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

In the Matter of the Second Amended Accusation Against:	)	
Malihe Dardashti, M.D.	)	**Case No. 800-2016-027079**
Physician's and Surgeon's Certificate No. A41092	)	
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 March 27, 2020.

IT IS SO ORDERED February 27, 2020.

MEDICAL BOARD OF CALIFORNIA

By: Ronald H. Lewis, MD

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

XAVIER BECERRA
Attorney General of California
ROBERT MCKIM BELL
Supervising Deputy Attorney General
PEGGIE BRADFORD TARWATER
Deputy Attorney General
State Bar No. 169127
California Department of Justice
300 South Spring Street, Suite 1702
Los Angeles, CA 90013
Telephone: (213) 269-6448
Facsimile: (916) 731-2117
E-mail: Peggie.Tarwater@doj.ca.gov
Attorneys for Complainant

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

In the Matter of the Second Amended Accusation Against: MALIHE DARDASHTI, M.D. 8500 Wilshire Blvd., Suite 625 Beverly Hills, CA 90211 Physician's and Surgeon's Certificate No. A 41092, Respondent.	Case No. 800-2016-027079 OAH No. 2019051116 **STIPULATED SETTLEMENT AND DISCIPLINARY ORDER**

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

PARTIES

1. Christine J. Lally (Complainant) is the Interim Executive Director of the Medical Board of California (Board). She brought this action solely in her official capacity and is represented in this matter by Xavier Becerra, Attorney General of the State of California, by Peggie Bradford Tarwater, Deputy Attorney General.

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2. Respondent Malihe Dardashti, M.D. (Respondent) is represented in this proceeding by attorney Raymond J. McMahon, whose address is 5440 Trabuco Road, Irvine, California 92620.

3. On August 13, 1984, the Board issued Physician's and Surgeon's Certificate No. A 41092 to Respondent. That license was in full force and effect at all times relevant to the charges brought in Second Amended Accusation No. 800-2016-027079, and will expire on December 31, 2021, unless renewed.

JURISDICTION

4. The Second Amended Accusation in case number 800-2016-027079 was filed before the Board, and is currently pending against Respondent. The Second Amended Accusation and all other statutorily required documents were properly served on Respondent on January 2, 2020. Respondent filed a timely Notice of Defense contesting the Accusation.

5. A copy of the Second Amended Accusation in case number 800-2016-027079 is attached as Exhibit A.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Second Amended Accusation No. 800-2016-027079. Respondent has also carefully read, fully discussed with counsel, 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 Second Amended Accusation; the right to confront and cross-examine the witnesses against her; 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 understands and agrees that the charges and allegations in Second Amended Accusation No. 800-2016-027079, if proven at a hearing, constitute cause for imposing discipline upon her Physician's and Surgeon's Certificate.

10. For the purpose of resolving the Accusation without the expense and uncertainty of further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual basis for the charges in the Accusation, and that Respondent hereby gives up her right to contest those charges.

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 or her counsel. 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 formal proceeding, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

1. PUBLIC REPRIMAND

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 41092 issued to Respondent Malihe Dardashti, M.D. is publicly reprimanded pursuant to Business and Professions Code section 2227, subdivision (a)(4). This Public Reprimand is issued in connection with the allegations relating to Respondent's care and treatment of Patient 1, as set forth in Second Amended Accusation No. 800-2016-027079.

2. COMMUNITY SERVICE - FREE SERVICES.

Within 60 calendar days of the effective date of this Decision, Respondent shall submit to the Board or its designee for prior approval a community service plan in which Respondent shall provide 40 hours of free services (e.g., medical or nonmedical) to a community or non-profit organization. Community service hours shall be completed within one year of the effective date of this Decision.

Prior to engaging in any community service, Respondent shall provide a true copy of this Decision to the chief of staff, director, office manager, program manager, officer, or the chief executive officer at every community or non-profit organization where Respondent provides community service and shall submit proof of compliance to the Board or its designee within 15 calendar days. This condition shall also apply to any change in community service.

Community service performed prior to the effective date of the Decision shall not be accepted in fulfillment of this condition.

3. EDUCATION COURSE.

Within 60 calendar days of the effective date of this Decision, Respondent shall submit to the Board or its designee for its prior approval educational programs or courses which shall not be less than 20 hours. The educational programs or courses shall be aimed at correcting any areas of deficient practice or knowledge in the areas of patient communications and/or relations, dermatology, and/or patient consent and shall be Category I certified. The educational programs or courses shall be at Respondent's expense and shall be in addition to the Continuing Medical Education requirements for renewal of licensure. Following the completion of each course, the

Board or its designee may administer an examination to test Respondent's knowledge of the course. Within one year of the effective date of this Decision, Respondent shall provide proof of attendance for 20 hours of education in satisfaction of this condition.

4. MEDICAL RECORD KEEPING COURSE.

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

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

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

5. FAILURE TO COMPLY.

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

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ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Raymond J. McMahon. I understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Medical Board of California.

DATED: 01-07-2020

MALIHE DARDASHTI, M.D.
Respondent

I have read and fully discussed with Respondent Malihe Dardashti, M.D. the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 1/13/2020

RAYMOND J. MCMAHON
Attorney for Respondent

ENDORSEMENT

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

DATED: _____

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
ROBERT MCKIM BELL
Supervising Deputy Attorney General

PEGGIE BRADFORD TARWATER
Deputy Attorney General
Attorneys for Complainant

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ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Raymond J. McMahon. I understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Medical Board of California.

DATED: _____ _____
MALIHE DARDASHTI, M.D.
Respondent

I have read and fully discussed with Respondent Malihe Dardashti, M.D. the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: _____ _____
RAYMOND J. MCMAHON
Attorney for Respondent

ENDORSEMENT

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

DATED: 1/13/2020

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
ROBERT MCKIM BELL
Supervising Deputy Attorney General

PEGGIE BRADFORD TARWATER
Deputy Attorney General
Attorneys for Complainant

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FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO JAN. 2 2020
BY A. GERENIA ANALYST

XAVIER BECERRA
Attorney General of California
ROBERT MCKIM BELL
Supervising Deputy Attorney General
PEGGIE BRADFORD TARWATER
Deputy Attorney General
State Bar No. 169127
California Department of Justice
300 South Spring Street, Suite 1702
Los Angeles, California 90013
Telephone: (213) 269-6448
Facsimile: (213) 897-9395
E-mail: Peggie.Tarwater@doj.ca.gov
Attorneys for Complainant

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

In the Matter of the Second Amended Accusation Against: MALIHE DARDASHTI, M.D. 8500 Wilshire Boulevard, # 625 Beverly Hills, California 90211 Physician's and Surgeon's Certificate No. A 41092, Respondent.	Case No. 800-2016-027079 **SECOND AMENDED ACCUSATION**

Complainant alleges:

PARTIES

1. Christine J. Lally (Complainant) brings this Second Amended Accusation solely in her official capacity as the Interim Executive Director of the Medical Board of California (Board).

2. On August 13, 1984, the Board issued Physician's and Surgeon's Certificate Number A 41092 to Malihe Dardashti, M.D. (Respondent). That license was in full force and effect at all times relevant to the charges brought herein and will expire on December 31, 2021, unless

renewed.

JURISDICTION

3. This Second 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 states:

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

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

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

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

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

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

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

5. Section 2234 of the Code, states:

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

limited to, the following:

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

". . . .

"(c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or omissions. An initial negligent act or omission followed by a separate and distinct departure from the applicable standard of care shall constitute repeated negligent acts.

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

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

". . . .

". . . .

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

"(g) . . . .

"(h) . . . ."

6. Section 2266 of the Code states: "The failure of a physician and surgeon to maintain adequate and accurate records relating to the provision of services to their patients constitutes unprofessional conduct."

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FIRST CAUSE FOR DISCIPLINE

(Repeated Negligent Acts)

7. Respondent Malihe Dardashti, M.D. is subject to disciplinary action under section 2234, subdivision (b), of the Code in that she was negligent in the treatment of Patient 1.[1] The circumstances are as follows:

8. Respondent is a sole practitioner. She practices general medicine and also offers dermatology services.

9. Patient 1, a 64-year-old, African-American female, presented to Respondent on June 28, 2016, for the primary purpose of obtaining the results of abdominal and pelvic MRI testing. Respondent's progress note for the visit indicates lower abdominal pain as the chief complaint and no mention of a skin complaint. The diagnosis and plan indicate an endocrine disorder, fibroid uterus and referrals for a colonoscopy, gynecology visit, and mammogram. The Review of Systems portion and Diagnosis and Plan section of the progress note also indicate "sun damaged skin," "acne scar," and "black spot." There is no reflection in the progress note that Patient 1 has dark skin. There is no history of prior retinoid use or exfoliation procedures. There is no assessment or plan for the skin conditions.

10. Respondent offered a chemical peel to improve Patient 1's skin.

11. Respondent did not document an informed consent for a chemical peel.

12. A chemical peel was performed on Patient 1. Patient 1 was seated in a chair for the procedure. According to Respondent's description of the procedure, the patient's face was cleaned with alcohol and, when dry, "glycolic applied 1 min., 1 min. wait then glycolic wip[]ed out with gauze soaked with water."

13. The medical record contains no mention of the condition of the skin during or after the procedure or whether complications occurred.

[1] The patient's name is not used in the Second Amended Accusation to protect her privacy. However, in the event the patient's identity is not already known to Respondent as a result of investigation, information related to her identity will be provided to Respondent in the course of discovery.

14. Respondent did not document the chemical peel agent used, although she claimed to have used a 10 percent glycolic lotion.

15. After the procedure, Patient 1 told Respondent that she was experiencing discomfort and that she did not believe Respondent was familiar with "black" skin.

16. Patient 1 suffered a chemical "burn" as a result of the procedure.

17. Respondent did not recognize the complication and did not manage the burning or discomfort with the application of water, sodium bicarbonate, or ice.

18. After leaving Respondent's office, Patient 1 spoke with Respondent by telephone about concerns with the peel. Respondent asked for photographs, told the patient to use moisturizer or aloe, and stated that peeling takes a few days and then scabbing will go away.

19. Patient 1 sent photographs showing skin irritation to Respondent but received no response. Patient 1 did not return to Respondent's office after the procedure.

20. Respondent performs the chemical peel on all patients in the same manner. According to Respondent, there is no increased risk or problem in treating people with dark skin.

21. The standard of care requires identification of high-risk skin types and understanding that patients with high-risk skin types, such as dark skin, have a greater likelihood of post-inflammatory hyperpigmentation and hypopigmentation with dermatologic treatments. The standard of care for the darkest skin type requires pre-treatment of the skin.

22. Respondent was negligent in failing to recognize that dark skin types are high risk and have a greater likelihood of complications with dermatologic procedures.

23. The standard of care when performing a chemical peel is to document the application of the chemicals used, including the number of applications.

24. Respondent was negligent in performing the chemical peel procedure on Patient 1 in that she failed to document the application of the chemicals.

25. The standard of care requires neutralizations with sodium bicarbonate solution to control the depth of the chemical. If a patient complains of discomfort or burning at the conclusion of treatment, bicarbonate should be used to neutralize the chemical.

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26. Respondent was negligent in failing to neutralize the chemical peel even though the patient complained of discomfort.

27. The standard of care requires obtaining informed consent prior to performing a chemical peel, which includes explanation of risks and benefits, as well as alternatives to the procedure. Consent should be documented in the chart.

28. Respondent was negligent in performing the chemical peel procedure on Patient 1 in that she failed to document informed consent.

29. Respondent's acts and omissions as set forth above constitute repeated negligent acts in violation of section 2234, subdivision (c), of the Code, and Respondent's license is subject to discipline.

SECOND CAUSE FOR DISCIPLINE

(Failure to Maintain Adequate and Accurate Records)

30. Respondent Malihe Dardashti, M.D. is subject to disciplinary action under section 2266 of the Code in that she failed to maintain adequate and accurate medical records.

31. The allegations in the First Cause for Discipline are incorporated here as if fully set forth.

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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 A 41092, issued to Malihe Dardashti, M.D.;

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

3. If placed on probation, ordering Malihe Dardashti, M.D. to pay the Board the costs of probation monitoring; and

4. Taking such other and further action as deemed necessary and proper.

DATED: January 2, 2020

CHRISTINE J. LALLY
Interim Executive Director
Medical Board of California
Department of Consumer Affairs
State of California

Complainant

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