

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

**In the Matter of the First Amended
Accusation Against:**

Afshin S. Gerayli, M.D.

**Physician's & Surgeon's
Certificate No. G 80098**

Respondent.

Case No. 800-2018-051171

DECISION

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

This Decision shall become effective at 5:00 p.m. on September 12, 2022.

IT IS SO ORDERED: August 12, 2022.

MEDICAL BOARD OF CALIFORNIA



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

1 ROB BONTA
Attorney General of California
2 ALEXANDRA M. ALVAREZ
Supervising Deputy Attorney General
3 JOSEPH F. MCKENNA III
Deputy Attorney General
4 State Bar No. 231195
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Attorneys for Complainant
8

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

12 In the Matter of the First Amended Accusation
Against:

Case No. 800-2018-051171
OAH No. 2021100562

13 **AFSHIN S. GERAYLI, M.D.**
14 **35 Creek Road**
Irvine, California 92604

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

15 **Physician's and Surgeon's Certificate**
16 **No. G 80098,**

17 Respondent.
18

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

21 **PARTIES**

22 1. William Prasifka (Complainant) is the Executive Director of the Medical Board of
23 California (Board). He brought this action solely in his official capacity and is represented in this
24 matter by Rob Bonta, Attorney General of the State of California, and by Joseph F. McKenna III,
25 Deputy Attorney General.

26 2. Respondent Afshin S. Gerayli, M.D. (Respondent) is represented in this proceeding
27 by attorney Raymond J. McMahon, Esq., whose address is: 5440 Trabuco Road, Irvine,
28 California, 92620.

1 CULPABILITY

2 9. Respondent understands and agrees that the charges and allegations contained in First
3 Amended Accusation No. 800-2018-051171, if proven at a hearing, constitute cause for imposing
4 discipline upon his Physician's and Surgeon's Certificate No. G 80098.

5 10. Respondent stipulates that, at a hearing, Complainant could establish a *prima facie*
6 case or factual basis for the charges and allegations contained in the First Amended Accusation;
7 that he gives up his right to contest those charges and allegations contained in the First Amended
8 Accusation; and that he has thereby subjected his Physician's and Surgeon's Certificate to
9 disciplinary action.

10 CONTINGENCY

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

20 12. Respondent agrees that if an accusation is ever filed against him before the Board, all
21 of the charges and allegations contained in First Amended Accusation No. 800-2018-051171 shall
22 be deemed true, correct and fully admitted by Respondent for purposes of any such proceeding or
23 any other licensing proceeding involving Respondent in the State of California.

24 ADDITIONAL PROVISIONS

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

28 ////

1 discretion of the Board or its designee, be accepted towards the fulfillment of this condition if the
2 course would have been approved by the Board or its designee had the course been taken after the
3 effective date of this Decision.

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

7 3. MEDICAL RECORD KEEPING COURSE.

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

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

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

25 4. INVESTIGATION/ENFORCEMENT COST RECOVERY.

26 Respondent is hereby ordered to reimburse the Board its costs of enforcement, including
27 legal review and expert review, as applicable, eleven thousand six hundred twenty dollars
28 (\$11,620.00). Costs shall be payable to the Board. Failure to pay such costs shall be considered

1 a violation of this agreement and shall be deemed an act of unprofessional conduct and a separate
2 and distinct basis for discipline.

3 Any and all requests for a payment plan shall be submitted in writing by Respondent to the
4 Board.


5 The filing of bankruptcy by Respondent shall not relieve Respondent of the responsibility
6 to repay investigation and enforcement costs, including expert review costs (if applicable).

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

10 **ACCEPTANCE**

11 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
12 discussed it with my attorney, Raymond J. McMahon, Esq. I fully understand the stipulation and
13 the effect it will have on my Physician's and Surgeon's Certificate No. G 80098. I enter into this
14 Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree
15 to be bound by the Decision and Order of the Medical Board of California.

16
17 DATED: 7-22-22



AFSHIN S. GERAYLI, M.D.
Respondent

19 I have read and fully discussed with Respondent Afshin S. Gerayli, M.D., the terms and
20 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
21 I approve its form and content.

22
23 DATED: July 22, 2022



RAYMOND J. MCMAHON, ESQ.
Attorney for Respondent

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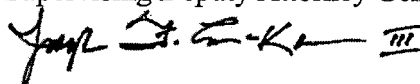
ENDORSEMENT

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

DATED: July 27, 2022

Respectfully submitted,

ROB BONTA
Attorney General of California
ALEXANDRA M. ALVAREZ
Supervising Deputy Attorney General



JOSEPH F. MCKENNA III
Deputy Attorney General
Attorneys for Complainant

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Doc.No.83513151

Exhibit A

First Amended Accusation No. 800-2018-051171

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8 *Attorneys for Complainant*

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

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In the Matter of the First Amended Accusation
Against:

Case No. 800-2018-051171
OAH No. 2021100562

14

AFSHIN S. GERAYLI, M.D.
35 Creek Road
Irvine, California 92604

FIRST AMENDED ACCUSATION

15

16

**Physician's and Surgeon's Certificate
No. G 80098,**

17

Respondent.

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Complainant alleges:

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PARTIES

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

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2. On or about October 26, 1994, the Medical Board issued Physician's and Surgeon's
26 Certificate No. G 80098 to Afshin S. Gerayli, M.D. (Respondent). The Physician's and
27 Surgeon's Certificate was in full force and effect at all times relevant to the charges brought
28 herein and will expire on September 30, 2022, unless renewed.

1 JURISDICTION

2 3. This First Amended Accusation which supersedes Accusation No. 800-2018-051171,
3 filed on July 28, 2021, in the above-entitled matter, is brought before the Board, under the
4 authority of the following laws. All section references are to the Business and Professions Code
5 (Code) unless otherwise indicated.

6 STATUTORY PROVISIONS

7 4. Section 2227 of the Code states:

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

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

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

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

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

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

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

5. Section 2234 of the Code states, in relevant part:

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

(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.

...

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

5 7. Section 2266 of the Code states:

6 The failure of a physician and surgeon to maintain adequate and accurate
7 records relating to the provision of services to their patients constitutes unprofessional
8 conduct.

COST RECOVERY

9 8. Section 125.3 of the Code states:

10 (a) Except as otherwise provided by law, in any order issued in resolution of a
11 disciplinary proceeding before any board within the department or before the
12 Osteopathic Medical Board upon request of the entity bringing the proceeding, the
13 administrative law judge may direct a licensee found to have committed a violation
14 or violations of the licensing act to pay a sum not to exceed the reasonable costs of
15 the investigation and enforcement of the case.

16 (b) In the case of a disciplined licentiate that is a corporation or a partnership,
17 the order may be made against the licensed corporate entity or licensed partnership.

18 (c) A certified copy of the actual costs, or a good faith estimate of costs where
19 actual costs are not available, signed by the entity bringing the proceeding or its
20 designated representative shall be prima facie evidence of reasonable costs of
21 investigation and prosecution of the case. The costs shall include the amount of
22 investigative and enforcement costs up to the date of the hearing, including, but not
23 limited to, charges imposed by the Attorney General.

24 (d) The administrative law judge shall make a proposed finding of the amount
25 of reasonable costs of investigation and prosecution of the case when requested
26 pursuant to subdivision (a). The finding of the administrative law judge with regard
27 to costs shall not be reviewable by the board to increase the cost award. The board
28 may reduce or eliminate the cost award, or remand to the administrative law judge if
the proposed decision fails to make a finding on costs requested pursuant to
subdivision (a).

(e) If an order for recovery of costs is made and timely payment is not made as
directed in the board's decision, the board may enforce the order for repayment in any
appropriate court. This right of enforcement shall be in addition to any other rights
the board may have as to any licensee to pay costs.

(f) In any action for recovery of costs, proof of the board's decision shall be
conclusive proof of the validity of the order of payment and the terms for payment.

(g)(1) Except as provided in paragraph (2), the board shall not renew or
reinstate the license of any licensee who has failed to pay all of the costs ordered
under this section.

(2) Notwithstanding paragraph (1), the board may, in its discretion, conditionally
renew or reinstate for a maximum of one year the license of any licensee who
demonstrates financial hardship and who enters into a formal agreement with the board
to reimburse the board within that one-year period for the unpaid costs.

1 (h) All costs recovered under this section shall be considered a reimbursement
2 for costs incurred and shall be deposited in the fund of the board recovering the costs
to be available upon appropriation by the Legislature.

3 (i) Nothing in this section shall preclude a board from including the recovery of
4 the costs of investigation and enforcement of a case in any stipulated settlement.

5 (j) This section does not apply to any board if a specific statutory provision in
6 that board's licensing act provides for recovery of costs in an administrative
disciplinary proceeding.

7 **FIRST CAUSE FOR DISCIPLINE**

8 **(Gross Negligence)**

9 9. Respondent has subjected his Physician's and Surgeon's Certificate No. G 80098
10 to disciplinary action under sections 2227 and 2234, as defined in section 2234, subdivision (b),
11 of the Code, in that Respondent committed gross negligence in his care and treatment of
Patient A,¹ as more particularly alleged hereinafter:

12 10. **Patient A**

13 (a) On or about August 16, 2016, Patient A, a then-71-year-old female, was
14 seen at Respondent's clinic for a follow up visit and medication refills. Patient A
15 was already an established patient at Respondent's clinic where she received
16 treatment for chronic headaches, neck/back pain, and bilateral leg and knee pain.
17 At this visit, her refilled medications included opioids, benzodiazepines, and
18 sedatives. Patient A also refilled a prescription for Fioricet with codeine.

19 (b) On or about December 7, 2017, Respondent removed codeine from the
20 Fioricet prescription in order to reduce the amount of opiates Patient A was taking,
21 according to the progress note for the clinical visit.

22 (c) On or about March 6, 2018, CURES was checked and it was noted that
23 Patient A had recently obtained a prescription for Fioricet with codeine from
24 another medical provider, according to the progress note for the clinical visit.

25 (d) Between in or around May 2017, and in or around March 2019,

26 ////

27 ¹ To protect the privacy of the patient involved in this matter, the patient's name has not
28 been included in this pleading. Respondent is aware of the identity of Patient A.

1 Patient A obtained Fioricet with codeine from other medical providers and on
2 multiple occasions. Progress notes from Respondent's clinic during this time
3 frame documented that Patient A had been admonished not to obtain her opiate
4 medications from other medical providers, and that these medications should only
5 be obtained from Respondent's clinic. Patient A, notwithstanding the
6 admonishment, continued to obtain Fioricet prescriptions from medical providers
7 outside of Respondent's clinic.²

8 (e) On or about September 6, 2018, Patient A was seen at Respondent's
9 clinic for a follow up visit and medication refills. The progress note documented
10 that Patient A was scheduled to undergo a "complex surgery" on her spine the
11 following month. The progress note further documented that Patient A had been
12 "medically cleared" for the surgical procedure by Respondent. Finally, the note
13 indicated that Patient A was to return in three months for a follow up visit at
14 Respondent's clinic in December.

15 (f) Patient A's medical record from Respondent's clinic contained
16 correspondence received from the surgeon, Dr. F.M., after the spine surgery
17 was performed.³ The correspondence provided medical updates to Respondent
18 on multiple dates including, on or about November 28, 2018, December 19, 2018,
19 and January 22, 2019.

20 (g) On or about December 19, 2018, Dr. F.M. personally contacted
21 Respondent's clinic to discuss his concerns involving Patient A, including his
22 observations of signs of narcotic withdrawal. Dr. F.M. did not speak with
23 Respondent that day, but he did document a conversation that he held with another

24 ////

25 ² Prior to January 31, 2019, no opioid agreement is found in Patient A's medical record
26 from Respondent's clinic.

27 ³ The surgery was performed sometime between October 22 and November 9, 2018; the
28 exact date is not found in Patient A's medical record from Respondent's clinic.

1 provider, Dr. M.S., at the clinic.⁴ Dr. M.S. agreed to see Patient A the following
2 day, according to Dr. F.M.'s progress note from December 19, 2018.

3 (h) Patient A was not seen at Respondent's clinic until more than a month
4 later, on or about January 30, 2019. Patient A was seen by Dr. M.S. that day. Dr.
5 M.S. documented that he had spoken to Dr. F.M. a month earlier and had advised
6 Dr. F.M. that Patient A was Respondent's patient, according to the progress note.
7 Dr. M.S. further documented that he would not be taking over care of Patient A,
8 and that she should follow up with Respondent if she had concerns with her pain
9 management.

10 (i) On or about January 31, 2019, Patient A returned to Respondent's
11 clinic and was seen by Respondent. Respondent documented information related
12 to Patient A's chronic pain issues and noted the recent back surgeries performed by
13 Dr. F.M. Respondent also noted that Dr. F.M. had been prescribing Percocet to
14 Patient A over the last three months. However, Respondent did not document any
15 information concerning his monitoring and management of Patient A's care and
16 opioid prescribing between September 2018 and January 2019.

17 (j) Significantly, Patient A's medical record from Respondent's clinic is
18 missing critical information including, but not limited to: a plan for continuity of
19 care at the time of Patient A's spine surgery in October 2018; documentation of
20 Patient A's missed follow up visit in December 2018; documentation of Dr. F.M.'s
21 telephone call with Dr. M.S. in December 2018; documentation of a timely response
22 following Dr. F.M.'s telephone call with Dr. M.S. in December 2018; and
23 documentation of Respondent's availability to Patient A during November 2018,
24 December 2018, and January 2019.

25 (k) Patient A's medical record from Respondent's clinic is also missing:
26 records of urine drug screens; documentation of communication between

27 ⁴ During Respondent's subject interview, he characterized his relationship with Dr. M.S.
28 as a "partner."

1 Respondent and Dr. M.S. regarding Patient A; records or documentation of
2 communication with Patient A's primary care physician regarding violations of the
3 opioid agreement; and records documenting when prescriptions were transmitted
4 electronically to the pharmacy.

5 11. Respondent committed gross negligence in his care and treatment of Patient A
6 including, but not limited to, the following:

7 (a) Respondent failed to provide a plan for continuity of care at the time of
8 Patient A's spine surgery in October 2018 including, but not limited to, lack of
9 response to presumed missed visit in December 2018, failure to respond timely to
10 Dr. F.M.'s call in December 2018, and general unavailability to Patient A during
11 November 2018, December 2018, and January 2019.

12 **SECOND CAUSE FOR DISCIPLINE**

13 **(Repeated Negligent Acts)**

14 12. Respondent has further subjected his Physician's and Surgeon's Certificate No.
15 G 80098 to disciplinary action under sections 2227 and 2234, as defined in section 2234,
16 subdivision (c), of the Code, in that Respondent committed repeated negligent acts in his care
17 and treatment of Patient A, as more particularly alleged hereinafter:

18 13. **Patient A**

19 (a) Paragraphs 10 and 11, above, are hereby incorporated by reference and
20 realleged as if fully set forth herein.

21 (b) Between in or around May 2017, and in or around March 2019, Patient A
22 obtained Fioricet with codeine from other medical providers on multiple occasions,
23 despite admonishment and in violation of the January 31, 2019 opioid agreement.

24 (c) Patient A's medical record from Respondent's clinic is missing: records
25 of urine drug screens; documentation of communication between Respondent and
26 Dr. M.S.; records or documentation of communication with Patient A's primary
27 care physician regarding violations of the opioid agreement; and records
28 documenting when prescriptions were transmitted electronically to the pharmacy.

1 14. Respondent committed repeated negligent acts in his care and treatment of
2 Patients A, including, but not limited to, the following:

3 (a) Respondent failed to appropriately monitor Patient A's care and prescribing
4 of opioids between in or around October 2018 through in or around January 2019;

5 (b) Respondent failed to properly and consistently monitor Fioricet with
6 codeine prescriptions obtained by Patient A from other medical providers; and

7 (c) Respondent failed to maintain adequate and accurate records for Patient A
8 including, missing records of urine drug screens, missing documentation of
9 communication between Respondent and Dr. M.S. regarding Patient A, missing
10 records or documentation of communication with Patient A's primary care
11 physician regarding violations of the opioid agreement, and missing records
12 documenting when prescriptions were transmitted electronically to the pharmacy.

13 **THIRD CAUSE FOR DISCIPLINE**

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

15 15. Respondent has further subjected his Physician's and Surgeon's Certificate No.
16 G 80098 to disciplinary action under sections 2227 and 2234, as defined in section 2266, of the
17 Code, in that Respondent failed to maintain adequate and accurate records in connection with his
18 care and treatment of Patient A, as more particularly alleged in paragraphs 10 through 14, above,
19 which are hereby incorporated by reference and realleged as if fully set forth herein.

20 **FOURTH CAUSE FOR DISCIPLINE**

21 **(Unprofessional Conduct)**

22 16. Respondent has further subjected his Physician's and Surgeon's Certificate No.
23 G 80098 to disciplinary action under sections 2227 and 2234 of the Code, in that Respondent has
24 engaged in conduct which breaches the rules or ethical code of the medical profession, or conduct
25 which is unbecoming to a member in good standing of the medical profession, and which
26 demonstrates an unfitness to practice medicine, as more particularly alleged in paragraphs 10
27 through 15, above, which are hereby incorporated by reference and realleged as if fully set forth
28 herein.


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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 No. G 80098, issued to Respondent Afshin S. Gerayli, M.D.;
2. Revoking, suspending or denying approval of Respondent Afshin S. Gerayli, M.D.'s authority to supervise physician assistants pursuant to section 3527 of the Code, and advanced practice nurses;
3. Ordering Respondent Afshin S. Gerayli, M.D., to pay the Board the costs of the investigation and enforcement of this case, and if placed on probation, the costs of probation monitoring; and
4. Taking such other and further action as deemed necessary and proper.

DATED: JAN 21 2022



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

SD2021800916
Doc.No.83208427