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

In the Matter of the Second Amended Accusation against:	)	
	)	File No: 500-2014-000162
RICHARD BENNETT HAAS, DPM	)	
Doctor of Podiatric Medicine License No. E-2676	)	
Respondent	)	

DECISION AND ORDER

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

This Decision shall become effective at 5:00 p.m. on DEC 0 9 2020

IT IS SO ORDERED NOV 0 9 2020

PODIATRIC MEDICAL BOARD

Judith Manzi, D.P.M., President

XAVIER BECERRA
Attorney General of California
STEVE DIEHL
Supervising Deputy Attorney General
BENETH A. BROWNE
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Attorneys for Complainant

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

In the Matter of the Second Amended Accusation Against: **RICHARD BENNETT HAAS, D.P.M.** **40573 Margarita Road #H** **Temecula, CA 92591** **Doctor of Podiatric Medicine License No. E2676** Respondent.	Case No. 500-2014-000162 OAH No. 2018030699 **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. Brian Naslund (Complainant) is the Executive Officer of the Podiatric Medical Board (Board). He brought this action solely in his official capacity and is represented in this matter by Xavier Becerra, Attorney General of the State of California, by Beneth A. Browne, Deputy Attorney General.

2. Richard Bennett Haas, D.P.M. (Respondent) is represented in this proceeding by attorney James R. Parrett, whose address is: 18201 Von Karman Avenue, Suite 400, Irvine, CA 92612-1000.

3. On or about July 9, 1980, the Board issued Doctor of Podiatric Medicine License No. E2676 to Richard Bennett Haas, D.P.M. The Doctor of Podiatric Medicine License was in full force and effect at all times relevant to the charges brought in Second Amended Accusation No. 500-2014-000162, and will expire on May 31, 2022, unless renewed.

JURISDICTION

4. Second Amended Accusation No. 500-2014-000162 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 July 25, 2019. Respondent timely filed his Notice of Defense contesting the Second Amended Accusation.

5. A copy of Second Amended Accusation No. 500-2014-000162 is attached as Exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Second Amended Accusation No. 500-2014-000162. 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 his 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 him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

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

CULPABILITY

9. Respondent does not contest that, at an administrative hearing, Complainant could establish a prima facie case with respect to the charges and allegations contained in Second

Amended Accusation No. 500-2014-000162 and that he has thereby subjected his license to disciplinary action.

10. Respondent agrees that his Doctor of Podiatric Medicine License is subject to discipline and he agrees to be bound by the Board's imposition of discipline as set forth in the Order below.

CIRCUMSTANCES IN MITIGATION

11. Respondent Richard Bennett Haas, D.P.M., has never been the subject of any disciplinary action. On or around early 2015, Respondent permanently disabled his diagnostic x-ray machine. Further, Respondent no longer operates or supervises operation of x-ray machines at any location. As to the cause for discipline remaining in the Second Amended Accusation, Respondent has admitted responsibility at an early stage in the proceedings.

CONTINGENCY

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

13. The parties understand and agree that Portable Document Format (PDF) and facsimile copies of this Stipulated Settlement and 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 Order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Doctor of Podiatric Medicine License No. E2676 issued to Respondent Richard Bennett Haas, D.P.M. shall be and is hereby publicly reproved pursuant to Business and Professions Code section 495. This public reproval, which is issued in connection with Respondent's unauthorized use of an x-ray machine, as set forth in Second Amended Accusation No. 500-2014-000162, is as follows:

"Between July 1, 2014, and January 6, 2015, you engaged in repeated negligent acts when you performed x-rays using a diagnostic x-ray machine: (1) although registration of the x-ray machine had expired; (2) although the machine was a dental x-ray machine that did not meet regulatory safety requirements; and (3) although you did not have a current Supervisor and Operator certificate."

IT IS FURTHER ORDERED that Respondent shall comply with the following:

1. COST RECOVERY Respondent is hereby ordered to reimburse the Podiatric Medical Board the amount of $5,000 within 90 days of the effective date of this decision toward its investigative and prosecutorial costs. Failure to reimburse the Board's costs, unless the Board agrees in writing to payment by an installment plan because of financial hardship, shall constitute unprofessional conduct in violation of Business and Professions Code section 2234.

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Order and have fully discussed it with my attorney, James R. Parrett. I understand the stipulation and the effect it will have on my Doctor of Podiatric Medicine License. I enter into this Stipulated Settlement and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Podiatric Medical Board.

DATED: 8-29-20

RICHARD BENNETT HAAS, D.P.M.
Respondent

I have read and fully discussed with Respondent Richard Bennett Haas, D.P.M. the terms and conditions and other matters contained in the above Stipulated Settlement and Order. I approve its form and content.

DATED: 12/20/19

JAMES R. PARRETT
Attorney for Respondent

ENDORSEMENT

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

DATED: _____

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
STEVE DIEHL
Supervising Deputy Attorney General

BENETH A. BROWNE
Deputy Attorney General
Attorneys for Complainant

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I have read and fully discussed with Respondent Richard Bennett Haas, D.P.M. the terms and conditions and other matters contained in the above Stipulated Settlement and Order. I approve its form and content.

DATED: _____

JAMES R. PARRETT
Attorney for Respondent

ENDORSEMENT

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

DATED: 8/31/20

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
STEVE DIEHL
Supervising Deputy Attorney General

Steve Diehl for
BENETH A. BROWNE
Deputy Attorney General
Attorneys for Complainant

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14293021

Exhibit A

Second Amended Accusation No. 500-2014-000162

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BEFORE THE
BOARD OF PODIATRIC MEDICINE
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Second Amended Accusation Against: **RICHARD BENNETT HAAS, D.P.M.** **40573 Margarita Road, #H** **Temecula, California 92591** **Doctor of Podiatric Medicine License No. E 2676,** Respondent.	Case No. 500-2014-000162 **SECOND AMENDED ACCUSATION**

Complainant alleges:

PARTIES

1. Brian Naslund (Complainant) brings this Second Amended Accusation solely in his official capacity as the Executive Officer of the Board of Podiatric Medicine, Department of Consumer Affairs.

2. On or about July 9, 1980, the Board of Podiatric Medicine issued Doctor of Podiatric Medicine License Number E 2676 to Richard Bennett Haas, D.P.M. (Respondent). The Doctor of Podiatric Medicine License was in full force and effect at all times relevant to the charges brought herein and will expire on May 31, 2018, unless renewed.

JURISDICTION

3. This Second Amended Accusation is brought before the Board of Podiatric Medicine

(Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2222 of the Code states the Board shall enforce and administer this article as to doctors of podiatric medicine. Any acts of unprofessional conduct or other violations proscribed by this chapter are applicable to licensed doctors of podiatric medicine and wherever the Medical Quality Hearing Panel established under Section 11371 of the Government Code is vested with the authority to enforce and carry out this chapter as to licensed physicians and surgeons, the Medical Quality Hearing Panel also possesses that same authority as to licensed doctors of podiatric medicine.

The Board may order the denial of an application or issue a certificate subject to conditions as set forth in Code Section 2221, or order the revocation, suspension, or other restriction of, or the modification of that penalty, and the reinstatement of any certificate of a doctor of podiatric medicine within its authority as granted by this chapter and in conjunction with the administrative hearing procedures established pursuant to Sections 11371, 11372, 11373, and 11529 of the Government Code. For these purposes, the Board shall exercise the powers granted and be governed by the procedures set forth in the Medical Practice Act.

5. Section 2460.1 of the Code states:

"Protection of the public shall be the highest priority for the California Board of Podiatric Medicine in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount."

6. Section 2497 of the Code states:

"(a) The board may order the denial of an application for, or the suspension of, or the revocation of, or the imposition of probationary conditions upon, a certificate to practice podiatric medicine for any of the causes set forth in Article 12 (commencing with Section 2220) in accordance with Section 2222.

"(b) The board may hear all matters, including but not limited to, any contested case or may assign any such matters to an administrative law judge. The proceedings shall be held in

accordance with Section 2230. If a contested case is heard by the board itself, the administrative law judge who presided at the hearing shall be present during the board's consideration of the case and shall assist and advise the board."

7. 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."

8. Section 2234 of the Code states:

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

"(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the

violation of, or conspiring to violate any provision of this chapter.

"(b) Gross negligence.

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

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

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

"(d) Incompetence.

"(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.

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

"(g) The practice of medicine from this state into another state or country without meeting the legal requirements of that state or country for the practice of medicine. Section 2314 shall not apply to this subdivision. This subdivision shall become operative upon the implementation of the proposed registration program described in Section 2052.5.

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

COST RECOVERY

9. Section 2497.5 of the Code states:

"(a) The board may request the administrative law judge, under his or her proposed decision in resolution of a disciplinary proceeding before the board, to direct any licensee found guilty of unprofessional conduct to pay to the board a sum not to exceed the actual and reasonable costs of

the investigation and prosecution of the case.

"(b) The costs to be assessed shall be fixed by the administrative law judge and shall not be increased by the board unless the board does not adopt a proposed decision and in making its own decision finds grounds for increasing the costs to be assessed, not to exceed the actual and reasonable costs of the investigation and prosecution of the case.

"(c) When the payment directed in the board's order for payment of costs is not made by the licensee, the board may enforce the order for payment by bringing an action in any appropriate court. This right of enforcement shall be in addition to any other rights the board may have as to any licensee directed to pay costs.

"(d) In any judicial action for the 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."(e)(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 one year period for those unpaid costs.

"(f) All costs recovered under this section shall be deposited in the Board of Podiatric Medicine Fund as a reimbursement in either the fiscal year in which the costs are actually recovered or the previous fiscal year, as the board may direct."

FIRST CAUSE FOR DISCIPLINE

(Repeated Negligent Acts)

10. Respondent is subject to disciplinary action under section 2234, subdivision (c) of the Code in that Respondent engaged in repeated negligent acts in the care and treatment of patients. The circumstances are as follows:

A. Between July 1, 2014, and January 6, 2015, Respondent performed approximately 2 x-rays per month at a facility in Hemet. Respondent's registration for a

diagnostic x-ray machine had expired on June 30, 2008.[1] Respondent's certification to operate or supervise operation of an x-ray machine had expired on June 30, 2014.[2] Respondent had failed to notify the Department of Public Health when he changed addresses.[3] Respondent had been using a dental x-ray machine that did not have a suitable device capable of restricting the useful beam to the area of clinical interest and had no means for visually defining the perimeter of the x-ray beam.[4]

B. Respondent was negligent when he performed x-rays between July 1, 2014, and January 6, 2015, without a valid Supervisor and Operator certificate.

C. Respondent was negligent when he failed to maintain registration on an active x-ray unit after June 30, 2008.

D. Respondent was negligent when he used a dental x-ray machine that did not meet regulatory safety requirements.

SECOND CAUSE FOR DISCIPLINE

(Unprofessional Conduct)

11. Respondent is subject to disciplinary action under section 2234 of the Code in that Respondent engaged in unprofessional conduct. The circumstances are as follows:

A. The facts and circumstances alleged in paragraphs 10 above is incorporated here as if fully set forth.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Podiatric Medicine issue a decision:

1. Revoking or suspending Podiatric License Number E 2676, issued to Richard Bennett

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[1] This violated California Code of Regulations, title 17, section 30111.

[2] Health and Safety Code, section 107110 stated that: "It shall be unlawful for any licentiate of the healing arts to administer or use diagnostic, mammographic or therapeutic x-rays on human beings in this state after January 1, 1972 unless that person is certified pursuant to subdivision (e) of section 114870, section 114872 or section 114885 and is acting within the scope of that certification."

[3] This violated California Code of Regulations, title 17, section 30115.

[4] This violated: California Code of Regulations, title 17, section 30308, subdivision (a)(2); California Code of Regulations, title 17, section 30305, subdivision (a)(4); and Code of Federal Regulations, Title 21, Chapter 1, Subchapter J, Part 1021, Section 102.31, subdivision (d)(2)(i).

Haas, D.P.M.;

2. Ordering Richard Bennett Haas, D.P.M. to pay the Board of Podiatric Medicine the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 2497.5;

3. Ordering Richard Bennett Haas, D.P.M., if placed on probation, to pay the Board of Podiatric Medicine the costs of probation monitoring; and

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

DATED: July 25, 2019

BRIAN NASLUND
Executive Officer
Board of Podiatric Medicine
Department of Consumer Affairs
State of California
Complainant

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