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

In the Matter of the Accusation Against: Javad Kenneth Tavassoli, M.D. Physician's & Surgeon's Certificate No. A 109114 Respondent.	Case No. 800-2018-048353

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 July 29, 2021.

IT IS SO ORDERED June 29, 2021.

MEDICAL BOARD OF CALIFORNIA

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

MATTHEW RODRIQUEZ
Acting Attorney General of California
STEVEN D. MUNI
Supervising Deputy Attorney General
RYAN J. YATES
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Attorneys for Complainant

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

In the Matter of the Accusation Against: **JAVAD KENNETH TAVASSOLI, M.D.** 2439 Malibu Way Del Mar CA 92014 Physician's and Surgeon's Certificate No. A 109114 Respondent.	Case No. 800-2018-048353 OAH No. 2020090187 **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. William Prasifka (Complainant) is the Executive Director of the Medical Board of California (Board). He brought this action solely in his official capacity and is represented in this matter by Matthew Rodriquez, Acting Attorney General of the State of California, and by Ryan J. Yates, Deputy Attorney General.

2. Respondent Javad Kenneth Tavassoli, M.D. (Respondent) is represented in this proceeding by attorney Joseph S. Picchi, Esq., whose address is: 2300 Contra Costa Blvd, Suite 350, Pleasant Hill, CA 94523-2398. On or about August 5, 2009, the Board issued Physician's and Surgeon's Certificate No. A 109114 to Javad Kenneth Tavassoli, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2018-048353, and will expire on April 30, 2021, unless renewed.

JURISDICTION

3. Accusation No. 800-2018-048353 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 June 29, 2020. Respondent timely filed his Notice of Defense contesting the Accusation.

4. A copy of Accusation No. 800-2018-048353 is attached as Exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 800-2018-048353. Respondent has also carefully read, fully discussed with his counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

6. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the 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.

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

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CULPABILITY

8. Respondent does not contest that, at an administrative hearing, Complainant could establish a *prima facie* case with respect to the charges and allegations contained in Accusation No. 800-2018-048353 and that he has thereby subjected his license to disciplinary action.

9. Respondent agrees that his Physician's and Surgeon's Certificate is subject to discipline, and he agrees to be bound by the Board's imposition of discipline as set forth in the Disciplinary Order below.

CONTINGENCY

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

11. Respondent agrees that in the event of a future Accusation being filed against him before the Board, all of the charges and allegations contained in Accusation No. 800-2018-048353 shall be deemed true, correct, and fully admitted by Respondent for purposes of any such proceeding or any other licensing proceeding involving Respondent in the State of California. Respondent shall not be deemed to have admitted the truth or correctness of the allegations included in Accusation No. 800-2018-048353 for any other purpose.

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

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

DISCIPLINARY ORDER

1. PUBLIC REPRIMAND. IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 109114, issued to Respondent Javad Kenneth Tavassoili, M.D. is publicly reprimanded pursuant to California Business and Professions Code, section 2227, subdivision (a)(4). This public reprimand, which is issued in connection with Respondent's care and treatment of Patient A, as set forth in Accusation No. 800-2018-048353, is as follows:

> "Respondent is charged with repeated negligent acts, failure to maintain adequate and accurate records, and general unprofessional conduct. On September 18, 2013, Respondent became involved in the care and treatment of Patient A. Respondent provided a liposuction and abdomiplasty consultation with Patient A. Respondent was aware that Patient A had poorly controlled diabetes and should have postponed the surgery to a later date, when Patient A's diabetes were better controlled. Instead, on or about December 9, 2013, Respondent performed liposuction of the abdomen, hips, flanks, and an abdominoplasty on Patient A.
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> On or about December 20, 2013, Respondent left town. Prior to leaving the area, Respondent failed to find and assign a different surgeon to monitor Patient A, during his absence.
>
> On or about December 21, 2013, following a fever and drainage from the surgical site, it was determined that Patient A was suffering from a necrotizing infection and a diagnosis of fibroadipose (consisting of fatty and fibrous) tissue with severe acute inflammation and necrosis. Patient A subsequently recovered from her surgical complications.
>
> Additionally, during Respondent's care and treatment of Patient A, Respondent failed to keep timely, legible, adequate, and accurate records regarding his non-surgical and surgical care and treatment of Patient A."

2. MEDICAL RECORD KEEPING COURSE. Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a course in medical record keeping approved in advance by the Board or its designee. Respondent shall provide the approved course provider with any information and documents that the approved course provider may deem pertinent. Respondent shall participate in and successfully complete the classroom component of the course not later than six (6) months after Respondent's

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

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

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

3. EDUCATION COURSE. Within 60 calendar days of the effective date of this Decision, Respondent shall submit to the Board or its designee for its prior approval educational program(s) or course(s) which shall not be less than 30 hours. The educational program(s) or course(s) shall be aimed at correcting any areas of deficient practice or knowledge and shall be Category I certified. The educational program(s) or course(s) shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure. Following the completion of each course, the Board or its designee may administer an examination to test Respondent's knowledge of the course. Respondent shall provide proof of attendance for 65 hours of CME of which 30 hours were in satisfaction of this condition.

4. VIOLATION OF THIS AGREEMENT. If Respondent fails to enroll, participate in, or successfully complete the educational program(s) or course(s) 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. Respondent shall not resume the practice of medicine until enrollment or participation in the educational program(s) or course(s) has been completed. Failure to successfully complete the educational program(s) or course(s) outlined above shall constitute unprofessional conduct and is grounds for further

disciplinary action.

ACCEPTANCE

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

DATED: 4/24/2021

JAVAD KENNETH TAVASSOLI, M.D.
Respondent

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

DATED: April 26, 2021

JOSEPH S. PICCHI, ESQ.
Attorney for Respondent

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ENDORSEMENT

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

DATED: 4/26/21

Respectfully submitted,

MATTHEW RODRIQUEZ
Acting Attorney General of California
STEVEN D. MUNI
Supervising Deputy Attorney General

RYAN J. YATES
Deputy Attorney General
Attorneys for Complainant

SA2020300459
Tavassoli Stipulated Settlement draft.docx

Exhibit A

Accusation No. 800-2018-048353

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Attorneys for Complainant

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

In the Matter of the Accusation Against:	Case No. 800-2018-048353
Javad Kenneth Tavassoli, M.D. **2439 Malibu Way** **Del Mar CA 92014** **Physician's and Surgeon's Certificate No. A 109114,** Respondent.	**A C C U S A T I O N**

PARTIES

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

2. On or about August 5, 2009, the Medical Board issued Physician's and Surgeon's Certificate No. A 109114 to Javad Kenneth Tavassoli, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought herein and will expire on April 30, 2021, unless renewed.

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JURISDICTION

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

4. Section 118 of the Code states, in pertinent part:

"(a) The withdrawal of an application for a license after it has been filed with a board in the department shall not, unless the board has consented in writing to such withdrawal, deprive the board of its authority to institute or continue a proceeding against the applicant for the denial of the license upon any ground provided by law or to enter an order denying the license upon any such ground.

"(b) The suspension, expiration, or forfeiture by operation of law of a license issued by a board in the department, or its suspension, forfeiture, or cancellation by order of the board or by order of a court of law, or its surrender without the written consent of the board, shall not, during any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its authority to institute or continue a disciplinary proceeding against the licensee upon any ground provided by law or to enter an order suspending or revoking the license or otherwise taking disciplinary action against the licensee on any such ground.

"(c) As used in this section, 'board' includes an individual who is authorized by any provision of this code to issue, suspend, or revoke a license, and 'license' includes 'certificate,' 'registration,' and 'permit.'"

5. Section 2427 of the Code states, in pertinent part:

"(a) Except as provided in Section 2429, a license which has expired may be renewed at any time within five years after its expiration on filing an application for renewal on a form prescribed by the licensing authority and payment of all accrued renewal fees and any other fees required by Section 2424. If the license is not renewed within 30 days after its expiration, the licensee, as a condition precedent to renewal, shall also pay the prescribed delinquency fee, if any. Except as provided in Section 2424, renewal under this section shall be effective on the date on which the renewal application is filed, on the date on which the renewal fee or accrued

renewal fees are paid, or on the date on which the delinquency fee or the delinquency fee and penalty fee, if any, are paid, whichever last occurs. If so renewed, the license shall continue in effect through the expiration date set forth in Section 2422 or 2423 which next occurs after the effective date of the renewal, when it shall expire and become invalid if it is not again renewed."

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

7. Section 2234 of the Code states, in pertinent part:

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

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

"(b) Gross negligence.

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

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

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

"(d) Incompetence.

"..."

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8. 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."

FIRST CAUSE FOR DISCIPLINE

(Repeated Negligent Acts)

9. Respondent's license is subject to disciplinary action under section 2234, subdivision (c), of the Code, in that he committed repeated negligent acts, failed to keep adequate and accurate records, and engaged in unprofessional conduct during the care and treatment of Patient A,[1] as more particularly alleged hereinafter:

10. This matter came before the Board, following a Business and Professions Code, section 802 report, received by the Board, following a civil settlement award of $62,500, paid by Respondent. Respondent is a general surgeon, who practices cosmetic surgery, formerly with the Athenix Body Sculpting Institute, in Fresno, California. On or about September 18, 2013, Patient A presented to Respondent for a consultation regarding an intended liposuction of the abdomen, hips, flanks, and an abdominoplasty[2]. All of the aforementioned surgical procedures are cosmetic and elective in nature. Patient A was a then forty-three (43) year-old woman with insulin dependent type diabetes. Following the visit, notes were made in Patient A's medical record with at least two different handwritings (one of which was Respondent's), which failed to contain a signature or identification of the notes' author.

11. Patient A received clearance from her general practitioner to proceed with her surgeries. However, the general practitioner's clearance for proposed surgeries was from a general medical standpoint, and not from a standpoint of specific surgical site complications from the proposed procedure. Although Respondent was aware that Patient A had poorly controlled

[1] Patient names and information have been redacted to protect privacy. All witnesses will be identified in discovery.

[2] Abdominoplasty or "tummy tuck" is a cosmetic surgery procedure used to make the abdomen thinner and more firm. The surgery involves the removal of excess skin and fat from the middle and lower abdomen in order to tighten the muscle and fascia of the abdominal wall.

diabetes—with a glycated hemoglobin of 9.4[3]—Respondent failed to discuss with Patient A that her diabetes were poorly controlled, which could lead to a higher risk of surgical complications.

12. Respondent then failed to postpone the surgery to a time when Patient A's diabetes was well controlled. Instead, on or about December 9, 2013, Respondent performed liposuction of the abdomen, hips, and flanks, and an abdominoplasty on Patient A. The procedures themselves were without noted complications. Respondent noted in Patient A's medical record, "It was again preoperatively discussed with [Patient A] and husband that she is at increased risk..." However, there is no documentation of any such conversation or warnings of increased risk, prior to the aforementioned note.

13. Following the surgeries, on or about December 10, 2013, Respondent made a handwritten note in Patient A's "post-operative checklist," that there was an area in the mid portion of Patient A's flap with bruising. Respondent noted, "Concerning for lack of perfusion[4] in the setting of her IDDM[5] with potential vasculopathy.[6]"

14. On or about December 13, 2013, Respondent noted in Patient A's postoperative checklist that there was "no drainage." However, a "check-box" next to the "mild drainage" list-item was checked by Respondent.

15. On or about December 20, 2013, Respondent dictated the operative report for Patient A's December 9, 2013 surgery (eleven days later). The report notes that type of anesthesia as being oral and intravenous sedation, which was accurate. However, the body of the report states that the patient was induced and intubated with an endotracheal tube, which indicated general anesthesia—which was not accurate. The end of the report additionally inaccurately states that Patient A was extubated. The report further states, "overall 5000 cc [cubic centimeters] were infiltrated," however, there is no indication of what the solution was. Moreover, the description of the liposuction procedure was general, with no indication of whether care was taken to avoid

[3] The glycated hemoglobin (HbA1c) test is a blood test that determine how well a patient is managing diabetes. For people without diabetes, the normal range is between 4% and 5.6%. Levels of 6.5% indicate the patient has diabetes. In adults with diabetes, levels greater than 7% dramatically increase the risk of complications, such as eye, kidney, nerve and heart disease.
[4] Perfusion is the passage of blood or other fluid through the natural channels in a tissue.
[5] Insulin-dependent diabetes mellitus.
[6] Vasculopathy is any disease affecting blood vessels

areas at risk for higher vascular compromise. Respondent produced a separate "Operative Notes" form, which was filled out and signed by Respondent. However, it is undated.

16. On or about December 20, 2013, Respondent left town. Prior to leaving the area, Respondent failed to find and assign a different surgeon to monitor Patient A, during his absence.

17. On or about December 20, 2013, Patient A telephonically contacted Respondent, and complained that she had a fever of 101 degrees Fahrenheit. Respondent called in antibiotics and instructed Patient A that if the fever persisted, or if there were any signs of infection, she would need to go to a hospital or urgent care.

18. On or about December 21, 2013, Patient A's temperature had dropped to 99.5 degrees. However, she was experiencing drainage from the surgical site, so she went to the Fresno Community Hospital. A Computerized Tomography (CT) scan was performed and Patient A was taken into surgery shortly after. During surgery, at or about 2:00 AM, on December 22, 2013, it was determined that Patient A was suffering from a necrotizing infection. Following surgery, a Pathology Report was produced, which listed a diagnosis of fibroadipose (consisting of fatty and fibrous) tissue with severe acute inflammation and necrosis. Patient A subsequently recovered from her surgical complications.

19. Respondent did not document the aforementioned issues of December 20, 2013, and December 21, 2013, until on or about January 7, 2014, when Respondent made a handwritten, partially legible note in Patient A's medical chart. Additionally, the note fails to mention any other issues being discussed with Patient A, such as other physical findings and symptoms. Respondent further failed to document what antibiotics were being prescribed, and their dosages and quantities.

20. On or about June 25, Respondent made a progress note in Patient A's chart. The note failed to include the year, as well as respondent's name and signature.

21. During his care and treatment of Patient A, Respondent committed the following repeated negligent acts:

A. Failing to postpone Patient A's surgery until her diabetes was well controlled;

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B. Failing to keep timely, legible, adequate, and accurate records regarding his non-surgical care and treatment of Patient A;

C. Failing to keep timely, legible, adequate, and accurate records regarding his surgical care and treatment of Patient A; and

D. Leaving town and not having a covering physician available, shortly after performing surgery on Patient A

SECOND CAUSE FOR DISCIPLINE

(Failure to Maintain Adequate and Accurate Records)

22. Respondent's license is subject to disciplinary action under section 2266 of the Code, in that he failed to maintain adequate and accurate medical records relating to his care and treatment of Patient A, as more fully described in paragraphs 9 through 21, above, and those paragraphs are incorporated by reference as if fully set forth herein.

THIRD CAUSE FOR DISCIPLINE

(General Unprofessional Conduct)

23. Respondent is further subject to disciplinary action under sections 2227 and 2234, as defined by section 2234, of the Code, in that he has engaged in conduct which breaches the rules or ethical code of the medical profession, or conduct which is unbecoming of a member in good standing of the medical profession, and which demonstrates an unfitness to practice medicine, as more particularly alleged in paragraphs 9 through 2, above, which are hereby realleged and incorporated by reference as if fully set forth herein.

PRAYER

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

1. Revoking or suspending Physician's and Surgeon's Certificate No. A 109114, issued to Javad Kenneth Tavassoli, M.D.;

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

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3. Ordering Javad Kenneth Tavassoli, M.D., if placed on probation, to pay the Board the costs of probation monitoring; and

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

DATED: June 29, 2020

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

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