not less than ninety days advance notice of his intention to commence such a practice, which notice shall include an evaluation of the respondent demonstrating ability to provide safe and competent clinical care such as through the Colorado Post-Licensure Evaluation Program or similar program.
3. Respondent's license shall be placed on probation for a period of two years upon the following terms and conditions:
    a. Every ninety (90) days, respondent shall provide a list of Connecticut residents for whom he has provided telehealth services.
    b. Respondent shall obtain at respondent's own expense, the services of a physician who is licensed in Connecticut and who board certified in either family medicine or internal medicine, pre-approved by the Department (hereinafter "supervisor"), to conduct a quarterly review of the chart of each person identified in paragraph 3.a..

(1) Respondent shall provide a copy of this Consent Order to respondent's practice supervisor. Respondent's supervisor shall furnish written confirmation to the Department of the supervisor's engagement in that capacity and receipt of a copy of this Consent Order within fifteen (15) days of the effective date of this Consent Order.

(2) Respondent's supervisor shall conduct such review and meet with respondent not less than once every quarter for the duration of respondent's probationary period. Said meetings may be in person or by electronically by concurrent two-way audio and video communication.

(3) The supervisor shall have the right to monitor respondent's practice by any other reasonable means which the supervisor deems appropriate. Respondent shall fully cooperate with the supervisor in providing such monitoring.

(4) Respondent shall be responsible for providing written supervisor reports directly to the Department following each such meeting and review of charts. Such supervisor's reports shall include documentation of dates and duration of meetings with respondent, number and a general description of the patient records and patient medication orders and prescriptions reviewed, additional monitoring techniques utilized, and statement as to whether respondent is practicing with reasonable skill and safety and in accord with section 19a-906 of the Connecticut general statutes, and that respondent 's documentation adequately supports the appropriateness of the prescription. A supervisor report indicating that respondent is not practicing with reasonable skill and safety, is not in compliance with section 19a-906 of the Connecticut general statutes, or has not adequately documented the appropriateness of one or more prescriptions shall be deemed to be a violation of this Consent Order.

4. All correspondence and reports are to be addressed to:

Lavita Sookram, R.N., Nurse Consultant
Practitioner Compliance and Monitoring Unit
Department of Public Health
410 Capitol Avenue, MS #12HSR
P.O. Box 340308
Hartford, CT 06134-0308

5. All reports required by the terms of this Consent Order shall be due according to a

schedule to be established by the Department of Public Health.

6. Respondent shall comply with all state and federal statutes and regulations applicable to his licensure.

7. Respondent shall pay all costs necessary to comply with this Consent Order.

8. Any alleged violation of any provision of this Consent Order may result in the following procedures at the discretion of the Department:

   a. The Department shall notify respondent in writing by first-class mail that the term(s) of this Consent Order have been violated, provided that no prior written consent for deviation from said term(s) has been granted.

   b. Said notification shall include the acts or omission(s) which violate the term(s) of this Consent Order.

   c. Respondent shall be allowed fifteen (15) days from the date of the mailing of notification required in paragraph 8.a.above to demonstrate to the satisfaction of the Department that he has complied with the terms of this Consent Order or, in the alternative, that he has cured the violation in question.

   d. If respondent does not demonstrate compliance or cure the violation within the fifteen (15) days specified in the notification of violation to the satisfaction of the Department, he shall be entitled to a hearing before the Board which shall make a final determination of the disciplinary action to be taken.

   e. Evidence presented to the Commission by either the Department or respondent in any such hearing shall be limited to the alleged violation(s) of the term(s) of this Consent Order.

9. In the event respondent does not practice in Connecticut as a physician and surgeon for periods of ninety (90) consecutive days or longer, including but not limited to the provision of telehealth services to any resident of Connecticut regardless of where respondent is located, respondent shall notify the Department in writing. Such periods of time shall not be counted in reducing the probationary period covered by this Consent Order and such terms shall be held in abeyance. During such time period, respondent shall not be responsible for complying with the terms of probation of this Consent Order. In the event respondent resumes practice as a physician and surgeon, respondent shall provide the Department with thirty (30) days prior written notice. Respondent shall not return to practice as a physician and surgeon without written pre-approval from the Department. Respondent agrees that the Department, in its complete discretion, may require additional

documentation from respondent and/or require respondent to satisfy other conditions or terms as a condition precedent to respondent's return to practice. Respondent agrees that any return to practice as a physician and surgeon without pre-approval from the Department shall constitute a violation of this Consent Order and may subject the respondent to further disciplinary action.

10. In the event respondent violates any term of this Consent Order, said violation may also constitute grounds for the Department to seek a summary suspension of his license before the Board.

11. Legal notice shall be sufficient if sent by first class mail to respondent's last known address of record reported to the Practitioner Licensing and Investigations Section of the Healthcare Quality and Safety Branch of the Department, or by e-mail to respondent's e-mail address of record. Respondent is responsible for updating both his mail and his e-mail address in the Department's licensure file. Respondent shall not claim in any action by the Department or the Board that he did not receive notice if notice were sent to either his mail address or his e-mail address of record.

12. This Consent Order is effective on the first day of the month immediately following the date this Consent Order is accepted and ordered by the Board.

13. This Consent Order is a public document. Respondent understands and agrees that the Department's allegations as contained in this Consent Order shall be deemed true in any subsequent proceeding before the Board in which his compliance with this Consent Order or with §20-13c of the General Statutes of Connecticut, as amended, is at issue. Further, respondent understands that any discipline imposed by this Consent Order shall be reported to the National Practitioner Data Bank maintained by the United States Department of Health and Human Services, and shall be reported on his Connecticut Physician profile pursuant to section 20-13j of the Connecticut general statutes..

14. In the event respondent violates a term of this Consent Order, respondent agrees immediately to refrain from practicing as a physician and surgeon, upon request by the Department, with notice to the Commission, for a period not to exceed 45 days. During that time period, respondent further agrees to cooperate with the Department in its investigation of the violation, and to submit to and complete a medical, psychiatric or psychological evaluation, if requested to do so by the Department; and, that the results of the evaluation shall be submitted directly to the Department. Respondent further agrees that failure to cooperate with the Department in its investigation during said 45 day period

shall constitute grounds for the Department to seek a summary suspension of respondent's license. In any such summary action, respondent stipulates that failure to cooperate with the Department's investigation shall be considered by the Board and shall, as a matter of law, constitute a clear and immediate danger as required pursuant to Connecticut General Statutes, sections 4-182(c) and 19a-17(c). The Department and respondent understand that the Board has complete and final discretion as to whether a summary suspension is ordered.

15. Any extension of time or grace period for reporting granted by the Department shall not be a waiver or preclude the Department from taking action at a later time. The Department shall not be required to grant future extensions of time or grace periods.

16. This Consent Order and terms set forth herein are not subject to reconsideration, collateral attack or judicial review under any form or in any forum. Respondent agrees that this Consent Order shall not be subject to modification as a result of any claim that the terms contained herein may result in action by third parties, including, but not limited to, healthcare facilities and/or credentialing or licensure boards and respondent waives any right to seek reconsideration or modification of this Consent Order pursuant to §4-181a of the General Statutes of Connecticut without the express consent and agreement of the Department. Respondent assumes all responsibility for assessing such actions prior to the execution of this document. Further, this Consent Order is not subject to appeal or review under the provisions of Chapters 54 or 368a of the General Statutes of Connecticut, provided that this stipulation shall not deprive respondent of any rights that he may have under the laws of the State of Connecticut or of the United States.

17. This Consent Order is a revocable offer of settlement which may be modified by mutual agreement or withdrawn by the Department at any time prior to its being executed by the last signatory.

18. Respondent permits a representative of the Department to present this Consent Order and the factual basis for this Consent Order to the Board. Respondent understands that the Board has complete and final discretion as to whether this executed Consent Order is approved or accepted. Respondent hereby waives any claim of error that could be raised that is related to or arises during the course of the Board's discussions regarding whether to approve or reject this Consent Order and/or a Board member's participation during this process, through the Board member's review or comments, including but not limited to bias or reliance on evidence outside the administrative record if this matter proceeds to a

hearing on a statement of charges resulting in a proposed decision by the Board and/or a panel of the Board and a final decision by the Board.

19. Respondent has the right to consult with an attorney prior to signing this document.

20. The execution of this document has no bearing on any criminal liability without the written consent of the Director of the Medicaid Fraud Control Unit or the State's Attorney's Office where the allegation occurred or Bureau Chief of the applicable unit in the Chief State's Attorney's Office. The purpose of this Consent Order is to resolve the pending administrative license disciplinary petition only, and is not intended to affect any civil or criminal liability or defense.

21. This Consent Order embodies the entire agreement of the parties with respect to this case. All previous communications or agreements regarding the subject matter of this consent order, whether oral or written, between the parties are superseded unless expressly incorporated herein or made a part hereof.

* * * * * * *

I, Roozbeh Badii, M.D.., have read the above Consent Order, and I stipulate and agree to the terms as set forth therein. I further declare the execution of this Consent Order to be my free act and deed.

Roozbeh Badii, M.D.

Subscribed and sworn to before me this 22nd day of January 2021.

Notary Public or person authorized
by law to administer an oath or affirmation

The above Consent Order having been presented to the duly appointed agent of the Commissioner of the Department of Public Health on the 26th day of January 2021, it is hereby accepted.

Christian D. Andresen, MPH, Section Chief
Practitioner Licensing and Investigations Section
Healthcare Quality and Safety Branch

The above Consent Order having been presented to the duly appointed agent of the State Medical Examining Board on the 16th day of February 2021, it is hereby ordered and accepted.

Kathryn Emmett

Kathryn Emmett, Esq., Chairperson
Connecticut Medical Examining Board

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of SAN DIEGO)

On JANUARY 22, 2021 before me, KATHY LYNN PRICE, NOTARY PUBLIC
(insert name and title of the officer)

personally appeared ROOZBEH BADII,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

KATHY LYNN PRICE
Notary Public - California
San Diego County
Commission # 2291954
My Comm. Expires Jun 8, 2023

Signature Kathy Lynn Price (Seal)