

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

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

Khadijeh Kadivar, M.D.

**Physician's and Surgeon's
Certificate No. A 125422**

Case No.: 800-2019-055361

Respondent.

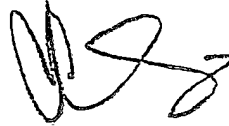
DECISION

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 October 13, 2022.

IT IS SO ORDERED: September 13, 2022.

MEDICAL BOARD OF CALIFORNIA



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

1 ROB BONTA
Attorney General of California
2 JUDITH T. ALVARADO
Supervising Deputy Attorney General
3 PEGGIE BRADFORD TARWATER
Deputy Attorney General
4 State Bar No. 169127
300 South Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 269-6448
6 Facsimile: (916) 731-2117
E-mail: Peggie.Tarwater@doj.ca.gov
7 *Attorneys for Complainant*

8
9 **BEFORE THE**
MEDICAL BOARD OF CALIFORNIA
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the First Amended Accusation
13 Against:

14 **KHADIJEH KADIVAR, M.D.**
15 **8902 West Progress Place**
Littleton, CO 80123

16 Physician's and Surgeon's Certificate No. A
17 125422,

18 Respondent.

Case No. 800-2019-055361

OAH No. 2022010091

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

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

22 **PARTIES**

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

27 2. Respondent Khadijeh Kadivar, M.D. (Respondent) is representing herself in this
28 proceeding and has chosen not to exercise her right to be represented by counsel.

3. On or about April 19, 2013, the Board issued Physician's and Surgeon's Certificate No. A 125422 to Respondent. The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in First Amended Accusation No. 800-2019-055361, and will expire on August 31, 2022, unless renewed.

JURISDICTION

4. First Amended Accusation No. 800-2019-055361 was filed before the Board, and is currently pending against Respondent. The First Amended Accusation and all other statutorily required documents were properly served on Respondent on May 13, 2022. Respondent timely filed her Notice of Defense contesting the Accusation.

5. A copy of First Amended Accusation No. 800-2019-055361 is attached as Exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, and understands the charges and allegations in First Amended Accusation No. 800-2019-055361. Respondent has also carefully read, and understands the effects of this Stipulated Settlement and Disciplinary Order.

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

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

CULPABILITY

9. Respondent admits the truth of each and every charge and allegation in First Amended Accusation No. 800-2019-055361.

///

10. ACKNOWLEDGMENT. Respondent acknowledges the Disciplinary Order below, requiring the disclosure of probation pursuant to Business and Professions Code section 2228.1, serves to protect the public interest.

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

CONTINGENCY

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

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

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

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 125422 issued to Respondent KHADIJEH KADIVAR, M.D. is revoked. However, the revocation is stayed and Respondent is placed on probation for five years on the following terms and conditions.

1 1. PATIENT DISCLOSURE. Before a patient's first visit following the effective date
2 of this order and while Respondent is on probation, Respondent must provide all patients, or
3 patient's guardian or health care surrogate, with a separate disclosure that includes Respondent's
4 probation status, the length of the probation, the probation end date, all practice restrictions
5 placed on Respondent by the board, the board's telephone number, and an explanation of how the
6 patient can find further information on Respondent's probation on Respondent's profile page on
7 the board's website. Respondent shall obtain from the patient, or the patient's guardian or health
8 care surrogate, a separate, signed copy of that disclosure. Respondent shall not be required to
9 provide a disclosure if any of the following applies: (1) The patient is unconscious or otherwise
10 unable to comprehend the disclosure and sign the copy of the disclosure and a guardian or health
11 care surrogate is unavailable to comprehend the disclosure and sign the copy; (2) The visit occurs
12 in an emergency room or an urgent care facility or the visit is unscheduled, including
13 consultations in inpatient facilities; (3) Respondent is not known to the patient until immediately
14 prior to the start of the visit; (4) Respondent does not have a direct treatment relationship with the
15 patient.

16 2. CONTROLLED SUBSTANCES - ABSTAIN FROM USE. Respondent shall abstain
17 completely from the personal use or possession of controlled substances as defined in the
18 California Uniform Controlled Substances Act, dangerous drugs as defined by Business and
19 Professions Code section 4022, and any drugs requiring a prescription. This prohibition does not
20 apply to medications lawfully prescribed to Respondent by another practitioner for a bona fide
21 illness or condition.

22 Within 15 calendar days of receiving any lawfully prescribed medications, Respondent
23 shall notify the Board or its designee of the: issuing practitioner's name, address, and telephone
24 number; medication name, strength, and quantity; and issuing pharmacy name, address, and
25 telephone number.

26 3. ALCOHOL - ABSTAIN FROM USE. Respondent shall abstain completely from the
27 use of products or beverages containing alcohol.

28 4. CANNABIS – ABSTAIN FROM USE. Respondent shall abstain from the use of all

1 cannabis products, including medicinal cannabis products that have been recommended by a
2 health care provider.

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

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

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

21 6. PSYCHOTHERAPY. Within 60 calendar days of the effective date of this Decision,
22 Respondent shall submit to the Board or its designee for prior approval the name and
23 qualifications of a California-licensed board certified psychiatrist or a licensed psychologist who
24 has a doctoral degree in psychology and at least five years of postgraduate experience in the
25 diagnosis and treatment of emotional and mental disorders. Upon approval, Respondent shall
26 undergo and continue psychotherapy treatment, including any modifications to the frequency of
27 psychotherapy, until the Board or its designee deems that no further psychotherapy is necessary.

28 The psychotherapist shall consider any information provided by the Board or its designee

1 and any other information the psychotherapist deems relevant and shall furnish a written
2 evaluation report to the Board or its designee. Respondent shall cooperate in providing the
3 psychotherapist with any information and documents that the psychotherapist may deem
4 pertinent.

5 Respondent shall have the treating psychotherapist submit quarterly status reports to the
6 Board or its designee. The Board or its designee may require Respondent to undergo psychiatric
7 evaluations by a Board-appointed board certified psychiatrist. If, prior to the completion of
8 probation, Respondent is found to be mentally unfit to resume the practice of medicine without
9 restrictions, the Board shall retain continuing jurisdiction over Respondent's license and the
10 period of probation shall be extended until the Board determines that Respondent is mentally fit
11 to resume the practice of medicine without restrictions.

12 Respondent shall pay the cost of all psychotherapy and psychiatric evaluations.

13 7. SOLO PRACTICE PROHIBITION. Respondent is prohibited from engaging in the
14 solo practice of medicine. Prohibited solo practice includes, but is not limited to, a practice
15 where: (1) Respondent merely shares office space with another physician but is not affiliated for
16 purposes of providing patient care, or (2) Respondent is the sole physician practitioner at that
17 location.

18 If Respondent fails to establish a practice with another physician or secure employment in
19 an appropriate practice setting within 60 calendar days of the effective date of this Decision,
20 Respondent shall receive a notification from the Board or its designee to cease the practice of
21 medicine within three calendar days after being so notified. Respondent shall not resume practice
22 until an appropriate practice setting is established.

23 If, during the course of the probation, Respondent's practice setting changes and the
24 Respondent is no longer practicing in a setting in compliance with this Decision, Respondent
25 shall notify the Board or its designee within five calendar days of the practice setting change. If
26 Respondent fails to establish a practice with another physician or secure employment in an
27 appropriate practice setting within 60 calendar days of the practice setting change, Respondent
28 shall receive a notification from the Board or its designee to cease the practice of medicine within

1 three calendar days after being so notified. The Respondent shall not resume practice until an
2 appropriate practice setting is established.

3 8. NOTICE OF EMPLOYER OR SUPERVISOR INFORMATION. Within seven days
4 of the effective date of this Decision, Respondent shall provide to the Board the names, physical
5 addresses, mailing addresses, and telephone numbers of any and all employers and supervisors.
6 Respondent shall also provide specific, written consent for the Board, Respondent's worksite
7 monitor, and Respondent's employers and supervisors to communicate regarding Respondent's
8 work status, performance, and monitoring.

9 For purposes of this section, "supervisors" shall include the Chief of Staff and Health or
10 Well Being Committee Chair, or equivalent, if applicable, when the Respondent has medical staff
11 privileges.

12 9. BIOLOGICAL FLUID TESTING. Respondent shall immediately submit to
13 biological fluid testing, at Respondent's expense, upon request of the Board or its designee.
14 "Biological fluid testing" may include, but is not limited to, urine, blood, breathalyzer, hair
15 follicle testing, or similar drug screening approved by the Board or its designee. Respondent shall
16 make daily contact with the Board or its designee to determine whether biological fluid testing is
17 required. Respondent shall be tested on the date of the notification as directed by the Board or its
18 designee. The Board may order a Respondent to undergo a biological fluid test on any day, at
19 any time, including weekends and holidays. Except when testing on a specific date as ordered by
20 the Board or its designee, the scheduling of biological fluid testing shall be done on a random
21 basis. The cost of biological fluid testing shall be borne by Respondent.

22 During the first year of probation, Respondent shall be subject to 52 to 104 random tests.
23 During the second year of probation and for the duration of the probationary term, up to five
24 years, Respondent shall be subject to 36 to 104 random tests per year. Only if there has been no
25 positive biological fluid tests in the previous five consecutive years of probation, may testing be
26 reduced to one time per month. Nothing precludes the Board from increasing the number of
27 random tests to the first-year level of frequency for any reason.

28 Prior to practicing medicine, Respondent shall contract with a laboratory or service,

1 approved in advance by the Board or its designee, that will conduct random, unannounced,
2 observed, biological fluid testing and meets all of the following standards:

- 3 (a) Its specimen collectors are either certified by the Drug and Alcohol Testing Industry
4 Association or have completed the training required to serve as a collector for the United
5 States Department of Transportation.
- 6 (b) Its specimen collectors conform to the current United States Department of
7 Transportation Specimen Collection Guidelines.
- 8 (c) Its testing locations comply with the Urine Specimen Collection Guidelines published
9 by the United States Department of Transportation without regard to the type of test
10 administered.
- 11 (d) Its specimen collectors observe the collection of testing specimens.
- 12 (e) Its laboratories are certified and accredited by the United States Department of Health
13 and Human Services.
- 14 (f) Its testing locations shall submit a specimen to a laboratory within one business day of
15 receipt and all specimens collected shall be handled pursuant to chain of custody
16 procedures. The laboratory shall process and analyze the specimens and provide legally
17 defensible test results to the Board within seven business days of receipt of the specimen.
18 The Board will be notified of non-negative results within one business day and will be
19 notified of negative test results within seven business days.
- 20 (g) Its testing locations possess all the materials, equipment, and technical expertise
21 necessary in order to test Respondent on any day of the week.
- 22 (h) Its testing locations are able to scientifically test for urine, blood, and hair specimens
23 for the detection of alcohol and illegal and controlled substances.
- 24 (i) It maintains testing sites located throughout California.
- 25 (j) It maintains an automated 24-hour toll-free telephone system and/or a secure on-line
26 computer database that allows Respondent to check in daily for testing.
- 27 (k) It maintains a secure, HIPAA-compliant website or computer system that allows staff
28 access to drug test results and compliance reporting information that is available 24 hours a

1 day.

2 (l) It employs or contracts with toxicologists that are licensed physicians and have
3 knowledge of substance abuse disorders and the appropriate medical training to interpret
4 and evaluate laboratory biological fluid test results, medical histories, and any other
5 information relevant to biomedical information.

6 (m) It will not consider a toxicology screen to be negative if a positive result is obtained
7 while practicing, even if Respondent holds a valid prescription for the substance.

8 Prior to changing testing locations for any reason, including during vacation or other travel,
9 alternative testing locations must be approved by the Board and meet the requirements above.

10 The contract shall require that the laboratory directly notify the Board or its designee of
11 non-negative results within one business day and negative test results within seven business days
12 of the results becoming available. Respondent shall maintain this laboratory or service contract
13 during the period of probation.

14 A certified copy of any laboratory test result may be received in evidence in any
15 proceedings between the Board and Respondent.

16 If a biological fluid test result indicates Respondent has used, consumed, ingested, or
17 administered to herself or herself a prohibited substance, the Board shall order Respondent to
18 cease practice and instruct Respondent to leave any place of work where Respondent is practicing
19 medicine or providing medical services. The Board shall immediately notify all of Respondent's
20 employers, supervisors and work monitors, if any, that Respondent may not practice medicine or
21 provide medical services while the cease-practice order is in effect.

22 A biological fluid test will not be considered negative if a positive result is obtained while
23 practicing, even if the practitioner holds a valid prescription for the substance. If no prohibited
24 substance use exists, the Board shall lift the cease-practice order within one business day.

25 After the issuance of a cease-practice order, the Board shall determine whether the positive
26 biological fluid test is in fact evidence of prohibited substance use by consulting with the
27 specimen collector and the laboratory, communicating with the licensee, her or her treating
28 physician(s), other health care provider, or group facilitator, as applicable.

1 For purposes of this condition, the terms “biological fluid testing” and “testing” mean the
2 acquisition and chemical analysis of a respondent’s urine, blood, breath, or hair.

3 For purposes of this condition, the term “prohibited substance” means an illegal drug, a
4 lawful drug not prescribed or ordered by an appropriately licensed health care provider for use by
5 Respondent and approved by the Board, alcohol, or any other substance the Respondent has been
6 instructed by the Board not to use, consume, ingest, or administer to herself or herself.

7 If the Board confirms that a positive biological fluid test is evidence of use of a prohibited
8 substance, Respondent has committed a major violation, as defined in section 1361.52(a), and the
9 Board shall impose any or all of the consequences set forth in section 1361.52(b), in addition to
10 any other terms or conditions the Board determines are necessary for public protection or to
11 enhance Respondent’s rehabilitation.

12 10. SUBSTANCE ABUSE SUPPORT GROUP MEETINGS. Within 30 days of the
13 effective date of this Decision, Respondent shall submit to the Board or its designee, for its prior
14 approval, the name of a substance abuse support group which she or she shall attend for the
15 duration of probation. Respondent shall attend substance abuse support group meetings at least
16 once per week, or as ordered by the Board or its designee. Respondent shall pay all substance
17 abuse support group meeting costs.

18 The facilitator of the substance abuse support group meeting shall have a minimum of three
19 years experience in the treatment and rehabilitation of substance abuse, and shall be licensed or
20 certified by the state or nationally certified organizations. The facilitator shall not have a current
21 or former financial, personal, or business relationship with Respondent within the last five years.
22 Respondent’s previous participation in a substance abuse group support meeting led by the same
23 facilitator does not constitute a prohibited current or former financial, personal, or business
24 relationship.

25 The facilitator shall provide a signed document to the Board or its designee showing
26 Respondent’s name, the group name, the date and location of the meeting, Respondent’s
27 attendance, and Respondent’s level of participation and progress. The facilitator shall report any
28 unexcused absence by Respondent from any substance abuse support group meeting to the Board,

1 or its designee, within 24 hours of the unexcused absence.

2 11. VIOLATION OF PROBATION CONDITION FOR SUBSTANCE ABUSING
3 LICENSEES. Failure to fully comply with any term or condition of probation is a violation of
4 probation.

5 A. If Respondent commits a major violation of probation as defined by section
6 1361.52, subdivision (a), of Title 16 of the California Code of Regulations, the Board shall take
7 one or more of the following actions:

8 (1) Issue an immediate cease-practice order and order Respondent to undergo a clinical
9 diagnostic evaluation to be conducted in accordance with section 1361.5, subdivision (c)(1), of
10 Title 16 of the California Code of Regulations, at Respondent's expense. The cease-practice
11 order issued by the Board or its designee shall state that Respondent must test negative for at least
12 a month of continuous biological fluid testing before being allowed to resume practice. For
13 purposes of determining the length of time a Respondent must test negative while undergoing
14 continuous biological fluid testing following issuance of a cease-practice order, a month is
15 defined as 30 calendar days. Respondent may not resume the practice of medicine until notified
16 in writing by the Board or its designee that she or she may do so.

17 (2) Increase the frequency of biological fluid testing.

18 (3) Refer Respondent for further disciplinary action, such as suspension, revocation, or
19 other action as determined by the Board or its designee.

20 B. If Respondent commits a minor violation of probation as defined by section
21 1361.52, subdivision (c), of Title 16 of the California Code of Regulations, the Board shall take
22 one or more of the following actions:

23 (1) Issue a cease-practice order;

24 (2) Order practice limitations;

25 (3) Order or increase supervision of Respondent;

26 (4) Order increased documentation;

27 (5) Issue a citation and fine, or a warning letter;

28 (6) Order Respondent to undergo a clinical diagnostic evaluation to be conducted in

1 accordance with section 1361.5, subdivision (c)(1), of Title 16 of the California Code of
2 Regulations, at Respondent's expense;

3 (7) Take any other action as determined by the Board or its designee.

4 C. Nothing in this Decision shall be considered a limitation on the Board's authority
5 to revoke Respondent's probation if she or she has violated any term or condition of probation. If
6 Respondent violates probation in any respect, the Board, after giving Respondent notice and the
7 opportunity to be heard, may revoke probation and carry out the disciplinary order that was
8 stayed. If an Accusation, or Petition to Revoke Probation, or an Interim Suspension Order is filed
9 against Respondent during probation, the Board shall have continuing jurisdiction until the matter
10 is final, and the period of probation shall be extended until the matter is final.

11 12. NOTIFICATION. Within seven days of the effective date of this Decision,
12 Respondent shall provide a true copy of this Decision and First Amended Accusation to the Chief
13 of Staff or the Chief Executive Officer at every hospital where privileges or membership are
14 extended to Respondent, at any other facility where Respondent engages in the practice of
15 medicine, including all physician and locum tenens registries or other similar agencies, and to the
16 Chief Executive Officer at every insurance carrier which extends malpractice insurance coverage
17 to Respondent. Respondent shall submit proof of compliance to the Board or its designee within
18 15 calendar days.

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

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

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

26 15. INVESTIGATION/ENFORCEMENT COST RECOVERY. Respondent is hereby
27 ordered to reimburse the Board its costs of investigation and enforcement in the amount of
28 \$5,700. Costs shall be payable to the Medical Board of California. Failure to pay such costs shall

1 be considered a violation of probation.

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

4 The filing of bankruptcy by Respondent shall not relieve Respondent of the responsibility
5 to repay investigation and enforcement costs.

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

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

11 17. GENERAL PROBATION REQUIREMENTS.

12 Compliance with Probation Unit

13 Respondent shall comply with the Board's probation unit.

14 Address Changes

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

20 Place of Practice

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

24 License Renewal

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

27 Travel or Residence Outside California

28 Respondent shall immediately inform the Board or its designee, in writing, of travel to any

1 areas outside the jurisdiction of California which lasts, or is contemplated to last, more than 30
2 calendar days.

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

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

9 19. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or
10 its designee in writing within 15 calendar days of any periods of non-practice lasting more than
11 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is
12 defined as any period of time Respondent is not practicing medicine as defined in Business and
13 Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct
14 patient care, clinical activity or teaching, or other activity as approved by the Board. If
15 Respondent resides in California and is considered to be in non-practice, Respondent shall
16 comply with all terms and conditions of probation. All time spent in an intensive training
17 program which has been approved by the Board or its designee shall not be considered non-
18 practice and does not relieve Respondent from complying with all the terms and conditions of
19 probation. Practicing medicine in another state of the United States or Federal jurisdiction while
20 on probation with the medical licensing authority of that state or jurisdiction shall not be
21 considered non-practice. A Board-ordered suspension of practice shall not be considered as a
22 period of non-practice.

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

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

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

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

7 20. COMPLETION OF PROBATION. Respondent shall comply with all financial
8 obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the
9 completion of probation. Upon successful completion of probation, Respondent's certificate shall
10 be fully restored.

11 21. VIOLATION OF PROBATION. Failure to fully comply with any term or condition
12 of probation is a violation of probation. If Respondent violates probation in any respect, the
13 Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and
14 carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke
15 Probation, or an Interim Suspension Order is filed against Respondent during probation, the
16 Board shall have continuing jurisdiction until the matter is final, and the period of probation shall
17 be extended until the matter is final.

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

28 23. PROBATION MONITORING COSTS. Respondent shall pay the costs associated

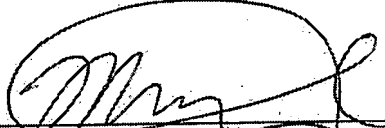
1 with probation monitoring each and every year of probation, as designated by the Board, which
2 may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of
3 California and delivered to the Board or its designee no later than January 31 of each calendar
4 year.

5 24. FUTURE ADMISSIONS CLAUSE. If Respondent should ever apply or reapply for
6 a new license or certification, or petition for reinstatement of a license, by any other health care
7 licensing action agency in the State of California, all of the charges and allegations contained in
8 First Amended Accusation No. 800-2019-055361 shall be deemed to be true, correct, and
9 admitted by Respondent for the purpose of any Statement of Issues or any other proceeding
10 seeking to deny or restrict license.

11
12 ACCEPTANCE

13 I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the
14 stipulation and the effect it will have on my Physician's and Surgeon's Certificate. I enter into
15 this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and
16 agree to be bound by the Decision and Order of the Medical Board of California.

17
18 DATED: 5/23/2022


KHADIJEH KADIVAR, M.D.
Respondent

19
20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

ENDORSEMENT

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

DATED: May 23, 2022

Respectfully submitted,

ROB BONTA
Attorney General of California
JUDITH T. ALVARADO
Supervising Deputy Attorney General

Peggie Bradford Tarwater
Digitally signed by Peggie
Bradford Tarwater
Date: 2022.05.23 10:36:48
-07'00'
PEGGIE BRADFORD TARWATER
Deputy Attorney General
Attorneys for Complainant

LA2021602486

Exhibit A

Accusation No. 800-2019-055361

1 ROB BONTA
Attorney General of California
2 JUDITH T. ALVARADO
Supervising Deputy Attorney General
3 PEGGIE BRADFORD TARWATER
Deputy Attorney General
4 State Bar No. 169127
California Department of Justice
5 300 South Spring Street, Suite 1702
Los Angeles, CA 90013
6 Telephone: (213) 269-6448
Facsimile: (916) 731-2117
7 E-mail: Peggie.Tarwater@doj.ca.gov
Attorneys for Complainant
8

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

13 In the Matter of the First Amended Accusation
Against:

14 **KHADIJEH KADIVAR, M.D.**
15 **8902 West Progress Place**
Littleton, CO 80123

16 **Physician's and Surgeon's Certificate**
17 **No. A 125422,**

18 Respondent.

Case No. 800-2019-055361

OAH Case No. 2022010091

FIRST AMENDED ACCUSATION

19
20 **PARTIES**

21 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, Department of
23 Consumer Affairs (Board).

24 2. On April 19, 2013, the Board issued Physician's and Surgeon's Certificate Number A
25 125422 to Khadijeh Kadivar, M.D. (Respondent). The Physician's and Surgeon's Certificate was
26 in full force and effect at all times relevant to the charges brought herein and will expire on
27 August 31, 2022, unless renewed.

28 ///

JURISDICTION

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

4. Section 2227 of the Code provides that a licensee who is found guilty under the Medical Practice Act may have his or her license revoked, suspended for a period not to exceed one year, placed on probation and required to pay the costs of probation monitoring, or such other action taken in relation to discipline as the Board deems proper.

5. Section 2228 of the Code states:

The authority of the board or the California Board of Podiatric Medicine to discipline a licensee by placing him or her on probation includes, but is not limited to, the following:

(a) Requiring the licensee to obtain additional professional training and to pass an examination upon the completion of the training. The examination may be written or oral, or both, and may be a practical or clinical examination, or both, at the option of the board or the administrative law judge.

(b) Requiring the licensee to submit to a complete diagnostic examination by one or more physicians and surgeons appointed by the board. If an examination is ordered, the board shall receive and consider any other report of a complete diagnostic examination given by one or more physicians and surgeons of the licensee's choice.

(c) Restricting or limiting the extent, scope, or type of practice of the licensee, including requiring notice to applicable patients that the licensee is unable to perform the indicated treatment, where appropriate.

(d) Providing the option of alternative community service in cases other than violations relating to quality of care.

6. Section 2228.1 of the Code states.

(a) On and after July 1, 2019, except as otherwise provided in subdivision (c), the board and the Podiatric Medical Board of California shall require a licensee to provide a separate disclosure that includes the licensee's probation status, the length of the probation, the probation end date, all practice restrictions placed on the licensee by the board, the board's telephone number, and an explanation of how the patient can find further information on the licensee's probation on the licensee's profile page on the board's online license information internet web site, to a patient or the patient's guardian or health care surrogate before the patient's first visit following the probationary order while the licensee is on probation pursuant to a probationary order made on and after July 1, 2019, in any of the following circumstances:

(1) A final adjudication by the board following an administrative hearing or

admitted findings or prima facie showing in a stipulated settlement establishing any of the following:

....

(B) Drug or alcohol abuse directly resulting in harm to patients or the extent that such use impairs the ability of the licensee to practice safely.

....

(2) An accusation or statement of issues alleged that the licensee committed any of the acts described in subparagraphs (A) to (D), inclusive, of paragraph (1), and a stipulated settlement based upon a nolo contendere or other similar compromise that does not include any prima facie showing or admission of guilt or fact but does include an express acknowledgment that the disclosure requirements of this section would serve to protect the public interest.

(b) A licensee required to provide a disclosure pursuant to subdivision (a) shall obtain from the patient, or the patient's guardian or health care surrogate, a separate, signed copy of that disclosure.

(c) A licensee shall not be required to provide a disclosure pursuant to subdivision (a) if any of the following applies:

(1) The patient is unconscious or otherwise unable to comprehend the disclosure and sign the copy of the disclosure pursuant to subdivision (b) and a guardian or health care surrogate is unavailable to comprehend the disclosure and sign the copy.

(2) The visit occurs in an emergency room or an urgent care facility or the visit is unscheduled, including consultations in inpatient facilities.

(3) The licensee who will be treating the patient during the visit is not known to the patient until immediately prior to the start of the visit.

(4) The licensee does not have a direct treatment relationship with the patient.

(d) On and after July 1, 2019, the board shall provide the following information, with respect to licensees on probation and licensees practicing under probationary licenses, in plain view on the licensee's profile page on the board's online license information internet web site.

(1) For probation imposed pursuant to a stipulated settlement, the causes alleged in the operative accusation along with a designation identifying those causes by which the licensee has expressly admitted guilt and a statement that acceptance of the settlement is not an admission of guilt.

(2) For probation imposed by an adjudicated decision of the board, the causes for probation stated in the final probationary order.

(3) For a licensee granted a probationary license, the causes by which the probationary license was imposed.

(4) The length of the probation and end date.

(5) All practice restrictions placed on the license by the board.

(e) Section 2314 shall not apply to this section.

STATUTORY PROVISIONS

7. Section 2234 of the Code, states:

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

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

....

(e) The commission of any act involving dishonesty or corruption that is substantially related to the qualifications, functions, or duties of a physician and surgeon.

....

8. Section 820 of the Code states:

Whenever it appears that any person holding a license, certificate or permit under this division or under any initiative act referred to in this division may be unable to practice his or her profession safely because the licentiate's ability to practice is impaired due to mental illness, or physical illness affecting competency, the licensing agency may order the licentiate to be examined by one or more physicians and surgeons or psychologists designated by the agency. The report of the examiners shall be made available to the licentiate and may be received as direct evidence in proceedings conducted pursuant to Section 822.

9. Section 822 of the Code states:

If a licensing agency determines that its licentiate's ability to practice his or her profession safely is impaired because the licentiate is mentally ill, or physically ill affecting competency, the licensing agency may take action by any one of the following methods:

(a) Revoking the licentiate's certificate or license.

(b) Suspending the licentiate's right to practice.

(c) Placing the licentiate on probation.

(d) Taking such other action in relation to the licentiate as the licensing agency in its discretion deems proper.

The licensing section shall not reinstate a revoked or suspended certificate or license until it has received competent evidence of the absence or control of the condition which caused its action and until it is satisfied that with due regard for the public health and safety the person's right to practice his or her profession may be safely reinstated.

1 **COST RECOVERY**

2 10. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
3 administrative law judge to direct a licensee found to have committed a violation or violations of
4 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
5 enforcement of the case, with failure of the licensee to comply subjecting the license to not being
6 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
7 included in a stipulated settlement.

8 **FACTUAL ALLEGATIONS**

9 11. Respondent is board-certified in radiology and practicing tele-radiology.

10 12. In 2019, Respondent and her husband were in the midst of divorce proceedings and
11 were living separately.

12 13. At that time, Respondent was abusing alcohol and marijuana. Respondent began
13 using alcohol and marijuana after her marriage in 2016, but stated she was not able to handle the
14 substances.

15 14. In the evening of April 19, 2019 through the early morning of April 20, 2019,
16 Respondent drank Bloody Marys and wine. She traveled by Uber to her husband's home to
17 retrieve the keys to a shared safe deposit box so that she could retrieve her property. She took
18 pepper spray and a taser with her so she could be prepared in the event of a confrontation with her
19 husband. She also carried a pair of scissors that she considered using for cutting the home's
20 security camera wires. She saw her husband and sprayed him with pepper spray. She also
21 attempted to tase him, but the taser did not make contact. She did not use the scissors. They
22 dropped out of her pocket during the altercation and were later found on the ground.

23 15. Palos Verdes Estates Police Department Officers were dispatched to the home in
24 response to a call of domestic violence, which resulted in Respondent's arrest.

25 16. A Domestic Violence Restraining Order against Respondent was issued protecting
26 Respondent's husband and extending to their children. That restraining order ran from April 23,
27 2019 through July 25, 2019.

28 ///

1 17. Respondent violated the restraining order three times in May 2019, by asking family
2 and friends to contact her husband on her behalf. Respondent also made direct contact with her
3 husband. Respondent violated the restraining order four times in June 2019, by directly calling
4 and emailing her husband.

5 18. On June 10, 2019, Respondent was charged by Information in Los Angeles County
6 Superior Court Case No. YA100293 with the following felony counts: first degree burglary, in
7 violation of Penal Code section 459; infliction of corporal injury to a spouse with a deadly and
8 dangerous weapon (scissors), in violation of Penal Code sections 273.5, subdivision (a), and
9 12022, subdivision (b)(1); and assault with a deadly weapon (scissors), in violation of Penal Code
10 section 245, subdivision (a)(1).

11 19. On October 8, 2019, Respondent was charged by misdemeanor Complaint in Los
12 Angeles County Superior Court Case No. 9TR04999 with nine counts of contempt of court in
13 violation of Penal Code section 166, subdivision (c)(1).

14 20. Respondent has a history of suicide attempts by overdose of drugs and alcohol in
15 2019, and 2020. Respondent continued drinking alcohol while in court-ordered rehabilitation
16 programs. On February 20, 2020, Respondent was accepted into Passages Addiction Treatment
17 Program (Passages).

18 21. On August 10, 2020, the criminal charges were diverted pursuant to Penal Code
19 sections 1001.35 and 1000.36 (mental health diversion), with the following terms and conditions:
20 residency at Passages until released by staff and the Court; continued electronic monitoring with
21 continuous remote alcohol monitor (SCRAM) for at least 180 days; upon release from Passages,
22 twice weekly sessions for Post Traumatic Stress Disorder (PTSD)/Addiction/Alcohol Use
23 treatment; monthly medication management and continued compliance with the prescribed
24 medication regimen with changes in the course of medical treatment approved by the Court; three
25 weekly support group meetings of Alcoholics Anonymous, Narcotics Anonymous, or Co-
26 Dependents Anonymous, unless doctors recommend otherwise. A superseding protective order
27 was issued allowing peaceful contact with protective persons for the safe exchange of children
28 and court-ordered visitation as an exception to the "no-contact" or "stay away" provisions of the

1 order. Respondent was ordered to submit progress reports. The matter is set for a pre-trial
2 hearing and proof of completion on August 22, 2022.

3 22. Respondent completed one month of in-patient treatment with Passages and nine
4 months of "sober living" treatment. Respondent identifies her sobriety date as January 2020.
5 She completed her treatment with Passages on November 2, 2020.

6 23. Respondent resumed using marijuana, which was recommended by a physician for
7 Respondent's back pain.

8 24. Respondent continues to undergo psychiatric treatment for depression, PTSD,
9 addiction, and alcohol use.

10 25. On or about April 30, 2021, the Board issued an order compelling Respondent to
11 undergo mental and physical examinations.

12 26. Respondent's physical examination was conducted by a physician who is board-
13 certified in internal medicine. Based on the materials provided to him and his interview with
14 Respondent, he found that Respondent suffers from post-traumatic stress disorder, anxiety and
15 depression with suicidal ideation, and alcoholism and substance abuse (in remission). He opined
16 that Respondent is not able to practice medicine safely without restrictions or conditions and
17 concluded that Respondent required regular urine toxicology screening for alcohol and illicit drug
18 use, and regular psychiatric evaluation and psychotherapy. The evaluator recommended that
19 Respondent discontinue the use of medical marijuana.

20 27. Respondent's mental examination was conducted by a board-certified psychiatrist.
21 Based on the materials provided to him and his interview with Respondent, the evaluator found
22 that Respondent had a history of alcoholism, exacerbated by emotional distress. He also found a
23 history of depressive disorder. He recommended that Respondent cease using marijuana and be
24 monitored for the next three years for marijuana and alcohol use. He also recommended ongoing
25 psychiatric and psychotherapeutic care for a three-year period.

26 28. On or about March 12, 2021, Respondent signed a credentialing application for
27 Kaiser Permanente (credentialing application) in which she indicated she had not been dependent
28 upon alcohol or drugs in the past five years. She also indicated she had not been in treatment for

1 alcohol or drug abuse dependency within the last five years.

2 **FIRST CAUSE FOR DISCIPLINE**

3 **(Mental or Medical Condition Affecting Competency)**

4 29. Respondent Khadijeh Kadivar, M.D. is subject to disciplinary action under sections
5 820, 822, and 2234, subdivision (a) of the Code in that her ability to safely practice medicine is
6 impaired because she is physically and/or mentally impaired. The circumstances are as follows:

7 30. The allegations in paragraphs 11 through 27 are incorporated herein as if fully set
8 forth.

9 31. Respondent's conditions and actions as set forth above demonstrate that she has a
10 physical or mental condition affecting her competency to practice medicine, thus subjecting her
11 license to action under section 822 of the Code.

12 **SECOND CAUSE FOR DISCIPLINE**

13 **(Dishonesty)**

14 32. Respondent Khadijeh Kadivar, M.D. is subject to disciplinary action under section
15 2234, subdivisions (a) and (e) of the Code in that she engaged in dishonesty. The circumstances
16 are as follows:

17 33. The allegations in paragraphs 11 through 28 are incorporated herein as if fully set
18 forth.

19 34. Respondent failed to disclose that she had been dependent upon alcohol and/or drugs
20 in the past five years, as required in her credentialing application with Kaiser Permanente.

21 35. Respondent failed to disclose to Kaiser Permanente that she had been in treatment for
22 alcohol and/or drug abuse dependency within the last five years, as required in her credentialing
23 application.

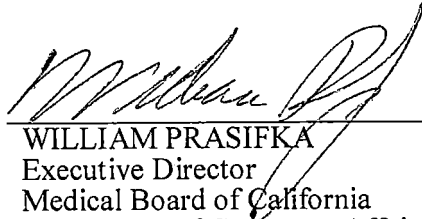
24 36. Respondent was dishonest in the submission of her credentialing application, thus
25 subjecting her license to action under section 2234, subdivisions (a) and (e) of the Code.

26 **PRAYER**

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

- 1 1. Revoking or suspending Physician's and Surgeon's Certificate Number A 125422,
- 2 issued to Respondent Khadijeh Kadivar, M.D.;
- 3 2. Revoking, suspending or denying approval of Respondent Khadijeh Kadivar, M.D.'s
- 4 authority to supervise physician assistants and advanced practice nurses;
- 5 3. Ordering Respondent Khadijeh Kadivar, M.D., to pay the Board the costs of the
- 6 investigation and enforcement of this case, and if placed on probation, the costs of probation
- 7 monitoring;
- 8 4. Ordering Respondent Khadijeh Kadivar, M.D., if placed on probation, to provide
- 9 patient notification in accordance with Business and Professions Code section 2228.1; and
- 10 5. Taking such other and further action as deemed necessary and proper.

11
12 DATED: MAY 13 2022



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

13
14
15
16
17 LA2021602486