

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

**In the Matter of the Petition to Revoke  
Probation Against:**

**Fouad Mohammed M. Nouri, M.D.**

**Case No. 800-2020-063538**

**Physician's and Surgeon's  
Certificate No. A 64212**

**Respondent**

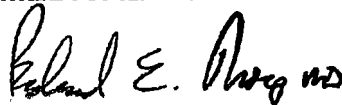
**DECISION**

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

**This Decision shall become effective at 5:00 p.m. on June 5,  
2021.**

**IT IS SO ORDERED May 7, 2021.**

**MEDICAL BOARD OF CALIFORNIA**



**Richard E. Thorp, M.D., Chair  
Panel B**

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

**In the Matter of the Petition to Revoke Probation Against:**

**FOUAD MOHAMMED M. NOURI, M.D.**

**Physician's and Surgeon's Certificate No. A 64212,**

**Respondent.**

**Agency Case No. 800-2020-063538**

**OAH No. 2020100056**

**PROPOSED DECISION**

Julie Cabos Owen, Administrative Law Judge, Office of Administrative Hearings (OAH), State of California, heard this matter by videoconference on March 11, 2021. Christine J. Lally (Complainant) was represented by Jonathan Nguyen, Deputy Attorney General. Fouad Mohammed M. Nouri, M.D. (Respondent) was represented by Armand Tinkerian, Attorney at Law.

Testimony and documents were received in evidence. The record closed and the matter was submitted for decision on March 11, 2021.

## **FACTUAL FINDINGS**

### **Jurisdictional Matters**

1. On May 22, 2020, Complainant filed a Petition to Revoke Probation (Petition) in the matter while acting in her official capacity as the Interim Executive Director of the Medical Board of California (Board), Department of Consumer Affairs.

2. Respondent filed a Notice of Defense requesting a hearing on the Petition. Although the Notice of Defense was not included in the exhibits submitted at the March 11, 2021 hearing, the ALJ hereby takes official notice of Respondent's Notice of Defense which is contained in the OAH file on this matter.

### **License History and Probation Orders**

3. On December 25, 1997, the Board issued Physician's and Surgeon's Certificate Number A 64212 (license) to Respondent. That license is scheduled to expire on September 30, 2021.

4. In a Decision and Order in Case Number 800-2014-003866, effective November 22, 2017 (2017 Probation Order), adopting a Stipulated Settlement and Disciplinary Order, the Board revoked Respondent's license, stayed the revocation, and placed Respondent on probation for five years on specified terms and conditions.

5A. The 2017 Probation Order arose from Respondent's unprofessional conduct as set forth in the March 15, 2017 First Amended Accusation. Respondent's unprofessional conduct involved his failed supervision of non-physicians in 2015 and 2016, when operating a day spa that offered treatments requiring physician

supervision. Respondent allowed non-physicians to perform treatments without physician supervision, thus aiding and abetting the unlicensed practice of medicine.

5B. The 2017 Probation Order also arose from Respondent's criminal conviction. On November 8, 2016, in a criminal proceeding before the Los Angeles Superior Court, the court issued an order restricting Respondent's license as a condition of bail. (Super. Ct. Los Angeles County, 2016, No. 6AR10922.) On December 9, 2016, Respondent was convicted, on his no contest plea, of violating Business and Professions Code section 2052, subdivision (b) (aiding and abetting the unlicensed practice of medicine). He was placed on 13 months of diversion on terms and conditions including that he perform 40 hours of community service and complete an ethics course.

6A. The terms of the 2017 Probation Order included: Condition 2 – completing a professionalism program / ethics course; Condition 9 - submission of quarterly reports under penalty of perjury; and Condition 12 – periods of non-practice not to exceed two years.

6B. Pertinent to this proceeding, Conditions 9, 12, and 16 specified:

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

[¶] . . . [¶]

12. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or its designee in writing within 15

calendar days of any periods of non-practice lasting more than 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is defined as any period of time Respondent is not practicing medicine as defined in Business and Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct patient care, clinical activity or teaching, or other activity as approved by the Board. If Respondent resides in California and is considered to be in non-practice, Respondent shall comply with all terms and conditions of probation.....A Board-ordered suspension of practice shall not be considered as a period of non-practice.

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

Respondent's period of non-practice while on probation shall not exceed two (2) years.

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

Periods of non-practice for a Respondent residing outside of California, will relieve Respondent of the responsibility to comply with the probationary terms and conditions with the exception of this condition and the following terms and conditions of probation: Obey All Laws; General Probation Requirements; Quarterly Declarations. [¶] . . . [¶]

16. PROBATION MONITORING COSTS. Respondent shall pay the costs associated with probation monitoring each and every year of probation, as designated by the Board, which may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of California and delivered to the Board or its designee no later than January 31 of each calendar year.

(Exhibit 4, pp. AGO08-AGO11.)

7A. On March 2, 2018, another Accusation was filed against Respondent. In a Decision and Order in Case Number 800-2015-012424, effective February 1, 2019 (2019 Probation Order), adopting a Stipulated Settlement and Disciplinary Order, the Board revoked Respondent's license, stayed the revocation, and placed Respondent on probation for three years, to run consecutively to the term of probation in the 2017 Probation Order.

7B. Specifically, the 2019 Probation Order states: "THREE (3) YEARS OF ADDITIONAL PROBATION. Respondent is placed on probation for three (3) years, which grant of additional probation shall run consecutive to the term of probation previously order in [the 2017 Probation Order]." (Exhibit 5, p. AGO05.)

7C. The 2019 Probation Order also specified: "All terms and conditions previously ordered in [the 2017 Probation Order] are continued, remain unchanged, and shall run concurrent with this grant of additional probation." (Exhibit 5, p. AGO013.)

7D. Respondent understood his five-year probation under the 2017 Probation Order would be extended by three years pursuant to the 2019 Probation Order. At the administrative hearing, the totality of the evidence established that Respondent was informed and understood that the deadlines for probation conditions in the 2019 Probation Order are tied to the effective date of the 2019 Probation Order, i.e., February 1, 2019. (See Factual Findings 12, 13, 14, 15, 18, and 19.)

8. The 2019 Probation Order included the following additional terms and conditions which had time deadlines tied to the effective date of the 2019 Probation Order (i.e., February 1, 2019):

2. PREScribing PRACTICES COURSE. Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a course in prescribing practices approved in advance by the Board or its designee[.]
3. 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[.]
4. MONITORING – PRACTICE. Within 30 calendar days of the effective date of this Decision, respondent shall submit to the Board or its designee for prior approval as a

practice monitor(s), the name and qualifications of one or more licensed physicians and surgeons whose licenses are valid and in good standing, and who are preferably American Board of Medical Specialties (ABMS) certified. A monitor shall have no prior or current business or personal relationship with Respondent, or other relationship that could reasonably be expected to compromise the ability of the monitor to render fair and unbiased reports to the Board, including but not limited to any form of bartering, shall be in Respondent's field of practice, and must agree to serve as Respondent's monitor. Respondent shall pay all monitoring costs. [¶] . . . [¶]

Within 60 calendar days of the effective date of this Decision, and continuing throughout probation, Respondent's practice shall be monitored by the approved monitor[.]

If Respondent fails to obtain approval of a monitor within 60 calendar days of the effective date of this Decision, Respondent shall receive a notification from the Board or its designee to cease the practice of medicine within three (3) calendar days after being so notified. Respondent shall cease the practice of medicine until a monitor is approved to provide monitoring responsibility. [¶] . . . [¶]

In lieu of a monitor, Respondent may participate in a professional enhancement program approved in advance



by the Board or its designee, that includes, at minimum, quarterly chart review, semi-annual practice assessment, and semi-annual review of professional growth and education. Respondent shall participate in the professional enhancement program at Respondent's expense during the term of probation. [1] . . . [1]

6. CLINICAL COMPETENCE ASSESSMENT PROGRAM.

Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a clinical competence assessment program approved in advance by the Board or its designee[.] [1] . . . [1]

If Respondent fails to enroll, participate in, or successfully complete the clinical competence assessment program within the designated time period, Respondent shall receive a notification from the Board or its designee to cease the practice of medicine within three (3) calendar days after being so notified. The Respondent shall not resume the practice of medicine until enrollment or participation in the outstanding portions of the clinical competence assessment program have been completed. If the Respondent did not successfully complete the clinical competence assessment program, the Respondent shall not resume the practice of medicine until a final decision has been rendered on the accusation and/or a petition to revoke probation. The

cessation of practice shall not apply to the reduction of the probationary time period. [¶] . . . [¶]

17. PROBATION MONITORING COSTS. Respondent shall pay the costs associated with probation monitoring each and every year of probation, as designated by the Board, which may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of California and delivered to the Board or its designee no later than January 31 of each calendar year.

(Exhibit 5, pp. AGO05-AGO13.)

9. The 2019 Probation Order arose from Respondent's unprofessional conduct as set forth in the March 2, 2018 Accusation. Respondent's unprofessional conduct involved his gross negligence, repeated negligence, failure to maintain adequate and accurate records, and dishonesty in prescribing controlled substances to several patients.

## **Probation Violations**

### **HISTORY OF VIOLATIONS**

10A. Beginning January 2018 through April 2019, Respondent submitted to the Board the required quarterly declarations, which he signed under penalty of perjury under the paragraph stating:

I hereby submit this Quarterly Declaration as required by the [Board] and its Order of Probation thereof and declare under penalty of perjury under the laws of the State of

California that I have read the foregoing declaration and any attachments in their entirety and know their contents and that all statements made are true in every respect and I understand and acknowledge that any misstatements, misrepresentations, or omissions of material fact may be cause for further disciplinary action.

(Exhibits 15 through 20.)

10B. In each quarterly declaration, Respondent answered "yes" to the question, "Have you complied with each term and condition of your probation?" (Exhibits 15 through 20.) These responses were misstatements of material fact since Respondent had not complied with several probationary conditions as set forth below.

10C. In his quarterly declarations, Respondent indicated that he worked between 10 to 20 hours per week and between 40 to 80 hours per month. (*Ibid.*) These responses were misstatements of material fact since Respondent orally informed the Board he had worked less than 40 hours per month.

11. On February 26, 2018, a Board inspector sent Respondent a letter addressing his failure to practice medicine for the required amount of time. The letter reminded Respondent that non-practice is defined as "any period of time Respondent is not practicing medicine as defined in Business and Professions Code sections 2051 and 2052 **for at least 40 hours in a calendar month in direct patient care, clinical activity or teaching, or other activity as approved by the Board.**" (Exhibit 10. Emphasis in original.) The Board inspector pointed out, "in the past, you have [orally] reported the time you spend practicing medicine is less than 40 hours in a calendar month. From the date of November 24, 2017, your period of practice has been less

than 40 hours in a calendar month. **Therefore, it will be considered to be a period of 'non-practice' and will not apply to the reduction of your probationary term."** (*Ibid.* Emphasis in original.)

12. On January 29, 2019, a Board inspector reviewed the terms of the 2019 Probation Order with Respondent.

13. On April 1, 2019, Respondent emailed the Board requesting an extension of the due dates for the prescribing practices course, medical recordkeeping course, and clinical competence assessment program required by the 2019 Probation Order. He stated he needed the extra time due to lack of funds and because he would be traveling out of the country from February 1, 2019 through March 4, 2019.

14A. On April 5, 2019, Probation Manager Anne R. Potter sent Respondent a letter confirming their quarterly interview that day regarding Respondent's two Board probations. Ms. Potter noted Respondent had completed the ethics course required by the 2017 Probation Order.

14B. In the April 5, 2019 interview, they also discussed compliance with conditions of the 2019 Probation Order including enrollment in the prescribing practices course (Condition 2), the medical recordkeeping course (Condition 3), and the Clinical Competence Assessment Program (Condition 6), and the employment of a practice monitor (Condition 4). Ms. Potter noted that, since Respondent "traveled out of the country from 2/1/2019 to 3/4/2019 (toll days)" (Exhibit 11), the new due date for enrollment in the prescribing practices course, the medical recordkeeping course, and the clinical competence assessment program was May 4, 2019. Respondent was also required to nominate a practice monitor, or alternatively to enroll in the

Professional Enhancement Program (PEP) at the University of California, San Diego, by May 4, 2019, in order to be compliant with the 2019 Probation Order.

14C. Ms. Potter also pointed out Respondent's lengthy period of non-practice, stating, "You are in non-practice since your effective date of the [2017 Probation Order] .....n addition, on 5/24/2019, you will be considered in non-practice for 18 months and your order states you must successfully complete the Federation of States Medical Board Special Purpose Examination or the Clinical Competency Assessment Program." (Exhibit 11. Emphasis added.) Respondent was also informed his total non-practice time "shall not exceed two (2) years or you will be in violation of probation." (*Ibid.* Emphasis added.)

14D. As of April 5, 2019, Respondent owed a balance of \$2,399 in order to complete payment of the \$4,749 in probation monitoring costs for the 2018 calendar year. These 2018 probation monitoring costs had been due in full on January 31, 2019.

15. On May 7, 2019, Ms. Potter sent Respondent a letter informing him he was out of compliance with several terms of his probations including the prescribing practices course (2019 Probation Order, Condition 2), the medical recordkeeping course (2019 Probation Order, Condition 3), and the Clinical Competence Assessment Program (2019 Probation Order, Condition 6) for failure to enroll by May 4, 2019. He was also out of compliance with the requirement that he employ a practice monitor (2019 Probation Order, Condition 4), for failure to obtain Board approval of a monitor by May 4, 2019. Respondent had also failed to comply with the payment of probation monitoring costs (2017 Probation Order, Condition 16; 2019 Probation Order, Condition 17), due to the \$2,350 balance owed for the 2018 calendar year.

16A. On May 17, 2019, the Board issued a Cease Practice Order, prohibiting Respondent from engaging in the practice of medicine until he obtained Board approval of a practice monitor (in compliance with 2019 Probation Order, Condition 4), and enrolled in the Clinical Competence Assessment Program (in compliance with the 2019 Probation Order, Condition 6).

16B. The May 17, 2019 Cease Practice Order suspended Respondent's practice of medicine two months prior to what would have been a two-year total non-practice period. However, as set forth in the 2017 Probation Order, Condition 12, the period of "Board-ordered suspension of practice shall not be considered as a period of non-practice." (See Factual Finding 6B.) Consequently, Respondent's total period of non-practice prior to the Board-ordered suspension was just under 18 months.

17A. On September 30, 2019, Respondent participated in a quarterly interview. On that same date, a Board inspector sent Respondent a letter informing Respondent that his probation monitoring costs for the 2019 calendar year were \$4,969, due January 31, 2020.

17B. Thereafter Respondent sent a letter, received by the Board on October 14, 2019, wherein Respondent explained he was trying to secure a loan to comply with the probation orders.

18A. In a November 21, 2019 letter, a Board inspector documented what was discussed at Respondent's September 30, 2019 quarterly interview. During that interview, Respondent admitted he was not in full compliance with both Board probations. Respondent acknowledged he had not enrolled in a prescribing practices course (2019 Probation Order, Condition 2), a medical recordkeeping course (2019 Probation Order, Condition 3), or the Clinical Competence Assessment Program (2019

Probation Order, Condition 6). He explained that he did not have the financial ability to comply with these conditions. He also informed the inspector he attempted to apply for loans but was denied due to his unemployment. Respondent noted his wife's income was insufficient to cover these additional expenses. Respondent also admitted he had not employed a practice monitor (2019 Probation Order, Condition 4), noting that he was not currently practicing medicine.

18B. The November 21, 2019 letter reminded Respondent he owed \$2,350 in probation monitoring costs for the 2018 calendar year and he would owe \$4,969 on January 31, 2020 for probation monitoring costs for the 2019 calendar year.

19. On December 26, 2019, a probation inspector sent Respondent a letter following their December 11, 2019 interview about Respondent's two Board probations. During the December 11, 2019 interview, Respondent again admitted he was not in full compliance with both Board probations. Respondent acknowledged he had not enrolled in a prescribing practices course (2019 Probation Order, Condition 2), a medical recordkeeping course (2019 Probation Order, Condition 3), or the Clinical Competence Assessment Program (2019 Probation Order, Condition 6). He again explained that he did not have the financial ability to comply with these conditions. He informed the inspector he attempted to apply for loans but was denied due to his unemployment. Respondent also admitted he had not employed a practice monitor (2019 Probation Order, Condition 4), noting that he was not currently practicing medicine. The December 26, 2019 letter reminded Respondent he owed \$2,350 in probation monitoring costs for the 2018 calendar year and he would owe \$4,969 on January 31, 2020 for probation monitoring costs for the 2019 calendar year.

20. On February 3, 2021, the Board sent Respondent a letter informing him he was delinquent in paying the \$4,800 he owed in probation monitoring costs for the 2020 calendar year. These costs were due by January 31, 2021.

### **VIOLATION OF 2017 PROBATION ORDER**

21. Respondent violated Condition 9 of the 2017 Probation Order by submitting quarterly declarations to the Board which contained misstatements made under penalty of perjury. Respondent indicated in his quarterly declarations he had complied with his probation and had worked between 10 to 20 hours per week and between 40 to 80 hours per month. However, during his quarterly interviews with his probation monitor, Respondent verbally stated that he did not work 40 hours per month.

22. Complainant alleges in the Petition, "For a period exceeding two years as of November 22, 2019, Respondent failed to engage in direct patient care, clinical activity or teaching, or other activity as approved by the Board for at least 40 hours each calendar month. Accordingly, Respondent's period of non-practice exceeded two years in violation of Probation Condition 12." (Exhibit 1, p. AGO10.) However, as set forth in Factual Findings 14 and 16, Respondent's period of non-practice did not exceed two years. Therefore, Respondent is not currently in violation of Condition 12 of the 2017 Probation Order based on the alleged facts in the Petition.

### **VIOLATIONS OF 2019 PROBATION ORDER**

23. By May 4, 2019, Respondent failed to enroll in a Prescribing Practices Course (Condition 2), in a Medical Recordkeeping Course (Condition 3), or in a Clinical Competency Assessment Program (Condition 6), and failed to obtain a Board-



approved practice monitor (Condition 4), thereby violating these several conditions of his 2019 Probation Order.

24. Respondent has failed to pay the remaining balances of \$2,350 towards his 2018 probation monitoring costs, \$4,969 towards his 2019 probation monitoring costs, and \$4,800 towards his 2020 probation monitoring costs. These delinquencies are violations of Condition 16 of the 2017 Probation Order and Condition 17 of the 2019 Probation Order (although the Petition alleged this solely as a violation of 2019 probation Order).

### **Respondent's Explanation for Probation Violations**

25. Respondent testified at the administrative hearing. His demeanor was professional and cooperative.

26. Respondent admitted he has not paid the remaining balances for probation monitoring costs. He also admitted he has not enrolled in the prescribing practices course, medical recordkeeping course, and clinical competence program. He explained that he does not have the financial ability to pay the costs or the enrollment fees.

27. Respondent is presently unemployed due to the cease practice order. He explained he has been unable to obtain loans due to his unemployment. However, Respondent did not explain why he was unable to obtain loans prior to becoming unemployed.

28. Respondent relies on his wife's salary to pay rent and other bills. Respondent has not sought any other means of income. He testified he is "over-qualified for all jobs [he has] applied for."

29. Respondent also admitted he had not obtained Board approval for a practice monitor. He insisted he was unable to obtain a practice monitor with whom he had no business association. He had asked colleagues and former classmates but they could not obtain Board approval due to their pre-existing relationship.

30. Respondent is unsure of how long it would take him to comply with his probationary conditions, and he has no plan or timeline to complete any of the probationary conditions.

## **LEGAL CONCLUSIONS**

1. First Cause to Revoke Probation: Cause exists to revoke Respondent's probation and impose the stayed revocation of Respondent's license for failure to comply with the 2019 Probation Order, Condition Number 2 (failure to enroll in a Prescribing Practices Course), as set forth in Factual Findings 3 through 24.

2. Second Cause to Revoke Probation: Cause exists to revoke Respondent's probation and impose the stayed revocation of Respondent's license for failure to comply with the 2019 Probation Order, Condition Number 3 (failure to enroll in Medical Recordkeeping Course), as set forth in Factual Findings 3 through 24.

3. Third Cause to Revoke Probation: Cause exists to revoke Respondent's probation and impose the stayed revocation of Respondent's license for failure to comply with the 2019 Probation Order, Condition Number 4 (failure to obtain approval for practice monitor), as set forth in Factual Findings 3 through 24.

4. Fourth Cause to Revoke Probation: Cause exists to revoke Respondent's probation and impose the stayed revocation of Respondent's license for failure to

comply with the 2019 Probation Order, Condition Number 6 (failure to enroll in clinical competence program), as set forth in Factual Findings 3 through 24.

5. Fifth Cause to Revoke Probation: Cause exists to revoke Respondent's probation and impose the stayed revocation of Respondent's license for failure to comply with the 2017 Probation Order, Condition Number 9 (failure to submit truthful quarterly declarations), as set forth in Factual Findings 3 through 24.

6. Sixth Cause to Revoke Probation: Cause does not exist to revoke Respondent's probation and impose the stayed revocation of Respondent's license for failure to comply with the 2017 Probation Order, Condition Number 12 (for non-practice exceeding two years), as set forth in Factual Findings 14, 16 and 22.

7. Seventh Cause to Revoke Probation: Cause exists to revoke Respondent's probation and impose the stayed revocation of Respondent's license for failure to comply with the 2019 Probation Order, Condition Number 17 (failure to pay probation monitoring costs), as set forth in Factual Findings 3 through 24.

8. Respondent has been on probation since November 2017. He has been out of compliance since 2018 by failing to work at least 40 hours a month and making misstatements in his quarterly reports. Respondent's probation violations escalated after the effective date of the 2019 Probation Order, and although he has pointed to financial woes as the cause of his non-compliance this explanation was not persuasive. He was employed up until the May 2019 Cease Practice Order, and he did not attempt to enroll in any of the required courses. He has also made little effort to obtain a Board-approved practice monitor. Respondent has no definitive plan to comply with his probationary conditions, which bodes poorly for his future compliance with and

successful completion of his probations. Consequently, revocation of Respondent's license is necessary to protect the public health, safety and welfare.

## **ORDER**

Physician's and Surgeon's Certificate Number A 64212, issued to Respondent, Fouad Mohammed M. Nouri, M.D., is hereby revoked.

DATE: Apr 9, 2021

*Julie Cabos-Owen*

JULIE CABOS-OWEN

Administrative Law Judge

Office of Administrative Hearings

# Exhibit A

1 XAVIER BECERRA  
Attorney General of California  
2 E. A. JONES III  
Supervising Deputy Attorney General  
3 JONATHAN NGUYEN  
Deputy Attorney General  
4 State Bar No. 263420  
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5 300 So. Spring Street, Suite 1702  
Los Angeles, CA 90013  
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Facsimile: (916) 731-2117  
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 Petition to Revoke  
13 Probation Against:

Case No. 800-2020-063538

14 **FOUAD MOHAMMED M. NOURI, M.D.**  
15 **1233 N Vermont Ave., Suite 1**  
**Los Angeles, CA 90029-1749**  
16 **Physician's and Surgeon's Certificate No.**  
**A 64212,**

PETITION TO REVOKE PROBATION

17 Respondent.

18  
19 Complainant alleges:

20 **PARTIES**

21 1. Christine J. Lally (Complainant) brings this Petition to Revoke Probation solely in her  
22 official capacity as the Interim Executive Director of the Medical Board of California,  
23 Department of Consumer Affairs (Board).

24 2. On or about December 25, 1997, the Medical Board of California issued Physician's  
25 and Surgeon's Certificate Number A 64212 to FOUAD MOHAMMED M. NOURI, M.D.  
26 (Respondent). The Physician's and Surgeon's Certificate was in effect at all times relevant to the  
27 charges brought herein and will expire on September 30, 2021, unless renewed.

28 3. In a disciplinary action titled "In the Matter of Accusation Against Fouad Mohammed

1 Nouri, M.D.," Case No. 800-2014-003866, the Medical Board of California, issued a decision,  
2 effective November 22, 2017, in which Respondent's Physician's and Surgeon's Certificate was  
3 revoked. However, the revocation was stayed and Respondent's Physician's and Surgeon's  
4 Certificate was placed on probation for a period of five (5) years with certain terms and  
5 conditions. A copy of that decision is attached as Exhibit A and is incorporated by reference.

6 4. In a disciplinary action titled "In the Matter of Accusation Against Fouad Mohammed  
7 M. Nouri, M.D.," Case No. 800-2015-012424, the Medical Board of California, issued a decision,  
8 effective February 1, 2019, in which Respondent's Physician's and Surgeon's Certificate was  
9 revoked. However, the revocation was stayed and Respondent's Physician's and Surgeon's  
10 Certificate was placed on probation for a period of three (3) years with certain terms and  
11 conditions and the term of probation shall run consecutive to the term of probation previously  
12 ordered in Case No. 800-2014-003866. A copy of that decision is attached as Exhibit B and is  
13 incorporated by reference.

14 5. On May 17, 2019, the Medical Board of California, issued a Cease Practice Order,  
15 ordering Respondent to cease the practice of medicine within three calendar days after being so  
16 notified. Respondent had failed to obey Probationary Conditions Nos. 4 and 6 of the Stipulated  
17 Settlement and Disciplinary Order in the Medical Board of California Case No 800-2015-012424.

18 Probationary Condition No. 4 required Respondent to submit to the Board for prior  
19 approval the name and qualifications of one or more licensed physicians and surgeons to serve as  
20 his practice monitor within 30 calendar days of the effective date of the decision. Respondent  
21 failed to submit to the Board any names or qualifications of licensed physicians and surgeons to  
22 serve as his practice monitor within 30 calendar days of February 1, 2019.

23 Probationary Condition No. 6 required Respondent to enroll in a clinical competence  
24 assessment program, approved in advance by the Board, within 60 calendar days of the effective  
25 date of the decision. Respondent failed to enroll in a clinical competence assessment program  
26 within 60 calendar days of February 1, 2019. A copy of that order is attached as Exhibit C and is  
27 incorporated by reference.

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7. Section 2227 of the Code states:

(1) Have his or her license revoked 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.

(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.

## FIRST CAUSE TO REVOKE PROBATION

8. At all times after the effective date of Respondent's probation ordered in Case No. 800-2015-012424, Condition 2 stated:

3



Respondent's initial enrollment. Respondent shall successfully complete any other component of the course within one (1) year of enrollment. The prescribing practices course shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

A prescribing practices 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.

9. Respondent's probation is subject to revocation because he failed to comply with Probation Condition 2, referenced above. The facts and circumstances regarding this violation are as follows:

A. On or about January 8, 2019, Respondent notified the Board that he would be traveling out of the country from February 1, 2019, to March 4, 2019. Respondent's probation was placed on tolled probation status during this time.

B. On or about April 1, 2019, Respondent contacted the Board via email requesting an extension of due date for enrollment in a Prescribing Practice course, Medical Record Keeping course, Clinical Competence Assessment Program, and finding a practice monitor, given his recent absence from the country.

C. On or about April 5, 2019, the Board mailed and emailed Respondent a letter outlining a new due date for compliance with enrollment in a Prescribing Practice course, Medical Record Keeping course, Clinical Competence Assessment Program, and finding a practice monitor. Respondent's new due date for enrolling in a prescribing practices course was May 4, 2019.

D. Respondent failed to enroll in a Prescribing Practices Course by May 4, 2019, thereby violating his probation.

#### **SECOND CAUSE TO REVOKE PROBATION**

(Failure To Enroll In Medical Record Keeping Course)

1           10. At all times after the effective date of Respondent's probation as ordered in Case No.  
2 800-2015-012424, Condition 3 stated:

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

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

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

22           11. Respondent's probation is subject to revocation because he failed to comply with  
23 Probation Condition 3, referenced above. The facts and circumstances regarding this violation  
24 are as follows:

25           A. On or about January 8, 2019, Respondent notified the Board that he would be  
26 traveling out of the country from February 1, 2019, to March 4, 2019. Respondent's probation  
27 was placed on tolled probation status during this time.

28           B. On or about April 1, 2019, Respondent contacted the Board via email requesting an  
extension of due date for enrollment in a Prescribing Practice course, Medical Record Keeping  
course, Clinical Competence Assessment Program, and finding a practice monitor, given his  
recent absence from the country.

          C. On or about April 5, 2019, the Board mailed and emailed Respondent a letter  
outlining a new due date for compliance with enrollment in a Prescribing Practice course,  
Medical Record Keeping course, Clinical Competence Assessment Program, and finding a

1 practice monitor. Respondent's new due date for enrolling in a Medical Record Keeping course  
2 was May 4, 2019.

3 D. Respondent failed to enroll in a Medical Record Keeping Course by May 4, 2019,  
4 thereby violating his probation.

5 **THIRD CAUSE TO REVOKE PROBATION**

6 (Failure To Obtain Approval For A Practice Monitor)

7 12. At all times after the effective date of Respondent's probation as ordered in Case No.  
8 800-2015-012424, Condition 4 stated:

9 Within 30 calendar days of the effective date of this Decision, Respondent shall  
10 submit to the Board or its designee for prior approval as a practice monitor(s), the  
11 name and qualifications of one or more licensed physicians and surgeons whose  
12 licenses are valid and in good standing, and who are preferably American Board  
13 of Medical Specialties (ABMS) certified. A monitor shall have no prior or  
14 current business or personal relationship with Respondent, or other relationship  
15 that could reasonably be expected to compromise the ability of the monitor to  
16 render fair and unbiased reports to the Board, including but not limited to any  
17 form of bartering, shall be in Respondent's field of practice, and must agree to  
18 serve as Respondent's monitor. Respondent shall pay all monitoring costs.

19 The Board or its designee shall provide the approved monitor with copies of the  
20 Decision(s) and Accusation(s), and a proposed monitoring plan. Within 15  
21 calendar days of receipt of the Decision(s), Accusation(s), and proposed  
22 monitoring plan, the monitor shall submit a signed statement that the monitor has  
23 read the Decision(s) and Accusation(s), fully understands the role of a monitor,  
24 and agrees or disagrees with the proposed monitoring plan. If the monitor  
25 disagrees with the proposed monitoring plan, the monitor shall submit a revised  
26 monitoring plan with the signed statement for approval by the Board or its  
27 designee.

28 Within 60 calendar days of the effective date of this Decision, and continuing  
throughout probation, Respondent's practice shall be monitored by the approved  
monitor. Respondent shall make all records available for immediate inspection  
and copying on the premises by the monitor at all times during business hours and  
shall retain the records for the entire term of probation.

If Respondent fails to obtain approval of a monitor within 60 calendar days of the  
effective date of this Decision, Respondent shall receive a notification from the  
Board or its designee to cease the practice of medicine within three (3) calendar  
days after being so notified. Respondent shall cease the practice of medicine until  
a monitor is approved to provide monitoring responsibility.

1 The monitor(s) shall submit a quarterly written report to the Board or its designee  
2 which includes an evaluation of Respondent's performance, indicating whether  
3 Respondent's practices are within the standards of practice of medicine, and  
4 whether Respondent is practicing medicine safely, billing appropriately or both.  
5 It shall be the sole responsibility of Respondent to ensure that the monitor submits  
6 the quarterly written reports to the Board or its designee within 10 calendar days  
7 after the end of the preceding quarter.

8 If the monitor resigns or is no longer available, Respondent shall, within 5  
9 calendar days of such resignation or unavailability, submit to the Board or its  
10 designee, for prior approval, the name and qualifications of a replacement monitor  
11 who will be assuming that responsibility within 15 calendar days. If Respondent  
12 fails to obtain approval of a replacement monitor within 60 calendar days of the  
13 resignation or unavailability of the monitor, Respondent shall receive a  
14 notification from the Board or its designee to cease the practice of medicine  
15 within three (3) calendar days after being so notified. Respondent shall cease the  
16 practice of medicine until a replacement monitor is approved and assumes  
17 monitoring responsibility.

18 In lieu of a monitor, Respondent may participate in a professional enhancement  
19 program approved in advance by the Board or its designee that includes, at  
20 minimum, quarterly chart review, semi-annual practice assessment, and semi-  
21 annual review of professional growth and education. Respondent shall participate  
22 in the professional enhancement program at Respondent's expense during the  
23 term of probation.

24 13. Respondent's probation is subject to revocation because he failed to comply with  
25 Probation Condition 4, referenced above. The facts and circumstances regarding this violation  
26 are as follows:

27 A. On or about January 8, 2019, Respondent notified the Board that he would be  
28 traveling out of the country from February 1, 2019, to March 4, 2019. Respondent's probation  
was placed on tolled probation status during this time.

B. On or about April 1, 2019, Respondent contacted the Board via email requesting an  
extension of due date for enrollment in a Prescribing Practice course, Medical Record Keeping  
course, Clinical Competence Assessment Program, and finding a practice monitor, given his  
recent absence from the country.

C. On or about April 5, 2019, the Board mailed and emailed Respondent a letter  
outlining a new due date for compliance with enrollment in a Prescribing Practice course,  
Medical Record Keeping course, Clinical Competence Assessment Program, and finding a

1 practice monitor. Respondent's new due date for finding a practice monitor was May 4, 2019.

2 D. Respondent failed to find a practice monitor by May 4, 2019, thereby violating his  
3 probation.

4 **FOURTH CAUSE TO REVOKE PROBATION**

5 (Failure To Enroll In A Clinical Competency Assessment Program)

6 14. At all times after the effective date of Respondent's probation as ordered in Case No.  
7 800-2015-012424, Condition 6 stated:

8 Within 60 calendar days of the effective date of this Decision, Respondent shall  
9 enroll in a clinical competence assessment program approved in advance by the  
10 Board or its designee. Respondent shall successfully complete the program not  
11 later than six (6) months after Respondent's initial enrollment unless the Board  
12 or its designee agrees in writing to an extension of that time.

13 The program shall consist of a comprehensive assessment of Respondent's  
14 physical and mental health and the six general domains of clinical competence as  
15 defined by the Accreditation Council on Graduate Medical Education and  
16 American Board of Medical Specialties pertaining to Respondent's current or  
17 intended area of practice. The program shall take into account data obtained  
18 from the pre-assessment, self-report forms and interview, and the Decision(s),  
19 Accusation(s), and any other information that the Board or its designee deems  
20 relevant. The program shall require Respondent's on-site participation for a  
21 minimum of 3 and no more than 5 days as determined by the program for the  
22 assessment and clinical education evaluation. Respondent shall pay all expenses  
23 associated with the clinical competence assessment program.

24 At the end of the evaluation, the program will submit a report to the Board or its  
25 designee which unequivocally states whether the Respondent has demonstrated  
26 the ability to practice safely and independently. Based on Respondent's  
27 performance on the clinical competence assessment, the program will advise the  
28 Board or its designee of its recommendation(s) for the scope and length of any  
additional educational or clinical training, evaluation or treatment for any  
medical condition or psychological condition, or anything else affecting  
Respondent's practice of medicine. Respondent shall comply with the program's  
recommendations.

Determination as to whether Respondent successfully completed the clinical  
competence assessment program is solely within the program's jurisdiction.  
If Respondent fails to enroll, participate in, or successfully complete the clinical  
competence assessment program within the designated time period, Respondent  
shall receive a notification from the Board or its designee to cease the practice of  
medicine within three (3) calendar days after being so notified. The Respondent  
shall not resume the practice of medicine until enrollment or participation in the

1 outstanding portions of the clinical competence assessment program have been  
2 completed. If the Respondent did not successfully complete the clinical  
3 competence assessment program, the Respondent shall not resume the practice of  
4 medicine until a final decision has been rendered on the accusation and/or a  
5 petition to revoke probation. The cessation of practice shall not apply to the  
6 reduction of the probationary time period.

7 15. Respondent's probation is subject to revocation because he failed to comply with  
8 Probation Condition 6, referenced above. The facts and circumstances regarding this violation  
9 are as follows:

10 A. On or about January 8, 2019, Respondent notified the Board that he would be  
11 traveling out of the country from February 1, 2019, to March 4, 2019. Respondent's probation  
12 was placed on tolled probation status during this time.

13 B. On or about April 1, 2019, Respondent contacted the Board via email requesting an  
14 extension of due date for enrollment in a Prescribing Practice course, Medical Record Keeping  
15 course, Clinical Competence Assessment Program, and finding a practice monitor, given his  
16 recent absence from the country.

17 C. On or about April 5, 2019, the Board mailed and emailed Respondent a letter  
18 outlining a new due date for compliance with enrollment in a Prescribing Practice course,  
19 Medical Record Keeping course, Clinical Competence Assessment Program, and finding a  
20 practice monitor. Respondent's new due date for enrolling in a Clinical Competence Assessment  
21 Program was May 4, 2019.

22 D. Respondent failed to enroll in a Clinical Competence Assessment Program by May 4,  
23 2019, thereby violating his probation.

24 E. On or about May 17, 2019, the Board issued to Respondent a Cease Practice Order,  
25 prohibiting Respondent from the practice of medicine until further notice.

26 **FIFTH CAUSE TO REVOKE PROBATION**

27 (Failure To Submit Accurate Quarterly Declarations)

28 16. At all times after the effective date of Respondent's probation as ordered in Case No.  
800-2014-003866, Condition 9 stated:

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Respondent shall submit quarterly declarations under penalty of perjury on forms provided by the Board, stating whether there has been compliance with all the conditions of probation. Respondent shall submit quarterly declarations not later than 10 calendar days after the end of the preceding quarter.

17. Respondent's probation is subject to revocation because he failed to comply with Probation Condition 9, referenced above. The facts and circumstances regarding this violation are as follows:

A. Respondent stated on each quarterly declaration from Quarter 3 of 2018 to Quarter 3 of 2019 that he worked 15 to 20 hours per week and 40 to 60 hours per month. However, during his quarterly interviews with his probation monitor, Respondent verbally stated that he did not work 40 hours per month.

B. Respondent failed to submit accurate quarterly declarations to the Board from Quarter 3 of 2018 to Quarter 3 of 2019, thereby violating his probation.

#### **SIXTH CAUSE TO REVOKE PROBATION**

(Period Of Non-Practice Exceeded Two Years)

18. At all times after the effective date of Respondent's probation as ordered in Case No. 800-2014-003866, Condition 12 stated:

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

In the event Respondent's period of non-practice while on probation exceeds 18 calendar months, Respondent shall successfully complete the Federation of State Medical Board's Special Purpose Examination, or, at the Board's discretion, a clinical competence assessment program that meets the criteria of Condition 18 of

1 the current version of the Board's "Manual of Model Disciplinary Orders and  
2 Disciplinary Guidelines" prior to resuming the practice of medicine.

3 Respondent's period of non-practice while on probation shall not exceed two (2)  
4 years.

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

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

12 19. Respondent's probation is subject to revocation because he failed to comply with  
13 Probation Condition 12, referenced above. The facts and circumstances regarding this violation  
14 are as follows:

15 A. For a period exceeding two years as of November 22, 2019, Respondent failed to  
16 engage in direct patient care, clinical activity or teaching, or other activity as approved by the  
17 Board for at least 40 hours each calendar month. Accordingly Respondent's period of non-  
18 practice exceeded two years in violation of Probation Condition 12.

19 **SEVENTH CAUSE TO REVOKE PROBATION**

20 (Failure to Pay Probation Monitoring Costs)

21 20. At all times after the effective date of Respondent's probation as ordered in Case No.  
22 800-2015-012424, Condition 17 stated:

23 Respondent shall pay the costs associated with probation monitoring each and  
24 every year of probation, as designated by the Board, which may be adjusted on  
25 an annual basis. Such costs shall be payable to the Medical Board of California  
26 and delivered to the Board or its designee no later than January 31 of each  
27 calendar year.

28 21. Respondent's probation is subject to revocation because he failed to comply with  
Probation Condition 17, referenced above. The facts and circumstances regarding this violation  
are as follows:

A. On or about January 31, 2019, Respondent's probation monitoring costs for 2018



1 were due and totaled \$4,749. Respondent paid \$2,399, leaving a balance of \$2,350.

2 B. Respondent has failed to pay the remaining balance of \$2,350 towards his 2018  
3 probation monitoring costs, thereby violating his probation.

4 C. On or about January 31, 2020, Respondent's probation monitoring costs for 2019  
5 were due and totaled \$4,969. Respondent failed to pay any portion of the costs, leaving a balance  
6 of \$4,969.

7 D. Respondent has failed to pay the balance of \$4,969 towards his 2019 probation  
8 monitoring costs, thereby violating his probation.

9 **PRAYER**

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

12 1. Revoking the probation that was granted by the Medical Board of California in Case  
13 No. 800-2015-012424 and imposing the disciplinary order that was stayed thereby revoking  
14 Physician's and Surgeon's Certificate No. A 64212 issued to Fouad Mohammed M. Nouri, M.D.;

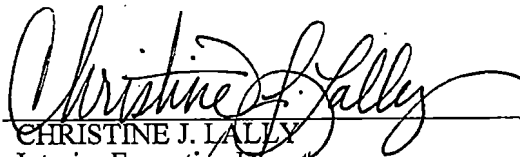
15 2. Revoking or suspending Physician's and Surgeon's Certificate No. A 64212, issued to  
16 Fouad Mohammed M. Nouri, M.D.;

17 3. Revoking, suspending or denying approval of Fouad Mohammed M. Nouri, M.D.'s  
18 authority to supervise physician's assistants and advanced practice nurses, pursuant to section  
19 3527 of the Code;

20 4. Ordering Fouad Mohammed M. Nouri, M.D. to pay the Medical Board of California,  
21 if placed on probation, the costs of probation monitoring;

22 5. Taking such other and further action as deemed necessary and proper.

23  
24 DATED: **MAY 22 2020**

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

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28 LA2020500433  
54166011.docx

## **Exhibit A**

### **Decision and Order**

**Medical Board of California Case No. 800-2014-003866**

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

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

FOUAD MOHAMMED NOURI, M.D. )

MBC File #800-2014-003866

Physician's & Surgeon's )  
Certificate No. A 64212 )

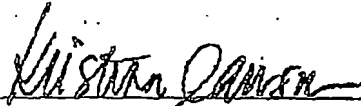
Respondent. )

**ORDER CORRECTING NUNC PRO TUNC**  
**CLERICAL ERROR IN "EFFECTIVE DATE" PORTION OF DECISION**

On its own motion, the Medical Board of California (hereafter "board") finds that there is a clerical error in the "effective date" portion of the Decision in the above-entitled matter and that such clerical error should be corrected.

IT IS HEREBY ORDERED that the effective date contained on the Decision Order Page in the above-entitled matter be and hereby is amended and corrected nunc pro tunc as of the date of entry of the decision to read as "November 22, 2017".

Dated: November 8, 2017

  
\_\_\_\_\_  
Kristina D. Lawson, J.D., Chair  
Panel B

MEDICAL BOARD OF CALIFORNIA  
I do hereby certify that this document is a true  
and correct copy of the original on file in this  
office.

S. Woods  
Signature  
For Custodian of Records  
Title

12/30/2019  
Date

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

In the Matter of the First Amended  
Accusation Against;

FOUAD MOHAMMED NOURI, M.D.

Physician's and Surgeon's  
Certificate No. A 64212

Respondent

Case No. 800-2014-003866

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 November 24, 2017.

IT IS SO ORDERED: October 26, 2017.

MEDICAL BOARD OF CALIFORNIA



Michelle Anne Bholat, M.D., Chair  
Panel B

1 XAVIER BECERRA  
Attorney General of California  
2 ROBERT MCKIM BELL  
Supervising Deputy Attorney General  
3 REBECCA L. SMITH  
Deputy Attorney General  
4 State Bar No. 179733  
California Department of Justice  
5 300 South Spring Street, Suite 1702  
Los Angeles, California 90013  
6 Telephone: (213) 897-2655  
Facsimile: (213) 897-9395  
7 Attorneys for Complainant

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

11 In the Matter of the First Amended Accusation  
Against:

12  
13 FOUAD MOHAMMED NOURI, M.D.  
1233 North Vermont Avenue, Suite 1  
Los Angeles, California 90029-1749

14  
15 Physician and Surgeon's Certificate No. A 64212,  
16 Respondent.

Case No. 800-2014-003866

OAH No. 2017040575

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

17  
18 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-  
19 entitled proceedings that the following matters are true:

20 PARTIES

21 1. Kimberly Kirchmeyer ("Complainant") is the Executive Director of the Medical  
22 Board of California ("Board"). She brought this action solely in her official capacity and is  
23 represented in this matter by Xavier Becerra, Attorney General of the State of California, by  
24 Rebecca L. Smith, Deputy Attorney General.

25 2. Fouad Mohammed Nouri, M.D. ("Respondent") is represented in this proceeding by  
26 attorney Samuel P. Plunkett, whose address is: 1522 West Glenoaks Boulevard, Suite D,  
27 Glendale, California 91201.

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3. On December 25, 1997, the Board issued Physician's and Surgeon's Certificate No. A 64212 to Respondent. That license was in full force and effect at all times relevant to the charges brought in First Amended Accusation No. 800-2014-003866, and will expire on September 30, 2017, unless renewed.

JURISDICTION

4. First Amended Accusation No. 800-2014-003866 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 March 15, 2017. Respondent filed his Notice of Defense contesting the First Amended Accusation.

5. A copy of First Amended Accusation No. 800-2014-003866 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 First Amended Accusation No. 800-2014-003866. 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 First 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.

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1 A professionalism program taken after the acts that gave rise to the charges in the First  
2 Amended Accusation, but prior to the effective date of the Decision may, in the sole discretion of  
3 the Board or its designee, be accepted towards the fulfillment of this condition if the program  
4 would have been approved by the Board or its designee had the program been taken after the  
5 effective date of this Decision.

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

9 3. PROHIBITED PRACTICE. During probation, Respondent's practice shall be limited  
10 to a general primary care practice including health promotion, disease prevention, health  
11 maintenance, counseling, patient education, diagnosis and treatment of acute and chronic illnesses  
12 with referrals to specialists when a higher level of care is necessary.

13 After the effective date of this Decision, all patients being treated by the Respondent shall be  
14 notified that the Respondent's practice is limited to a general primary care practice including  
15 health promotion, disease prevention, health maintenance, counseling, patient education,  
16 diagnosis and treatment of acute and chronic illnesses with referrals to specialists when a higher  
17 level of care is necessary. Any new patients must be provided this notification at the time of their  
18 initial appointment.

19 Respondent shall maintain a log of all patients to whom the required oral notification was  
20 made. The log shall contain the: 1) patient's name, address and phone number; 2) patient's  
21 medical record number, if available; 3) the full name of the person making the notification; 4) the  
22 date the notification was made; and 5) a description of the notification given. Respondent shall  
23 keep this log in a separate file or ledger, in chronological order, shall make the log available for  
24 immediate inspection and copying on the premises at all times during business hours by the Board  
25 or its designee, and shall retain the log for the entire term of probation.

26 4. PROHIBITED PRACTICE. During probation, Respondent shall not practice or have  
27 any ownership interests in any medical day spas; offer any traditional, complimentary, or  
28 alternative health practices and treatments in any medical day spa-like settings; perform any

1 cosmetic procedures, including but not limited to Intense Pulse Light (IPL) treatments,  
2 acupuncture, liposuction, laser skin therapy, facial fillers, permanent hair removal and  
3 phototherapy facials.

4 5. PROHIBITED PRACTICE. During probation, Respondent shall not supervise any  
5 registered nurses, nurse practitioners, physician assistants or aestheticians.

6 6. NOTIFICATION. Within seven (7) days of the effective date of this Decision,  
7 Respondent shall provide a true copy of this Decision and First Amended Accusation to the Chief  
8 of Staff or the Chief Executive Officer at every hospital where privileges or membership are  
9 extended to Respondent, at any other facility where Respondent engages in the practice of  
10 medicine, including all physician and locum tenens registries or other similar agencies, and to the  
11 Chief Executive Officer at every insurance carrier which extends malpractice insurance coverage  
12 to Respondent. Respondent shall submit proof of compliance to the Board or its designee within  
13 15 calendar days.

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

15 7. SUPERVISION OF PHYSICIAN ASSISTANTS AND ADVANCED PRACTICE  
16 NURSES. During probation, Respondent is prohibited from supervising physician assistants and  
17 advanced practice nurses.

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

21 9. QUARTERLY DECLARATIONS. Respondent shall submit quarterly declarations  
22 under penalty of perjury on forms provided by the Board, stating whether there has been  
23 compliance with all the conditions of probation.

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

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1        10. GENERAL PROBATION REQUIREMENTS.

2        Compliance with Probation Unit

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

4        Address Changes

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

10       Place of Practice

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

14       License Renewal

15       Respondent shall maintain a current and renewed California physician's and surgeon's  
16       license.

17       Travel or Residence Outside California

18       Respondent shall immediately inform the Board or its designee, in writing, of travel to any  
19       areas outside the jurisdiction of California which lasts, or is contemplated to last, more than thirty  
20       (30) calendar days.

21       In the event Respondent should leave the State of California to reside or to practice,  
22       Respondent shall notify the Board or its designee in writing thirty (30) calendar days prior to the  
23       dates of departure and return.

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

27       ///

28       ///

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

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

21       Respondent's period of non-practice while on probation shall not exceed two (2) years.

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

23       Periods of non-practice for a Respondent residing outside of California will relieve  
24 Respondent of the responsibility to comply with the probationary terms and conditions with the  
25 exception of this condition and the following terms and conditions of probation: Obey All Laws;  
26 General Probation Requirements; Quarterly Declarations.

27       ///

28       ///

1       13. COMPLETION OF PROBATION. Respondent shall comply with all financial  
2 obligations (e.g., restitution, probation costs) not later than one hundred twenty (120) calendar  
3 days prior to the completion of probation. Upon successful completion of probation,  
4 Respondent's certificate shall be fully restored.

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

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

22       16. PROBATION MONITORING COSTS. Respondent shall pay the costs associated  
23 with probation monitoring each and every year of probation, as designated by the Board, which  
24 may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of  
25 California and delivered to the Board or its designee no later than January 31 of each calendar  
26 year.


27 ///

28 ///

1 ACCEPTANCE

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

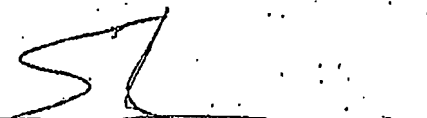
7  
8 DATED: 08-08-2017



9 FOUAD MOHAMMED NOURI, M.D.  
10 *Respondent*

11 I have read and fully discussed with Respondent Fouad Mohammed Nouri, M.D. the terms  
12 and conditions and other matters contained in the above Stipulated Settlement and Disciplinary  
13 Order. I approve its form and content.

14  
15 DATED: 08-08-2017

  
16 SAMUEL P. PLUNKETT  
17 *Attorney for Respondent*


18 ENDORSEMENT

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

21 Dated: August 11, 2017

22 Respectfully submitted,

23 XAVIER BECERRA  
24 Attorney General of California  
25 ROBERT MCKIM BELL  
26 Supervising Deputy Attorney General

  
27 REBECCA L. SMITH  
28 Deputy Attorney General  
*Attorneys for Complainant*

LA2016503777

**Exhibit A**

**First Amended Accusation No. 800-2014-003866**

FILED  
STATE OF CALIFORNIA  
MEDICAL BOARD OF CALIFORNIA  
SACRAMENTO. March 15 2017  
BY Robin Fitzgerald ANALYST

1 XAVIER BECERRA  
Attorney General of California  
2 ROBERT MCKIM BELL  
Supervising Deputy Attorney General  
3 REBECCA L. SMITH  
Deputy Attorney General  
4 State Bar No. 179733  
California Department of Justice  
5 300 South Spring Street, Suite 1702  
Los Angeles, California 90013  
6 Telephone: (213) 897-2655  
7 Facsimile: (213) 897-9395  
*Attorneys for Complainant*

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

In the Matter of the First Amended Accusation  
Against:

Case No. 800-2014-003866

FOUAD MOHAMMED NOURI, M.D.  
1233 North Vermont Avenue, Suite 1  
Los Angeles, California 90029-1749

FIRST AMENDED ACCUSATION

Physician and Surgeon's Certificate No. A 64212,  
Respondent.

Complainant alleges:

PARTIES

1. Kimberly Kirchmeyer ("Complainant") brings this First Amended Accusation solely in her official capacity as the Executive Director of the Medical Board of California, Department of Consumer Affairs ("Board").

2. On December 25, 1997, the Board issued Physician's and Surgeon's Certificate number A 64212 to Fouad Mohammed Nouri, M.D. ("Respondent"). That license was in full force and effect at all times relevant to the charges brought herein and will expire on September 30, 2017, unless renewed. On November 8, 2016, an Order was issued in *The People of the State of California v. Fouad Mohammed Nouri*, Los Angeles County Superior Court, Case No.



1 6AR10922 by Upinder S. Kalra, Judge Presiding. Under the Order, as a condition of bail,  
2 Respondent's license is restricted, effective November 8, 2016, as follows:

3 a. Until the completion of the criminal proceeding, Respondent shall only practice  
4 medicine at 1233 North Vermont Avenue, Suite 1, Los Angeles, California 90029 and his practice  
5 shall be limited to a general primary care practice including health promotion, disease prevention,  
6 health maintenance, counseling, patient education, diagnosis and treatment of acute and chronic  
7 illnesses with referrals to specialists when a higher level of care is necessary.

8 b. Further, until the completion of the criminal proceeding, Respondent shall not:

- 9 • practice or have any ownership interests in any medical day spas;
- 10 • offer any traditional, complimentary, or alternative health practices and treatments
- 11 in any medical day spa-like settings;
- 12 • perform any cosmetic procedures, including but not limited to Intense Pulse Light
- 13 (IPL) treatments, acupuncture, liposuction, laser skin therapy, facial fillers,
- 14 permanent hair removal and phototherapy facials;
- 15 • supervise any registered nurses, nurse practitioners, physician assistants or
- 16 aestheticians;
- 17 • engage in any unprofessional conduct as alleged in the criminal complaint.

#### 18 JURISDICTION

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

22 4. Section 2227 of the Code states:

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

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

28 ///

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

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

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

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

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

15       5.     Section 2234 of the Code, states:

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

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

21       “...”

22       6.     Section 2236 of the Code states:

23       “(a) The conviction of any offense substantially related to the qualifications, functions, or  
24 duties of a physician and surgeon constitutes unprofessional conduct within the meaning of this  
25 chapter. The record of conviction shall be conclusive evidence only of the fact that the conviction  
26 occurred.

27       ///

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1       “(b) The district attorney, city attorney, or other prosecuting agency shall notify the  
2 Division of Medical Quality<sup>1</sup> of the pendency of an action against a licensee charging a felony or  
3 misdemeanor immediately upon obtaining information that the defendant is a licensee. The  
4 notice shall identify the licensee and describe the crimes charged and the facts alleged. The  
5 prosecuting agency shall also notify the clerk of the court in which the action is pending that the  
6 defendant is a licensee, and the clerk shall record prominently in the file that the defendant holds  
7 a license as a physician and surgeon.

8       “(c) The clerk of the court in which a licensee is convicted of a crime shall, within 48 hours  
9 after the conviction, transmit a certified copy of the record of conviction to the board. The  
10 division may inquire into the circumstances surrounding the commission of a crime in order to fix  
11 the degree of discipline or to determine if the conviction is of an offense substantially related to  
12 the qualifications, functions, or duties of a physician and surgeon.

13       “(d) A plea or verdict of guilty or a conviction after a plea of nolo contendere is deemed to  
14 be a conviction within the meaning of this section and Section 2236.1. The record of conviction  
15 shall be conclusive evidence of the fact that the conviction occurred.”

16       7. Section 490 of the Code states:

17       “(a) In addition to any other action that a board is permitted to take against a licensee, a  
18 board may suspend or revoke a license on the ground that the licensee has been convicted of a  
19 crime, if the crime is substantially related to the qualifications, functions, or duties of the business  
20 or profession for which the license was issued.

21       “(b) Notwithstanding any other provision of law, a board may exercise any authority to  
22 discipline a licensee for conviction of a crime that is independent of the authority granted under  
23 subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties  
24 of the business or profession for which the licensee's license was issued.

25  
26       <sup>1</sup> California Business and Professions Code section 2002, as amended and effective January 1,  
27 2008, provides that, unless otherwise expressly provided, the term “board” as used in the State Medical  
28 Practice Act (Cal. Bus. & Prof. Code, §§§§ 2000, et seq.) means the “Medical Board of California,” and  
references to the “Division of Medical Quality” and “Division of Licensing” in the Act or any other  
provision of law shall be deemed to refer to the Board.

1       “(c) A conviction within the meaning of this section means a plea or verdict of guilty or a  
2 conviction following a plea of nolo contendere. Any action that a board is permitted to take  
3 following the establishment of a conviction may be taken when the time for appeal has elapsed, or  
4 the judgment of conviction has been affirmed on appeal, or when an order granting probation is  
5 made suspending the imposition of sentence, irrespective of a subsequent order under the  
6 provisions of Section 1203.4 of the Penal Code.

7       “(d) The Legislature hereby finds and declares that the application of this section has been  
8 made unclear by the holding in *Petropoulos v. Department of Real Estate* (2006) 142 Cal.App.4th  
9 554, and that the holding in that case has placed a significant number of statutes and regulations  
10 in question, resulting in potential harm to the consumers of California from licensees who have  
11 been convicted of crimes. Therefore, the Legislature finds and declares that this section  
12 establishes an independent basis for a board to impose discipline upon a licensee, and that the  
13 amendments to this section made by Chapter 33 of the Statutes of 2008 do not constitute a change  
14 to, but rather are declaratory of, existing law.”

15       8. California Code of Regulations, title 16, section 1360, states:

16       “For the purposes of denial, suspension or revocation of a license, certificate or permit  
17 pursuant to Division 1.5 (commencing with Section 475) of the code, a crime or act shall be  
18 considered to be substantially related to the qualifications, functions or duties of a person holding  
19 a license, certificate or permit under the Medical Practice Act if to a substantial degree it  
20 evidences present or potential unfitness of a person holding a license, certificate or permit to  
21 perform the functions authorized by the license, certificate or permit in a manner consistent with  
22 the public health, safety or welfare. Such crimes or acts shall include but not be limited to the  
23 following: Violating or attempting to violate, directly or indirectly, or assisting in or abetting the  
24 violation of, or conspiring to violate any provision of the Medical Practice Act.”

25       9. Section 2264 of the Code states:

26       “The employing, directly or indirectly, the aiding, or the abetting of any unlicensed person  
27 or any suspended, revoked, or unlicensed practitioner to engage in the practice of medicine or any  
28

///

1 other mode of treating the sick or afflicted which requires a license to practice constitutes  
2 unprofessional conduct,"

3 10. Section 2051 of the Code states:

4 "The physician's and surgeon's certificate authorizes the holder to use drugs or devices in or  
5 upon human beings and to sever or penetrate the tissues of human beings and to use any and all  
6 other methods in the treatment of diseases, injuries, deformities, and other physical and mental  
7 conditions."

8 11. Section 2052 of the Code states:

9 "(a) Notwithstanding Section 146, any person who practices or attempts to practice, or who  
10 advertises or holds himself or herself out as practicing, any system or mode of treating the sick or  
11 afflicted in this state, or who diagnoses, treats, operates for, or prescribes for any ailment,  
12 blemish, deformity, disease, disfigurement, disorder, injury, or other physical or mental condition  
13 of any person, without having at the time of so doing a valid, unrevoked, or unsuspended  
14 certificate as provided in this chapter or without being authorized to perform the act pursuant to a  
15 certificate obtained in accordance with some other provision of law is guilty of a public offense,  
16 punishable by a fine not exceeding ten thousand dollars (\$10,000), by imprisonment pursuant to  
17 subdivision (h) of Section 1170 of the Penal Code, by imprisonment in a county jail not  
18 exceeding one year, or by both the fine and either imprisonment.

19 "(b) Any person who conspires with or aids or abets another to commit any act described in  
20 subdivision (a) is guilty of a public offense, subject to the punishment described in that  
21 subdivision.

22 "(c) The remedy provided in this section shall not preclude any other remedy provided by  
23 law."

24 12. The Decision In the Matter of the Accusation against Joseph Basile, M.D., issued by  
25 the Medical Board of California, and designated "Precedential Decision" pursuant to Government  
26 Code section 11425.60 holds that Intense Pulse Light (IPL) and Laser Treatment fall within the  
27 ambit of Code sections 2051 and 2052.

28 ///

FACTUAL SUMMARY

13. During all times relevant to this First Amended Accusation, Respondent jointly held a business license for Zena Med Spa, located at 4321 South Sepulveda Boulevard, Culver City, California 90230, with Mikhael Ayad Mikhael.

14. Zena Med Spa was a day spa which offered Intense Pulse Light (IPL) treatments to patients. IPL must be performed by a licensed doctor or under a licensed doctor's supervision; however, no doctor was present at the Zena Med Spa treating or supervising the treatment of patients. Instead, Respondent Nouri used his medical license to profit from abdicating his responsibility to supervise medical treatment rendered to Zena Day Spa patients.

15. On December 9, 2016, in proceedings entitled *The People of the State of California v. Fouad Mohammed Nouri*, case number 6AR10922, in the Los Angeles Superior Court, Respondent, upon his plea of no contest, was found guilty and convicted of aiding and abetting the unlicensed practice of medicine, in violation of Business and Professions Code section 2052, subdivision (b). Respondent was placed on Formal Diversion for thirteen (13) months, agreeing to the following terms and conditions:

- A. Perform forty (40) days of community service;
- B. Complete an ethics course;
- C. Not practice any medicine until the community service and ethics course are completed;
- D. Continue with the license restrictions, effective November 8, 2016, for the duration of diversion, as specified above in subdivisions (a) and (b) of Paragraph 2, and not have any clerical employees except one secretary.
- E. Return to Court as Ordered.

16. The circumstances leading to Respondent's conviction are as follows:

Between January 1, 2015 and April 28, 2016, Respondent, in violation of Business and Professions Code section 2052, subdivision (b), allowed unlicensed individuals to practice medicine at Zena Med Spa. By allowing unlicensed individuals to perform medical treatments without supervision, he placed numerous patients at risk.

1           Undercover Operation at Zena Day Spa

2           17. On July 30, 2015, an undercover operation was conducted at Zena Day Spa by  
3 Investigators J.G. and A.G. A.G. presented for a laser hair removal consultation. A.G. was seen  
4 by purported nurse R.A. who indicated that she alone performs the consultation and the IPL  
5 procedure. The IPL laser machine is used to perform the laser hair removal. Following the  
6 consultation, A.G. spoke to the front office person regarding the cost and scheduling of the  
7 procedure.

8           Patient V.C.'s Care and Treatment at Zena Day Spa

9           18. Patient V.C. received IPL at Zena Day Spa on May 18, 2013 by a purported  
10 registered nurse, D.B. Patient V.C. was not seen by a physician or nurse practitioner at Zena Day  
11 Spa at any time prior to the May 18, 2013 IPL treatment.

12           19. Patient V.C. next received IPL at Zena Day Spa on June 8, 2013 by a purported  
13 registered nurses, D.B. and J.P. As part of J.P.'s training, she observed D.B. perform the IPL  
14 treatment on Patient V.C.'s left side of her face. J.P. then performed the IPL treatment on the  
15 right side of Patient V.C.'s face. Patient V.C. was not seen by a physician or nurse practitioner at  
16 Zena Day Spa at any time prior to the June 8, 2013 IPL treatment.

17           20. Following the June 8, 2013 IPL treatment, Patient V.C. suffered blistering on the  
18 lower right side of her chin. The blistering resolved without any scarring or markings.

19           21. Patient V.C. received IPL treatment at Zena Day Spa on June 28, 2013 by a purported  
20 registered nurse, J.P.; Patient V.C. was not seen by a physician or nurse practitioner at Zena Day  
21 Spa at any time prior to the June 28, 2013 IPL treatment.

22           22. On the evening of June 28, 2013, Patient V.C. developed large blisters below her  
23 right eye and around her left cheek and jaw area. She experienced extreme facial swelling and  
24 called Zena Med Spa on July 1, 2013 to complain about her reaction. At that time, Mikhael  
25 Ayad Mikhael advised Patient V.C. to see Respondent, whom she had never treated with  
26 previously.

27       ///

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1 23. Patient V.C. presented to Respondent on or about July 5, 2013 at which time he told  
2 her that she had burns. He prescribed Silver Sulfadiazine Cream and instructed her to apply it to  
3 the burns.

4 24. In September 2013, Patient V.C. presented to dermatologist Dr. M.L. who diagnosed  
5 her with third degree burns and a hypo pigmented scar.

6 **FIRST CAUSE FOR DISCIPLINE**

7 **(Conviction of a Crime – Aiding and Abetting the Unlicensed Practice of Medicine)**

8 25. By reason of the facts set forth above in paragraphs 13 through 17, Respondent is  
9 subject to disciplinary action pursuant to sections 2234, subdivision (a), 2236, subdivision (a) and  
10 2264 of the Code and California Code of Regulations, title 16, section 1360 in that he was  
11 convicted of an offense substantially related to the qualifications, functions, or duties of a  
12 physician and surgeon.

13 26. Respondent's acts and/or omissions set forth in paragraphs 13 through 17 above,  
14 whether proven individually, jointly, or in any combination thereof, constitute the conviction of  
15 an offense substantially related to the qualifications, functions, or duties of a physicians and  
16 surgeon in violation of unprofessional conduct by aiding or abetting of any unlicensed person to  
17 engage in the practice of medicine in violation of sections 2234, subdivision (a), 2236,  
18 subdivision (a) and 2264 of the Code and California Code of Regulations, title 16, section 1360.  
19 Therefore, cause for discipline exists.

20 **SECOND CAUSE FOR DISCIPLINE**

21 **(Unprofessional Conduct)**

22 27. By reason of the facts set forth above in paragraphs 13, 14 and 17 through 24,  
23 Respondent is subject to disciplinary action pursuant to section 2234, of the Code, by engaging in  
24 unprofessional conduct by aiding or abetting unlicensed person(s) to engage in the practice of  
25 medicine.

26 28. Respondent's acts and/or omissions set forth in paragraphs 13, 14 and 17 through 24  
27 above, whether proven individually, jointly, or in any combination thereof, constitute

28 ///



1 unprofessional conduct by aiding or abetting of any unlicensed person to engage in the practice of  
2 medicine in violation of section 2234 of the Code. Therefore, cause for discipline exists.

3 **THIRD CAUSE FOR DISCIPLINE**

4 **(Aiding and Abetting Unlicensed Practice)**

5 29. By reason of the facts set forth above in paragraphs 13, 14 and 17 through 24,  
6 Respondent is subject to disciplinary action pursuant to section 2264, of the Code, by aiding or  
7 abetting unlicensed person(s) to engage in the practice of medicine.

8 30. Respondent's acts and/or omissions set forth in paragraphs 13, 14 and 17 through 24  
9 above, whether proven individually, jointly, or in any combination thereof, constitute aiding or  
10 abetting of any unlicensed person to engage in the practice of medicine in violation of section  
11 2264 of the Code. Therefore, cause for discipline exists.

12 **PRAYER**

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


15 1. Revoking or suspending Physician's and Surgeon's Certificate number A64212,  
16 issued to Fouad Mohammed Nouri, M.D.;

17 2. Prohibiting him from supervising registered nurses, nurse practitioners, physician  
18 assistants or aestheticians;

19 3. If placed on probation, ordering him to pay the Medical Board of California the cost  
20 of probation monitoring; and

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

22  
23 DATED: March 15, 2017

  
KIMBERLY KIRCHMEYER  
Executive Director  
Medical Board of California  
Department of Consumer Affairs  
State of California  
Complainant

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27 LA2016600397

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**Exhibit B**

**Decision and Order**

**Medical Board of California Case No. 800-2015-012424**

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

In the Matter of the Accusation  
Against:

Fouad Mohammed Nouri, M.D.

Case No. 800-2015-012424

Physician's and Surgeon's  
Certificate No. A 64212

Respondent

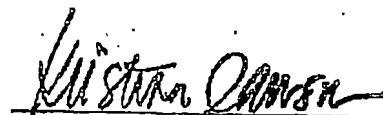
DECISION

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 February 1, 2019.

IT IS SO ORDERED: January 3, 2019.

MEDICAL BOARD OF CALIFORNIA



Kristina D. Lawson, J.D., Chair  
Panel B

MEDICAL BOARD OF CALIFORNIA

I do hereby certify that this document is a true  
and correct copy of the original on file in this  
office.

S. Woods  
Signature  
for Custodian of Records  
Title

12/30/2019  
Date

1 XAVIER BECERRA  
2 Attorney General of California  
3 ROBERT MCKIM BELL  
4 Supervising Deputy Attorney General  
5 TRINA L. SAUNDERS  
6 Deputy Attorney General  
7 State Bar No. 207764  
8 300 South Spring Street, Suite 1702  
9 Los Angeles, CA 90013  
10 Telephone: (213) 269-6516  
11 Facsimile: (213) 897-9395  
12 Attorneys for Complainant

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

11 In the Matter of the Accusation Against:  
12 FOUAD MOHAMMAD M. NOURI, M.D.  
13 1233 North Vermont Avenue, Suite 1  
14 Los Angeles, California 90029-1749  
15 Physician's and Surgeon's Certificate A 64212,  
16 Respondent.

Case No. 800-2015-012424

OAH No. 2018040967

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. Kimberly Kirchmeyer (Complainant) is the 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 Trina L. Saunders, Deputy Attorney General.

2. Respondent Fouad Mohammad M. Nouri, M.D. (Respondent) is represented in this proceeding by attorney Samuel P. Plunkett, whose address is 1522 W. Glenoaks Blvd., Ste. D, Glendale, California 91201.

//

3. On December 25, 1997, the Board issued Physician's and Surgeon's Certificate No. A 64212 to Respondent. That license was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2015-012424, and will expire on September 30, 2019, unless renewed.

## JURISDICTION

4. On March 5, 2017, the Board filed a First Amended Accusation against Respondent entitled in Case No. 800-2014-003866. A copy of the First Amended Accusation is attached hereto as Exhibit A and is incorporated by reference as if fully set forth herein.

5. On October 26, 2017, the Board issued a Decision and Order that became effective on November 24, 2017, *In the Matter of the First Amended Accusation Against Fouad Mohammed Nouri, M.D.*, Case No. 800-2014-003866, in which Respondent's Physician's and Surgeon's Certificate No. A 64212 was revoked. However, that revocation was stayed and Respondent's Physician's and Surgeon's Certificate was placed on probation for a period of five (5) years with certain terms and conditions. A copy of the Decision and Order is attached hereto as Exhibit B and is incorporated by reference as if fully set forth herein.

6. On March 2, 2018, Accusation No. 800-2015-012424 was filed before the Board, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on March 2, 2018. Respondent timely filed his Notice of Defense contesting the Accusation.

7. A copy of Accusation No. 800-2015-012424 is attached as Exhibit C and is incorporated herein by reference.

## ADVISEMENT AND WAIVERS

8. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 800-2015-012424. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

1. 9. Respondent is fully aware of his legal rights in this matter, including the right to a  
2 hearing on the charges and allegations in the Accusation; the right to confront and cross-examine  
3 the witnesses against him; the right to present evidence and to testify on his own behalf; the right  
4 to the issuance of subpoenas to compel the attendance of witnesses and the production of  
5 documents; the right to reconsideration and court review of an adverse decision; and all other  
6 rights accorded by the California Administrative Procedure Act and other applicable laws.

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

9 CULPABILITY

10 11. Respondent understands and agrees that the charges and allegations in Accusation  
11 No: 800-2015-012424, if proven at a hearing, constitute cause for imposing discipline upon his  
12 Physician's and Surgeon's Certificate.

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

17 13. Respondent agrees that his Physician's and Surgeon's Certificate is subject to  
18 discipline and he agrees to be bound by the Board's probationary terms as set forth in the  
19 Disciplinary Order below.

20 CONTINGENCY

21 14. This stipulation shall be subject to approval by the Medical Board of California.  
22 Respondent understands and agrees that counsel for Complainant and the staff of the Medical  
23 Board of California may communicate directly with the Board regarding this stipulation and  
24 settlement, without notice to or participation by Respondent or his counsel. By signing the  
25 stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek  
26 to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails  
27 to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary  
28 Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal

1 action between the parties, and the Board shall not be disqualified from further action by having  
2 considered this matter.

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

6 16. In consideration of the foregoing admissions and stipulations, the parties agree that  
7 the Board may, without further notice or formal proceeding, issue and enter the following  
8 Disciplinary Order:

9 **DISCIPLINARY ORDER**

10 **IT IS HEREBY ORDERED THAT** Physician's and Surgeon's Certificate No. A 64212  
11 issued to Respondent Fouad Mohammad Nouri, M.D. is revoked. However, the revocation is  
12 stayed and Respondent is placed on probation for three (3) years on the following terms and  
13 conditions.

14 1. **THREE (3) YEARS OF ADDITIONAL PROBATION.** Respondent is  
15 placed on probation for three (3)-years, which grant of additional probation shall run consecutive  
16 to the term of probation previously ordered in Case No. 800-2014-003866.

17 2. **PRESCRIBING PRACTICES COURSE.** Within 60 calendar days of the  
18 effective date of this Decision, Respondent shall enroll in a course in prescribing practices  
19 approved in advance by the Board or its designee. Respondent shall provide the approved course  
20 provider with any information and documents that the approved course provider may deem  
21 pertinent. Respondent shall participate in and successfully complete the classroom component of  
22 the course not later than six (6) months after Respondent's initial enrollment. Respondent shall  
23 successfully complete any other component of the course within one (1) year of enrollment. The  
24 prescribing practices course shall be at Respondent's expense and shall be in addition to the  
25 Continuing Medical Education (CME) requirements for renewal of licensure.

26 A prescribing practices course taken after the acts that gave rise to the charges in the  
27 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board  
28 or its designee, be accepted towards the fulfillment of this condition if the course would have

1 been approved by the Board or its designee had the course been taken after the effective date of  
2 this Decision.

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

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

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

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

23 4. MONITORING - PRACTICE. Within 30 calendar days of the effective  
24 date of this Decision, Respondent shall submit to the Board or its designee for prior approval as a  
25 practice monitor(s), the name and qualifications of one or more licensed physicians and surgeons  
26 whose licenses are valid and in good standing, and who are preferably American Board of  
27 Medical Specialties (ABMS) certified. A monitor shall have no prior or current business or  
28 personal relationship with Respondent, or other relationship that could reasonably be expected to



1 compromise the ability of the monitor to render fair and unbiased reports to the Board, including  
2 but not limited to any form of bartering, shall be in Respondent's field of practice, and must agree  
3 to serve as Respondent's monitor. Respondent shall pay all monitoring costs.

4 The Board or its designee shall provide the approved monitor with copies of the Decision(s)  
5 and Accusation(s), and a proposed monitoring plan. Within 15 calendar days of receipt of the  
6 Decision(s), Accusation(s), and proposed monitoring plan, the monitor shall submit a signed  
7 statement that the monitor has read the Decision(s) and Accusation(s), fully understands the role  
8 of a monitor, and agrees or disagrees with the proposed monitoring plan. If the monitor disagrees  
9 with the proposed monitoring plan, the monitor shall submit a revised monitoring plan with the  
10 signed statement for approval by the Board or its designee.

11 Within 60 calendar days of the effective date of this Decision, and continuing throughout  
12 probation, Respondent's practice shall be monitored by the approved monitor. Respondent shall  
13 make all records available for immediate inspection and copying on the premises by the monitor  
14 at all times during business hours and shall retain the records for the entire term of probation.

15 If Respondent fails to obtain approval of a monitor within 60 calendar days of the effective  
16 date of this Decision, Respondent shall receive a notification from the Board or its designee to  
17 cease the practice of medicine within three (3) calendar days after being so notified. Respondent  
18 shall cease the practice of medicine until a monitor is approved to provide monitoring  
19 responsibility.

20 The monitor(s) shall submit a quarterly written report to the Board or its designee which  
21 includes an evaluation of Respondent's performance, indicating whether Respondent's practices  
22 are within the standards of practice of medicine, and whether Respondent is practicing medicine  
23 safely, billing appropriately or both. It shall be the sole responsibility of Respondent to ensure  
24 that the monitor submits the quarterly written reports to the Board or its designee within 10  
25 calendar days after the end of the preceding quarter.

26 If the monitor resigns or is no longer available, Respondent shall, within 5 calendar days of  
27 such resignation or unavailability, submit to the Board or its designee, for prior approval, the  
28 name and qualifications of a replacement monitor who will be assuming that responsibility within

1 15 calendar days. If Respondent fails to obtain approval of a replacement monitor within 60  
2 calendar days of the resignation or unavailability of the monitor, Respondent shall receive a  
3 notification from the Board or its designee to cease the practice of medicine within three (3)  
4 calendar days after being so notified. Respondent shall cease the practice of medicine until a  
5 replacement monitor is approved and assumes monitoring responsibility.

6 In lieu of a monitor, Respondent may participate in a professional enhancement program  
7 approved in advance by the Board or its designee that includes, at minimum, quarterly chart  
8 review, semi-annual practice assessment, and semi-annual review of professional growth and  
9 education. Respondent shall participate in the professional enhancement program at Respondent's  
10 expense during the term of probation.

11 5. CONTROLLED SUBSTANCES – MAINTAIN RECORDS AND  
12 ACCESS TO RECORDS AND INVENTORIES. Respondent shall maintain a record of all  
13 controlled substances ordered, prescribed, dispensed, administered, or possessed by Respondent,  
14 and any recommendation or approval which enables a patient or patient's primary caregiver to  
15 possess or cultivate marijuana for the personal medical purposes of the patient within the meaning  
16 of health and Safety Code section 11362.5, during probation, showing all the following: 1) the  
17 name and address of patient; 2) the date; 3) the character and quantity of controlled substances  
18 involved; and 4) the indications and diagnosis for which the controlled substances were furnished.

19 Respondent shall keep these records in a separate file or ledger, in chronological order.  
20 All records and any inventories of controlled substances shall be available for immediate  
21 inspection and copying on the premises by the Board or its designee at all times during business  
22 hours and shall be retained for the entire term of probation.

23 6. CLINICAL COMPETENCE ASSESSMENT PROGRAM. Within 60  
24 calendar days of the effective date of this Decision, Respondent shall enroll in a clinical  
25 competence assessment program approved in advance by the Board or its designee. Respondent  
26 shall successfully complete the program not later than six (6) months after Respondent's initial  
27 enrollment unless the Board or its designee agrees in writing to an extension of that time.

28 The program shall consist of a comprehensive assessment of Respondent's physical and

1 mental health and the six general domains of clinical competence as defined by the Accreditation  
2 Council on Graduate Medical Education and American Board of Medical Specialties pertaining to  
3 Respondent's current or intended area of practice. The program shall take into account data  
4 obtained from the pre-assessment, self-report forms and interview, and the Decision(s),  
5 Accusation(s), and any other information that the Board or its designee deems relevant. The  
6 program shall require Respondent's on-site participation for a minimum of 3 and no more than 5  
7 days as determined by the program for the assessment and clinical education evaluation.  
8 Respondent shall pay all expenses associated with the clinical competence assessment program.

9 At the end of the evaluation, the program will submit a report to the Board or its designee  
10 which unequivocally states whether the Respondent has demonstrated the ability to practice  
11 safely and independently. Based on Respondent's performance on the clinical competence  
12 assessment, the program will advise the Board or its designee of its recommendation(s) for the  
13 scope and length of any additional educational or clinical training, evaluation or treatment for any  
14 medical condition or psychological condition, or anything else affecting Respondent's practice of  
15 medicine. Respondent shall comply with the program's recommendations:

16 Determination as to whether Respondent successfully completed the clinical competence  
17 assessment program is solely within the program's jurisdiction.

18 If Respondent fails to enroll, participate in, or successfully complete the clinical  
19 competence assessment program within the designated time period, Respondent shall receive a  
20 notification from the Board or its designee to cease the practice of medicine within three (3)  
21 calendar days after being so notified. The Respondent shall not resume the practice of medicine  
22 until enrollment or participation in the outstanding portions of the clinical competence assessment  
23 program have been completed. If the Respondent did not successfully complete the clinical  
24 competence assessment program, the Respondent shall not resume the practice of medicine until a  
25 final decision has been rendered on the accusation and/or a petition to revoke probation. The  
26 cessation of practice shall not apply to the reduction of the probationary time period.

27 7. NOTIFICATION. Within seven (7) days of the effective date of this  
28 Decision, the Respondent shall provide a true copy of this Decision and Accusation to the Chief

1 of Staff or the Chief Executive Officer at every hospital where privileges or membership are  
2 extended to Respondent, at any other facility where Respondent engages in the practice of  
3 medicine, including all physician and locum tenens registries or other similar agencies, and to the  
4 Chief Executive Officer at every insurance carrier which extends malpractice insurance coverage  
5 to Respondent. Respondent shall submit proof of compliance to the Board or its designee within  
6 15 calendar days.

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

8 8. SUPERVISION OF PHYSICIAN ASSISTANTS AND ADVANCED  
9 PRACTICE NURSES. During probation, Respondent is prohibited from supervising physician  
10 assistants and advanced practice nurses.

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

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

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

19 11. GENERAL PROBATION REQUIREMENTS.

20 Compliance with Probation Unit

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

22 Address Changes

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

28 //

1        Place of Practice

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

5        License Renewal

6        Respondent shall maintain a current and renewed California physician's and surgeon's  
7 license.

8        Travel or Residence Outside California

9        Respondent shall immediately inform the Board or its designee, in writing, of travel to any  
10 areas outside the jurisdiction of California which lasts, or is contemplated to last, more than thirty  
11 (30) calendar days.

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

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

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

1 on probation with the medical licensing authority of that state or jurisdiction shall not be  
2 considered non-practice. A Board-ordered suspension of practice shall not be considered as a  
3 period of non-practice.

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

9 Respondent's period of non-practice while on probation shall not exceed two (2) years.

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

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

16 14. COMPLETION OF PROBATION. Respondent shall comply with all  
17 financial obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to  
18 the completion of probation. Upon successful completion of probation, Respondent's certificate  
19 shall be fully restored.

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

27 16. LICENSE SURRENDER. Following the effective date of this Decision, if  
28 Respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy

1 the terms and conditions of probation, Respondent may request to surrender his or her license.  
2 The Board reserves the right to evaluate Respondent's request and to exercise its discretion in  
3 determining whether or not to grant the request, or to take any other action deemed appropriate  
4 and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent  
5 shall within 15 calendar days deliver Respondent's wallet and wall certificate to the Board or its  
6 designee and Respondent shall no longer practice medicine. Respondent will no longer be subject  
7 to the terms and conditions of probation. If Respondent re-applies for a medical license, the  
8 application shall be treated as a petition for reinstatement of a revoked certificate.

9 17. PROBATION MONITORING COSTS. Respondent shall pay the costs  
10 associated with probation monitoring each and every year of probation, as designated by the  
11 Board, which may be adjusted on an annual basis. Such costs shall be payable to the Medical  
12 Board of California and delivered to the Board or its designee no later than January 31 of each  
13 calendar year.

14 18. All terms and conditions previously ordered in Case No. 800-2014-003866  
15 are continued, remain unchanged, and shall run concurrent with this grant of additional probation.  
16

17 ACCEPTANCE

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

23  
24 DATED: 10-09-2018

Fouad M. Nouri  
25 FOUAD MOHAMMAD M. NOURI, M.D.  
Respondent

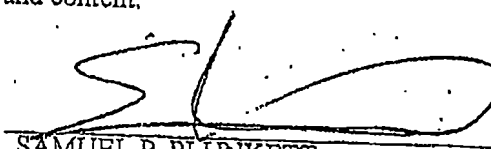
26 ///

27 ///

28 ///

1 I have read and fully discussed with Respondent Fouad Mohammad M. Nouri, M.D. the  
2 terms and conditions and other matters contained in the above Stipulated Settlement and  
3 Disciplinary Order. I approve its form and content.

4  
5 DATED: 10/9/18

  
6 SAMUEL P. PLUNKETT  
7 Attorney for Respondent

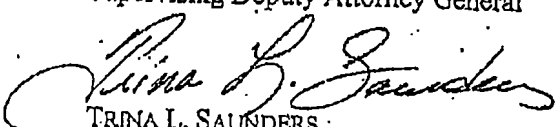
8  
9 ENDORSEMENT

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

12 Dated: October 9, 2018

13 Respectfully submitted,

14 XAVIER BECERRA  
15 Attorney General of California  
16 ROBERT MCKIM BELL  
17 Supervising Deputy Attorney General

  
18 TRINA L. SAUNDERS  
19 Deputy Attorney General  
20 Attorneys for Complainant

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## EXHIBIT A

1. XAVIER BECERRA

2. Attorney General of California

3. JUDITH T. ALVARADO

4. Supervising Deputy Attorney General

5. RANDALL R. MURPHY

6. Deputy Attorney General

7. State Bar No. 165851

8. California Department of Justice

9. 300 So. Spring Street, Suite 1702

10. Los Angeles, CA 90013

11. Telephone: (213) 269-6496

12. Facsimile: (213) 897-9395

13. Attorneys for Complainant

FILED  
STATE OF CALIFORNIA  
MEDICAL BOARD OF CALIFORNIA  
SACRAMENTO MARCH 22 2018  
BY SARA RAMON ANALYST

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

11. In the Matter of the Accusation Against:

12. Fouad Mohammed M. Nouri, M.D.

13. 1233 N Vermont Ave, Suite 1

14. Los Angeles, CA 90029-1749

15. Physician's and Surgeon's Certificate  
No. A 64212,

16. Respondent.

Case No. 800-2015-012424

ACCUSATION

17. Complainant alleges:

18. PARTIES

19. 1. Kimberly Kirchmeyer (Complainant) brings this Accusation solely in her official  
20. capacity as the Executive Director of the Medical Board of California, Department of Consumer  
21. Affairs (Board).

22. 2. On or about December 25, 1997, the Medical Board issued Physician's and Surgeon's  
23. Certificate Number A 64212 to Fouad Mohammed M. Nouri, M.D. (Respondent). The  
24. Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the  
25. charges brought herein and will expire on September 30, 2019, unless renewed.

26. JURISDICTION

27. 3. This Accusation is brought before the Board, under the authority of the following  
28.

1 laws. All section references are to the Business and Professions Code unless otherwise indicated.

2 4. The Medical Practice Act ("Act") is codified at Business and Professions Code,  
3 Section 2000 et seq.

4 5. Pursuant to Code section 2001.1, the Board's highest priority is public protection.

5 6. Section 2004 of the Code states:

6 "The board shall have the responsibility for the following:

7 "(a) The enforcement of the disciplinary and criminal provisions of the Medical  
8 Practice Act.

9 "(b) The administration and hearing of disciplinary actions.

10 "(c) Carrying out disciplinary actions appropriate to findings made by a panel or an  
11 administrative law judge.

12 "(d) Suspending, revoking, or otherwise limiting certificates after the conclusion of  
13 disciplinary actions.

14 "(e) Reviewing the quality of medical practice carried out by physician and surgeon  
15 certificate holders under the jurisdiction of the board.

16 "..."

17 7. Code section 2227, subdivision (a), provides as follows:

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

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

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

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

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

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

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

9           8.     Section 2234 of the Code, states:

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

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

15           “(b) Gross negligence.

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

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

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

26           “(d) Incompetence.

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

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

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

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

9           9. Section 2238 of the Code states: “A violation of any federal statute or federal  
10 regulation or any of the statutes or regulations of this state regulating dangerous drugs or  
11 controlled substances constitutes unprofessional conduct.”

12           10. Section 2241 of the Code states:

13           “(a) A physician and surgeon may prescribe, dispense, or administer prescription  
14 drugs, including prescription controlled substances, to an addict under his or her treatment for a  
15 purpose other than maintenance on, or detoxification from, prescription drugs or controlled  
16 substances.

17           “(b) A physician and surgeon may prescribe, dispense, or administer prescription  
18 drugs or prescription controlled substances to an addict for purposes of maintenance on, or  
19 detoxification from, prescription drugs or controlled substances only as set forth in subdivision  
20 (c) or in Sections 11215, 11217, 11217.5, 11218, 11219, and 11220 of the Health and Safety  
21 Code Number. Nothing in this subdivision shall authorize a physician and surgeon to prescribe,  
22 dispense, or administer dangerous drugs or controlled substances to a person he or she knows or  
23 reasonably believes is using or will use the drugs or substances for a nonmedical purpose.

24           “(c) Notwithstanding subdivision (a), prescription drugs or controlled substances may  
25 also be administered or applied by a physician and surgeon, or by a registered nurse acting under  
26 his or her instruction and supervision, under the following circumstances:

27           “(1) Emergency treatment of a patient whose addiction is complicated by the presence  
28 of incurable disease, acute accident, illness, or injury, or the infirmities attendant upon age.

1           “(2) Treatment of addicts in state-licensed institutions where the patient is kept under  
2 restraint and control, or in city or county jails or state prisons.

3           “(3) Treatment of addicts as provided for by Section 11217.5 of the Health and Safety  
4 Code.

5           “(d) (1) For purposes of this section and Section 2241.5, “addict” means a person  
6 whose actions are characterized by craving in combination with one or more of the following:

7           “(A) Impaired control over drug use.

8           “(B) Compulsive use.

9           “(C) Continued use despite harm.

10           “(2) Notwithstanding paragraph (1), a person whose drug-seeking behavior is  
11 primarily due to the inadequate control of pain is not an addict within the meaning of this section  
12 or Section 2241.5.”

13           11. Section 2242 of the Code states:

14           “(a) Prescribing, dispensing, or furnishing dangerous drugs as defined in Section 4022  
15 without an appropriate prior examination and a medical indication, constitutes unprofessional  
16 conduct.

17           “(b) No licensee shall be found to have committed unprofessional conduct within the  
18 meaning of this section if, at the time the drugs were prescribed, dispensed, or furnished, any of  
19 the following applies:

20           “(1) The licensee was a designated physician and surgeon or podiatrist serving in the  
21 absence of the patient’s physician and surgeon or podiatrist, as the case may be, and if the drugs  
22 were prescribed, dispensed, or furnished only as necessary to maintain the patient until the return  
23 of his or her practitioner, but in any case no longer than 72 hours.

24           “(2) The licensee transmitted the order for the drugs to a registered nurse or to a licensed  
25 vocational nurse in an inpatient facility, and if both of the following conditions exist:

26           “(A) The practitioner had consulted with the registered nurse or licensed vocational nurse  
27 who had reviewed the patient’s records.

28           ///

“(B). The practitioner was designated as the practitioner to serve in the absence of the patient's physician and surgeon or podiatrist, as the case may be.

"(3) The licensee was a designated practitioner serving in the absence of the patient's physician and surgeon or podiatrist, as the case may be, and was in possession of or had utilized the patient's records and ordered the renewal of a medically indicated prescription for an amount not exceeding the original prescription in strength or amount or for more than one refill.

"(4) The licensee was acting in accordance with Section 120582 of the Health and Safety Code."

12. Section 2262 of the Code states;

"Altering or modifying the medical record of any person, with fraudulent intent, or creating any false medical record; with fraudulent intent, constitutes unprofessional conduct.

"In addition to any other disciplinary action, the Division of Medical Quality<sup>1</sup> or the California Board of Podiatric Medicine may impose a civil penalty of five hundred dollars (\$500) for a violation of this section."

13. 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.

## FACTS

### Patient 1:2

14. On or about August 19, 2015 and September 28, 2015, Patient 1, (an undercover officer with the California Department of Consumer Affairs) visited Respondent. Both visits were recorded in both audio and video formats.

15. On Patient 1's first visit the patient explicitly requested Vicodin<sup>3</sup> because, "it made (him) feel good." Respondent told Patient 1 that Patient 1 had to report a pain symptom and then

<sup>1</sup> Code section 2002 states: "Unless otherwise expressly provided, the term "board" as used in this chapter means the Medical Board of California. As used in this chapter or any other provision of law, "Division of Medical Quality" and "Division of Licensing" shall be deemed to refer to the board."

<sup>2</sup> Numbers are used to protect patient privacy.

<sup>3</sup> Vicodin is a trademark for a drug containing hydrocodone bitartrate and acetaminophen.

1 Respondent would make a decision whether or not to prescribe the medication. Patient 1 then  
2 claimed that he had an ankle sprain a year ago. Respondent indicated that the patient had to try a  
3 non-scheduled medication first. Patient 1 then reported a broken ankle approximately 5 years ago  
4 with no recent x-rays. Respondent indicated that he could prescribe an NSAID,<sup>4</sup> but that it  
5 "would not make him feel good." Eventually, Respondent offered to prescribe 30 pills of Vicodin  
6 until Patient 1 had x-rays taken. An x-ray authorization was then provided to Patient 1 together  
7 with a prescription for 30 Vicodin tablets.

8 16. At Patient 1's second visit on or about September 28, 2015, Respondent asked him  
9 what type of medicine he was requesting. Patient 1 then requested Vicodin. Respondent then  
10 provided Patient 1 with the prescription without an examination.

11 **Patient 2:**

12 17. Respondent's records indicate that he first saw Patient 2 on January 6, 2015, and  
13 continued to see him until June 22, 2015. Respondent diagnosed Patient 2 with anxiety and  
14 treated Patient 2 with Xanax<sup>5</sup> and other benzodiazepines. Respondent also prescribed  
15 Phenergan,<sup>6</sup> Codeine<sup>7</sup> and Norco<sup>8</sup> to Patient 2, but the medical records do not evidence any  
16 medical necessity for those prescriptions.

17 18. Patient 2 reported that he had "washed" a prescription and asked for a replacement,  
18 which was provided without question and without contacting the pharmacy to determine if the  
19 prescription had been filled, which it had.

20 19. Respondent's notes indicate that no monitoring of Patient 2's drug use took place; no  
21 urine testing was done nor did Respondent review a CURES report for Patient 2.

22

23 <sup>4</sup> NSAIDs are nonsteroidal anti-inflammatory drugs used to treat or reduce inflammation.  
24 "Nonsteroidal" means they do not contain hormones, unlike some other types of anti-  
inflammatory drugs, and neither are they opioids.

25 <sup>5</sup> Xanax is an anti-anxiety agent of the benzodiazepine class used as tranquilizers or  
sedatives or hypnotics or muscle relaxants; chronic use can lead to dependency.

26 <sup>6</sup> Phenergan is an antihistamine used to treat allergies, and is also used to treat motion  
sickness.

27 <sup>7</sup> Codeine is an opiate used to treat pain, as a cough medicine, and for diarrhea. It is  
typically used to treat mild to moderate degrees of pain. It is generally taken by mouth.

28 <sup>8</sup> Norco is a opioid used for pain management consisting of a combination of  
acetaminophen and hydrocodone.



1 Patient 3:

2 20. Respondent first saw Patient 3 on October 6, 2011, when Patient 3 presented  
3 complaining of low back pain. Patient 3 reported that Vicodin was prescribed by her previous  
4 physician. On the first visit, Respondent prescribed Ultram<sup>9</sup> and Phentermine<sup>10</sup> to Patient 3,  
5 without apparent medical necessity.

6 21. On November 22, 2011, Patient 3 again reported that she was taking Vicodin  
7 prescribed by another physician. Respondent then gave her a refill for that prescription without  
8 apparent medical necessity.

9 22. On March 24, 2012, Patient 3 was seen again by Respondent. Respondent provided  
10 her with prescriptions for Vicodin and Phentermine. Following this visit the CURES reports  
11 indicate prescriptions for controlled substances were provided on additional occasions but  
12 medical records corresponding to the dates of those prescriptions are not in the records.

13 23. Respondent's notes indicate that no monitoring of Patient 3's drug use took place; no  
14 urine testing was done nor did Respondent review a CURES report for Patient 3.

15 Patient 4:

16 24. Patient 4 first presented to Respondent on May 1, 2010, with a history of depression  
17 and anxiety controlled by Xanax. Respondent diagnosed the patient with social anxiety and  
18 major depression and instructed him to follow up with his psychiatrist in Texas.

19 25. On June 10, 2010, Patient 4 again visited Respondent complaining of depression,  
20 anxiety and knee pain. Respondent gave Patient 4 prescriptions for Vicodin and Elavil,<sup>11</sup> which  
21

22 <sup>9</sup> Ultram is a brand name for Tramadol and is an opioid pain medication used to treat  
23 moderate to moderately severe pain. When taken by mouth in an immediate-release formulation,  
24 the onset of pain relief usually occurs within an hour. It is often combined with paracetamol  
(acetaminophen).

25 <sup>10</sup> Phentermine is a psychostimulant drug of the substituted amphetamine chemical class,  
26 with pharmacology similar to amphetamine. It is used medically as an appetite suppressant for  
27 short term use, as an adjunct to exercise and reducing number calorie intake.

28 <sup>11</sup> Elavil is a brand name for Amitriptyline used to treat a number of mental illnesses.  
These include major depressive disorder and anxiety disorder, and less commonly attention  
deficit hyperactivity disorder and bipolar disorder. Other uses include prevention of migraines,  
treatment of neuropathic pain such as fibromyalgia and postherpetic neuralgia, and less  
commonly insomnia.

1 the records indicate were refills. However, the original prescriptions' genesis is not reflected in  
2 the records.

3 26. Patient 4 returned to Respondent on July 13, 2010, again complaining of depression,  
4 anxiety and knee pain and Respondent again prescribed Elavil and Xanax, without a complete  
5 examination.

6 27. On May 4, 2011, Patient 4 was prescribed Xanax and Trazodone<sup>12</sup> by Respondent  
7 with no evidence of an office visit.

8 28. On September 12, 2012, Respondent prescribed Patient 4 Vicodin and Xanax, but no  
9 physical examination or history is recorded.

10 29. On October 16, 2012, Patient 4 returned for a Xanax refill. Patient 4's vital signs are  
11 documented, but no history or other physical examination is recorded and Xanax is again  
12 prescribed.

13 30. On September 3, 2011, November 13, 2012, November 15, 2012, and June 11, 2013,  
14 Patient 4 is prescribed controlled substances without any documentation of a history and an  
15 examination. In addition, according to the CURES report, there were numerous prescriptions for  
16 phentermine, hydrocodone,<sup>13</sup> Vicodin, Adderall<sup>14</sup> and Carisoprodol<sup>15</sup> during 2014 without any  
17 documentation of office visits or examinations.

18 31. No evidence of a urine toxicology screen being performed is present in Patient 4's  
19 medical records and no CURES reports were run to determine if Patient 4 was receiving  
20 prescriptions for controlled substances from any other physicians.

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22  
23 <sup>12</sup> Trazodone, sold under many brand names worldwide, is an antidepressant medication  
used to treat major depressive disorder, anxiety disorders, and in addition to other treatment,  
alcohol dependence.

24 <sup>13</sup> Hydrocodone is a narcotic drug derived from codeine used in its bitartrate form as an  
analgesic and antitussive.

25 <sup>14</sup> Adderall is a combination drug containing four salts of the two enantiomers of  
amphetamine, a central nervous system stimulant of the phenethylamine class. Adderall is used  
26 in the treatment of attention deficit hyperactivity disorder (ADHD) and narcolepsy. It is also used  
as an athletic performance enhancer and cognitive enhancer, and recreationally as an aphrodisiac  
and euphoriant.

27 <sup>15</sup> Carisoprodol, marketed under the brand name Somadril among others, is a centrally  
28 acting skeletal muscle relaxant of the carbamate class and produces all the effects associated with  
barbiturates.

1. 32. No complete history, physical examination, history of the pain symptom, previous  
2. evaluation, previous treatment, screening for psychological or substance abuse problems are  
3. recorded in the medical records for Patient 4.

4. FIRST CAUSE FOR DISCIPLINE

5. (Unprofessional Conduct – Gross Negligence)

6. 33. By reason of the matters set forth above in paragraphs 14 through 32, incorporated  
7. herein by this reference, Respondent is subject to disciplinary action under section 2234,  
8. subdivision (b), in that Respondent was grossly negligent in the care and treatment of Patients 1,  
9. 2, 3 and 4. The circumstances are as follows:

10. 34. Respondent's failure to evaluate Patient 1 prior to prescribing a controlled substance  
11. constitutes gross negligence.

12. 35. Respondent's failure to obtain a history for Patients 1, 2, 3 and 4 or perform an  
13. adequate examination for Patients 1, 2, 3 and 4, prior to prescribing a controlled substance  
14. constitutes gross negligence.

15. 36. Respondent's failure to perform a physical examination on Patient 1 and then placing  
16. notes in the medical records indicating that an examination had actually taken place constitutes  
17. gross negligence.

18. 37. Respondent's prescribing of a controlled substance to Patient 1 after the patient told  
19. him he wanted it to "feel good" and not because it was medically indicated constitutes gross  
20. negligence.

21. 38. Respondent's failure to monitor Patients 1, 2, 3 and 4's use of controlled substances  
22. by obtaining urine tests or a CURES report while continuing to prescribe controlled substances  
23. constitutes gross negligence.

24. SECOND CAUSE FOR DISCIPLINE

25. (Unprofessional Conduct - Repeated Negligent Acts)

26. 39. By reason of the matters set forth above in paragraphs 14 through 32, incorporated  
27. herein by this reference, Respondent is subject to disciplinary action under section 2234,  
28. subdivision (c), in that Respondent was negligent in the care and treatment of Patient 3. The

1 circumstances are as follows:

2 40. Respondent prescribed Phentermine to Patient 3 without any evidence of dietary  
3 counseling, which taken together with Respondent's other failures in the care and treatment of  
4 Patient 4 constitutes repeated negligence acts.

5 THIRD CAUSE FOR DISCIPLINE

6 (Failure to Maintain Adequate and Accurate Records)

7 41. By reason of the matters set forth above in paragraphs 14 through 32, incorporated  
8 herein by this reference, Respondent is subject to disciplinary action under section 2266 of the  
9 Code in that he failed to maintain adequate and accurate medical records for Patients 1, 2, 3 and  
10 4.

11 FOURTH CAUSE FOR DISCIPLINE

12 (Unprofessional Conduct – Dishonesty)

13 42. By reason of the matters set forth above in paragraphs 14 through 32, incorporated  
14 herein by this reference, Respondent is subject to disciplinary action under section 2234,  
15 subdivision (e), in that Respondent engaged in an act of dishonesty in the care and treatment of  
16 Patient 1. The circumstances are as follows:

17 43. Respondent's failure to perform a physical examination on Patient 1 and then placing  
18 notes in the medical records indicating that an examination had actually taken place constitutes  
19 dishonesty.

20 FIFTH CAUSE FOR DISCIPLINE

21 (Violation of Drug Statutes)

22 44. By reason of the matters set forth above in paragraphs 14 through 32, incorporated  
23 herein by this reference, Respondent is subject to disciplinary action under section 2238, in  
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1 conjunction with sections 2241 and 2242 of the Code in that he violated drug statutes during his  
2 care, treatment and management of Patients 1, 2, 3 and 4.

3 SIXTH CAUSE FOR DISCIPLINE

4 (Prescribing to Addicts)

5 45. By reason of the matters set forth above in paragraphs 14 through 32, incorporated  
6 herein by this reference, Respondent is subject to disciplinary action under section 2241, of the  
7 Code in that he prescribed controlled substances and other dangerous drugs to Patients 1, 2, 3 and  
8 4.

9  
10 SEVENTH CAUSE FOR DISCIPLINE

11 (Prescribing without Performing an Appropriate Prior Examination or Medical Indication)

12 46. By reason of the matters set forth above in paragraphs 14 through 32, incorporated  
13 herein by this reference, Respondent is subject to disciplinary action under section 2242, of the  
14 Code in that he prescribed controlled substances and other dangerous drugs to Patients 1, 2, 3 and  
15 4 without performing a physical examination or determining a medical indication.  
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17 EIGHTH CAUSE FOR DISCIPLINE

18 (Unprofessional Conduct – Creating False Medical Record)

19 47. By reason of the matters set forth above in paragraphs 14 through 32, incorporated  
20 herein by this reference, Respondent is subject to disciplinary action under section 2262, in that  
21 Respondent created a false medical record in the care and treatment of Patient 1. The  
22 circumstances are as follows;

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24 48. Respondent indicated that Patient 1 (an undercover officer with the California  
25 Department of Consumer Affairs) had undergone a physical examination when no physical  
26 examination took place.

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## **Exhibit C**

**Cease Practice Order**

**Medical Board of California Case No. 800-2015-012424**

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

In the Matter of the Decision and Order against: )

Fouad Mohammed M. Nouri, M.D. )

Case No. 800-2015-012424

Physician's & Surgeon's )  
Certificate No. A64212 )

Respondent. )

CEASE PRACTICE ORDER

In the Medical Board of California (Board) Case No. 800-2015-012424, the Board issued a Decision adopting a Stipulated Settlement and Disciplinary Order, which became effective February 1, 2019. In the Board's Order, Physician's and Surgeon's License No. A64212, issued to Fouad Mohammed M. Nouri, M.D., was revoked, revocation stayed and Respondent was placed on three (3) years probation.

Probationary Condition No. 4 -- Requires Respondent, within 30 calendar days of the effective date of the Decision, to submit to the Board or its designee for prior approval as a practice monitor(s), the name and qualifications of one or more licensed physicians and surgeons whose licenses are valid and in good standing, and who are preferably American Board of Medical Specialties (ABMS) certified. A monitor shall have no prior or current business or personal relationship with Respondent, or other relationship that could reasonably be expected to compromise the ability of the monitor to render fair and unbiased reports to the Board, including but not limited to any form of bartering, shall be in Respondent's field of practice, and must agree to serve as Respondent's monitor. Respondent shall pay all monitoring costs.

If the monitor resigns or is no longer available, Respondent shall, within 5 calendar days of such resignation or unavailability, submit to the Board or its designee, for prior approval, the name and qualifications of a replacement monitor who will be assuming that responsibility within 15 calendar days. If Respondent fails to obtain approval of a replacement monitor within 60 calendar days of the resignation or unavailability of the monitor, Respondent shall receive a notification from the Board or its designee to cease the practice of medicine within three (3) calendar days after being so notified Respondent shall cease the practice of medicine until a replacement monitor is approved and assumes monitoring responsibility.

Probationary Condition No. 6, Clinical Competence Assessment Program, requires Respondent within 60 calendar days of the effective date of the decision, Respondent shall enroll in a clinical competence assessment program approved in advance by the Board or its designee. Respondent shall successfully complete the program not later than six (6) months after Respondent's initial enrollment unless the Board or its designee agrees in writing to an extension of that time.




The program shall consist of a comprehensive assessment of Respondent's physical and mental health and the six general domains of clinical competence as defined by the Accreditation Council on Graduate Medical Education and American Board of Medical Specialties pertaining to Respondent's current or intended area of practice.

If Respondent fails to enroll, participate in, or successfully complete the clinical competence assessment program within the designated time period, Respondent shall receive a notification from the Board or its designee to cease the practice of medicine within three (3) calendar days after being so notified. The Respondent shall not resume the practice of medicine until enrollment or participation in the outstanding portions of the clinical competence assessment program have been completed.

The Respondent has failed to obey Probationary Condition No. 4 and 6 as ordered in the above Decision, by failing to obtain an approved practice monitor and failing to enroll in the Clinical Competence Assessment Program. Accordingly, Respondent, Fouad Mohammad M. Nouri, M.D., is prohibited from engaging in the practice of medicine. The Respondent shall not resume the practice of medicine until a practice monitor has been approved and until Respondent enrolls in the clinical competence assessment program.

IT IS SO ORDERED May 17, 2019 at 5:00 p.m.

  
KIMBERLY KIRCHMEYER  
Executive Director