

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

In the Matter of the Accusation
against:

NASIM KALHOR, D.P.M.

Doctor of Podiatric Medicine
License No. E 4581

Respondent

File No: 500-2018-000757

DECISION AND ORDER

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

This Decision shall become effective at 5:00 p.m. on **FEB 10 2022**

IT IS SO ORDERED **JAN 11 2022**

PODIATRIC MEDICAL BOARD



Judith Manzi, D.P.M., President

1 ROB BONTA
Attorney General of California
2 JUDITH T. ALVARADO
Supervising Deputy Attorney General
3 LATRICE R. HEMPHILL
Deputy Attorney General
4 State Bar No. 285973
California Department of Justice
5 300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
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7 *Attorneys for Complainant*

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

12 In the Matter of the Accusation Against:

13 **NASIM KALHOR, D.P.M.**
14 **2100 Solar Drive, Suite 102**
Oxnard, CA 93036

15 **Podiatrist License No. DPM E 4581,**

16 Respondent.
17

Case No. 500-2018-000757

OAH No. 2021040287

18
19 **STIPULATED SETTLEMENT AND**
20 **DISCIPLINARY ORDER**

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

23 **PARTIES**

24 1. Brian Naslund (Complainant) is the Executive Officer of the Podiatric Medical Board
25 (Board). He brought this action solely in his official capacity and is represented in this matter by
26 Rob Bonta, Attorney General of the State of California, by Latrice R. Hemphill, Deputy Attorney
27 General.

28 2. Respondent Nasim Kalhor, D.P.M. (Respondent) is represented in this proceeding by
attorney C. Keith Greer, Esq., whose address is: 16855 W. Bernardo Drive, Suite 255
San Diego, CA 92127.

3. On or about July 7, 2004, the Board issued Podiatrist License No. DPM E 4581 to Respondent. The Podiatrist License was in full force and effect at all times relevant to the charges brought in Accusation No. 500-2018-000757, and will expire on May 31, 2022, unless renewed.

JURISDICTION

4. Accusation No. 500-2018-000757 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 February 22, 2021. Respondent timely filed her Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 500-2018-000757 is attached as exhibit A and incorporated herein by reference.

6. The Board, in Case No. 500-2014-000144, issued a Decision, effective January 25, 2018, in which Respondent's license was revoked, with the revocation stayed, and Respondent was placed on probation for four (4) years, subject to terms and conditions. Respondent is still on probation as a result of that Decision, which is now final and is incorporated by reference as if fully set forth herein.

7. A copy of the Decision and Order issued in Case No. 500-2014-000144 is attached as exhibit B and 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. 500-2018-000757. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

9. Respondent is fully aware of her 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 her; the right to present evidence and to testify on her own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of

1 documents; the right to reconsideration and court review of an adverse decision; and all other
2 rights accorded by the California Administrative Procedure Act and other applicable laws.

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

5 **CULPABILITY**

6 11. Respondent admits the truth of each and every charge and allegation in Accusation
7 No. 500-2018-000757.

8 12. Respondent agrees the Disciplinary Order below, requiring the disclosure of
9 probation pursuant to Business and Professions Code section 2228.5, serves to protect the public
10 interest.

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

13 **CONTINGENCY**

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

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

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

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Podiatrist License No. DPM E 4581 issued to Respondent NASIM KALHOR, D.P.M. is revoked. However, the revocation is stayed and Respondent shall remain on probation, pursuant to the probationary order in Case No. 500-2014-000144, and on the following additional terms and conditions:

1. MONITORING - PRACTICE In accordance with Decision and Order No. 500-2014-000144, Respondent's entire practice shall continue to be monitored, including, but not limited to the following: medical records, charting, pre and postoperative evaluations, all surgical procedures and billing records.

The Board's previously appointed doctor of podiatric medicine, from its panel of medical consultants or panel of expert reviewers, shall remain as the monitor.

The monitor shall provide quarterly reports to the Board or its designee which include an evaluation of Respondent's performance, indicating whether Respondent's practices are within the standards of practice of podiatric medicine or billing, or both, and whether Respondent is practicing podiatric medicine safely.

The Board or its designee shall determine the frequency and practice areas to be monitored. Such monitoring shall be required during the entire period of probation. The Board or its designee may at its sole discretion also require prior approval by the monitor of any medical or surgical procedures engaged in by the Respondent. The Respondent shall pay all costs of such monitoring and shall otherwise comply with all requirements of his or her contract with the monitor. If the monitor terminates the contract, or is no longer available, the Board or its designee shall appoint a new monitor immediately. Respondent shall not practice at any time during the probation until the Respondent provides a copy of the contract with the current monitor to the probation investigator and such contract is approved by the Board.

Respondent shall provide access to the practice monitor of Respondent's patient records

1 and such monitor shall be permitted to make direct contact with any patients treated or cared for
2 by Respondent and to discuss any matters related to Respondent's care and treatment of those
3 patients. Respondent shall obtain any necessary patient releases to enable the monitor to review
4 records and to make direct contact with patients. Respondent shall execute a release authorizing
5 the monitor to provide to the Board or its designee any relevant information. If the practice
6 monitor deems it necessary to directly contact any patient, and thus require the disclosure of such
7 patient's identity, Respondent shall notify the patient that the patient's identity has been requested
8 pursuant to the Decision. This notification shall be signed and dated by each patient prior to the
9 commencement or continuation of any examination or treatment of each patient by Respondent
10 and a copy of such notification shall be maintained in each patient's file. The notifications signed
11 by Respondent's patients shall be subject to inspection and copying by the Board or its designee
12 at any time during the period of probation that Respondent is required to comply with this
13 condition. The practice monitor will sign a confidentiality agreement requiring him or her to
14 keep all patient information regarding Respondent's patients in complete confidence, except as
15 otherwise required by the Board or its designee.

16 Failure to maintain all records, or to make all appropriate records available for immediate
17 inspection and copying on the premises, or to comply with this condition as outlined above, is a
18 violation of probation.

19 **Upon the end of Respondent's probationary term, as ordered in Decision and Order**
20 **No. 500-2014-000144, the practice monitor shall prepare and issue a report, addressed to**
21 **the Board, providing a recommendation as to whether Respondent is practicing within the**
22 **standard of care and no longer requires any monitoring and probation, or, if Respondent**
23 **has yet to reach the necessary level of care, necessitating an additional year of monitoring**
24 **and probation. Respondent's probation will be extended for one additional year upon**
25 **recommendation from the practice monitor.**

26 2. 2018 DECISION AND ORDER All terms and conditions issued in the Decision and
27 Order No. 500-2014-000144 shall remain in full force and effect during this probationary period.

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

16 4. NOTIFICATION Prior to engaging in the practice of medicine, the Respondent shall
17 provide a true copy of the Decision(s) and Accusation(s) to the Chief of Staff or the Chief
18 Executive Officer at every hospital where privileges or membership are extended to Respondent,
19 at any other facility where Respondent engages in the practice of podiatric medicine, including all
20 physician and locum tenens registries or other similar agencies, and to the Chief Executive
21 Officer at every insurance carrier which extends malpractice insurance coverage to Respondent.
22 Respondent shall submit proof of compliance to the Board or its designee within 15 calendar
23 days.

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

25 5. PHYSICIAN ASSISTANTS Prior to receiving assistance from a physician assistant,
26 Respondent must notify the supervising physician of the terms and conditions of his/her
27 probation.

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1 6. OBEY ALL LAWS Respondent shall obey all federal, state and local laws, all rules
2 governing the practice of podiatric medicine in California and remain in full compliance with any
3 court ordered criminal probation, payments, and other orders.

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

8 8. PROBATION COMPLIANCE UNIT Respondent shall comply with the Board's
9 probation unit. Respondent shall, at all times, keep the Board informed of Respondent's business
10 and residence addresses. Changes of such addresses shall be immediately communicated in
11 writing to the Board or its designee. Under no circumstances shall a post office box serve as an
12 address of record, except as allowed by Business and Professions Code section 2021(b).

13 Respondent shall not engage in the practice of podiatric medicine in Respondent's place of
14 residence. Respondent shall maintain a current and renewed California doctor of podiatric
15 medicine's license.

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

19 9. INTERVIEW WITH THE BOARD OR ITS DESIGNEE Respondent shall be
20 available in person for interviews either at Respondent's place of business or at the probation unit
21 office with the Board or its designee, upon request, at various intervals and either with or without
22 notice throughout the term of probation.

23 10. RESIDING OR PRACTICING OUT-OF-STATE In the event Respondent should
24 leave the State of California to reside or to practice, Respondent shall notify the Board or its
25 designee in writing 30 calendar days prior to the dates of departure and return. Non-practice is
26 defined as any period of time exceeding 30 calendar days in which Respondent is not engaging in
27 any activities defined in section 2472 of the Business and Professions Code.

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1 All time spent in an intensive training program outside the State of California which has
2 been approved by the Board or its designee shall be considered as time spent in the practice of
3 medicine within the State. A Board-ordered suspension of practice shall not be considered as a
4 period of non-practice. Periods of temporary or permanent residence or practice outside
5 California will not apply to the reduction of the probationary term. Periods of temporary or
6 permanent residence or practice outside California will relieve Respondent of the responsibility to
7 comply with the probationary terms and conditions, with the exception of this condition, and the
8 following terms and conditions of probation: Obey All Laws; Probation Unit Compliance; and
9 Cost Recovery.

10 Respondent's license shall be automatically cancelled if Respondent's periods of temporary
11 or permanent residence or practice outside California totals two years. However, Respondent's
12 license shall not be cancelled as long as Respondent is residing and practicing podiatric medicine
13 in another state of the United States and is on active probation with the medical licensing
14 authority of that state, in which case the two-year period shall begin on the date probation is
15 completed or terminated in that state.

16 11. FAILURE TO PRACTICE PODIATRIC MEDICINE - CALIFORNIA RESIDENT

17 In the event the Respondent resides in the State of California and for any reason Respondent stops
18 practicing podiatric medicine in California, Respondent shall notify the Board or its designee in
19 writing within 30 calendar days prior to the dates of non-practice and return to practice. Any
20 period of non-practice within California as defined in this condition will not apply to the
21 reduction of the probationary term and does not relieve Respondent of the responsibility to
22 comply with the terms and conditions of probation. Non-practice is defined as any period of time
23 exceeding thirty calendar days in which Respondent is not engaging in any activities defined in
24 section 2472 of the Business and Professions Code.

25 All time spent in an intensive training program which has been approved by the Board or its
26 designee shall be considered time spent in the practice of medicine. For purposes of this
27 condition, non-practice due to a Board-ordered suspension or in compliance with any other
28 condition of probation shall not be considered a period of non-practice.

Respondent's license shall be automatically cancelled if Respondent resides in California and for a total of two years, fails to engage in California in any of the activities described in Business and Professions Code section 2472.

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

13. VIOLATION OF PROBATION If Respondent violates probation in any respect, the Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If an accusation or petition to revoke probation is filed against Respondent during probation, the Board shall have continuing jurisdiction until the matter is final, the period of probation shall be extended until the matter is final, and no petition for modification of penalty shall be considered while there is an accusation or petition to revoke probation pending against Respondent.

14. COST RECOVERY Within 90 calendar days from the effective date of the Decision or other period agreed to by the Board or its designee, Respondent shall reimburse the Board the amount of \$20,585.25 for its investigative and prosecution costs. The filing of bankruptcy or period of non-practice by Respondent shall not relieve the Respondent of her obligation to reimburse the Board for its costs.

15. LICENSE SURRENDER Following the effective date of this Decision, if Respondent ceases practicing due to retirement or health reasons, or is otherwise unable to satisfy the terms and conditions of probation, Respondent may request the voluntary surrender of Respondent's license. The Board reserves the right to evaluate the Respondent's request and to exercise its discretion whether to grant the request or to take any other action deemed appropriate and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent shall within 15 calendar days deliver Respondent's wallet and wall certificate to the Board or its designee and Respondent shall no longer practice podiatric medicine. Respondent will no longer be subject to the terms and conditions of probation and the surrender of Respondent's license

1 shall be deemed disciplinary action. If Respondent re-applies for a podiatric medical license, the
2 application shall be treated as a petition for reinstatement of a revoked certificate.

3 16. PROBATION MONITORING COSTS Respondent shall pay the costs associated
4 with probation monitoring each and every year of probation as designated by the Board, which
5 may be adjusted on an annual basis. Such costs shall be payable to the Board of Podiatric
6 Medicine and delivered to the Board or its designee within 60 days after the start of the new fiscal
7 year. Failure to pay costs within 30 calendar days of this date is a violation of probation.

8 17. NOTICE TO EMPLOYEES Respondent shall, upon or before the effective date of
9 this Decision, post or circulate a notice which actually recites the offenses for which Respondent
10 has been disciplined and the terms and conditions of probation to all employees involved in
11 his/her practice. Within fifteen (15) days of the effective date of this Decision, Respondent shall
12 cause his/her employees to report to the Board in writing, acknowledging the employees have
13 read the Accusation and Decision in the case and understand Respondent's terms and conditions
14 of probation.

15 18. CHANGES OF EMPLOYMENT Respondent shall notify the Board in writing,
16 through the assigned probation officer, of any and all changes of employment, location, and
17 address within thirty (30) days of such change.

18 19. COMPLIANCE WITH REQUIRED CONTINUING MEDICAL EDUCATION
19 Respondent shall submit satisfactory proof biennially to the Board of compliance with the
20 requirement to complete fifty hours of approved continuing medical education, and meet
21 continuing competence requirements for re-licensure during each two (2) year renewal period.

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1 ACCEPTANCE

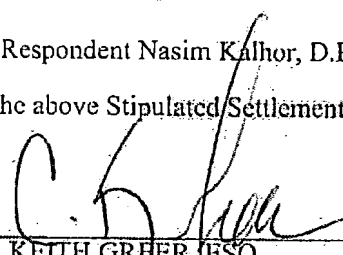
2 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
3 discussed it with my attorney, C. Keith Greer, Esq. I understand the stipulation and the effect it
4 will have on my Podiatrist License. I enter into this Stipulated Settlement and Disciplinary Order
5 voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the
6 Podiatric Medical Board.

7
8 DATED: 11/15/21

9 
10 NASIM KALHOR, D.P.M.
Respondent

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

14 DATED: 11/15/21

15 
16 C. KEITH GREER, ESQ.
Attorney for Respondent

17 ENDORSEMENT

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

20
21 DATED: _____

Respectfully submitted,

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

25 LATRICE R. HEMPHILL
26 Deputy Attorney General
27 Attorneys for Complainant

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1 ACCEPTANCE

2 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
3 discussed it with my attorney, C. Keith Greer, Esq. I understand the stipulation and the effect it
4 will have on my Podiatrist License. I enter into this Stipulated Settlement and Disciplinary Order
5 voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the
6 Podiatric Medical Board.

7
8 DATED: _____ NASIM KALHOR, D.P.M.
9 Respondent
10

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

14 DATED: _____ C. KEITH GREER, ESQ.
15 Attorney for Respondent
16

17 ENDORSEMENT

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

20 DATED: 11/15/2021
21

Respectfully submitted,

22 ROB BONTA
23 Attorney General of California
24 JUDITH T. ALVARADO
25 Supervising Deputy Attorney General



26 LATRICE R. HEMPHILL
27 Deputy Attorney General
28 Attorneys for Complainant

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Exhibit A

1 XAVIER BECERRA
Attorney General of California
2 JUDITH T. ALVARADO
Supervising Deputy Attorney General
3 LATRICE R. HEMPHILL
Deputy Attorney General
4 State Bar No. 285973
California Department of Justice
5 300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
6 Telephone: (213) 269-6198
Facsimile: (916) 731-2117
7 *Attorneys for Complainant*

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

12 In the Matter of the Accusation Against:

Case No. 500-2018-000757

13 **NASIM KALHOR, D.P.M.**
14 **2100 Solar Drive, Suite 102**
Oxnard, CA 93036

ACCUSATION

15 **Podiatrist License No. DPM 4581,**

16 Respondent.
17

18
19 Complainant alleges:

20 **PARTIES**

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

23 2. On or about July 7, 2004, the Podiatric Medical Board issued Podiatrist License
24 Number DPM 4581 to NASIM KALHOR, D.P.M. (Respondent). The Podiatrist License was in
25 full force and effect at all times relevant to the charges brought herein and will expire on May 31,
26 2022, unless renewed.

27 ///

28 ///

JURISDICTION

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

4. Section 2222 of the Code states:

The California Board of Podiatric Medicine shall enforce and administer this article as to doctors of podiatric medicine. Any acts of unprofessional conduct or other violations proscribed by this chapter are applicable to licensed doctors of podiatric medicine and wherever the Medical Quality Hearing Panel established under Section 11371 of the Government Code is vested with the authority to enforce and carry out this chapter as to licensed doctors of podiatric medicine.

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

5. Section 2234 of the Code, states:

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

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

(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.

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

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

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

6 6. Section 2266 of the Code states:

7 The failure of a physician and surgeon to maintain adequate and accurate
8 records relating to the provision of services to their patients constitutes unprofessional
conduct.

9 **COST RECOVERY**

10 7. Section 2497.5 of the Code states:

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

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

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

19 (d) In any judicial action for the recovery of costs, proof of the board's decision
20 shall be conclusive proof of the validity of the order of payment and the terms for
payment.

21 (e)(1) Except as provided in paragraph (2), the board shall not renew or
22 reinstate the license of any licensee who has failed to pay all of the costs ordered
under this section.

23 (2) Notwithstanding paragraph (1), the board may, in its discretion,
24 conditionally renew or reinstate for a maximum of one year the license of any
licensee who demonstrates financial hardship and who enters into a formal agreement
25 with the board to reimburse the board within one year period for those unpaid costs.

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

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FACTUAL ALLEGATIONS

8. In 2016, Respondent worked as a podiatrist at LA Orthopedic Institute, located at 38660 Medical Center Drive, Suite A 250, Palmdale, California 93551.

9. Patient A¹ is a seventy-seven (77) year-old woman who initially presented to Respondent in February 2016, due to a fungal infection, bunion pain and painful hammertoe. Patient A was referred to Respondent by her health plan, after seeing a different podiatrist in her medical group who would not treat her.

10. On or about February 18, 2016, Respondent conducted a physical exam and found that Patient A suffered from plantar fasciitis, bunion deformity, hammertoes, of the second through fifth digits, and an unstable gait. Respondent's records did not address Patient A's medical history and the reasoning for the referral to Respondent's office.

11. On or about April 7, 2016, Patient A again presented to Respondent for a follow-up appointment regarding her pain. According to Respondent's chart notes, Patient A was given pre-operative orders during this visit and medication for the surgery. Respondent noted that she spent 45 minutes to discuss the surgery, post-operative care, and risks of the procedure with Patient A. However, no specifics about the discussion were provided in the chart notes. Patient A also signed a consent form during this visit. The consent form included all medical terminology and no description of the procedures in laymen terms.

12. On or about April 11, 2016, Patient A presented to Respondent at Palmdale Regional Hospital for her surgery. According to the operative record, Respondent performed a modified Mayo bunionectomy and hammertoe correction of the second digit, right foot.

13. Patient A returned to Respondent on April 19, 2016, for her first post-operative visit. Respondent's chart note indicates that Patient A was feeling well after surgery. Respondent placed Patient A in an Unna boot and no further diagnosis was given.

14. On or about April 21, 2016, Patient A returned to Respondent for another follow-up visit. Patient A complained of discomfort in the right foot and Respondent changed the dressing on Patient A's foot. No diagnosis was given.

¹ The patient is identified as "Patient A" in this Accusation to protect her privacy.

1 15. On or about May 12, 2016, Patient A returned to Respondent and complained that her
2 right foot was sore and she felt worse. Respondent indicated that Patient A had swelling,
3 bruising, and blisters to her right foot. No diagnosis was given and Patient A remained in her
4 Unna boot.

5 16. On or about May 16, 2016, Patient A presented to Respondent because the right foot
6 wire was coming out and her whole leg was swollen. No diagnosis was given and a cast was
7 applied to Patient A's leg.

8 17. On or about June 13, 2016, Patient A complained that the swelling in her right foot
9 had not gone away and she noticed a ball-like formation underneath her right foot. Patient A
10 described a burning and throbbing pain. Respondent gave Patient A an injection of lidocaine and
11 dexamethasone. A new cast was also applied to Patient A's leg.

12 18. On or about July 11, 2016, Patient A indicated she had tenderness in her toes and
13 swelling. Respondent gave Patient A an injection to the right ankle or foot. No additional
14 diagnosis was given.

15 19. On or about August 8, 2016, Patient A had a follow-up visit and again complained of
16 pain and swelling of the foot. No diagnosis was given but a drainage procedure was performed.

17 20. On or about September 19, 2016, Patient A had a follow-up visit with Respondent.
18 Though the swelling to her foot had decreased, Respondent performed an aspiration of fluid and
19 completed an ultrasound of the right foot.

20 21. On or about November 14, 2016, Patient A presented to Respondent because of
21 fungus on her toenails. Respondent's chart notes listed no diagnosis and no mention regarding
22 treatment.

23 22. On or about January 16, 2017, Patient A complained about sharp pain to her right
24 foot. Respondent made a diagnosis of Neuroma A, Bilateral. Respondent's notes indicated that
25 there was an incision and drainage of abscess and Patient A was instructed to continue
26 medications, though no medications were listed in Respondent's notes.

27 23. In April 2017, Respondent performed a matrixectomy on Patient A after a diagnosis
28 of an ingrown nail on the right foot, fourth toe.

1 24. On or about May 23, 2017, Patient A complained of painful ingrown nail and hammer
2 toes. Respondent listed a diagnosis of hammertoe with dislocation; onychocryptosis; talocalcane
3 dislocation; diabetes; and synovitis/bursitis contracture. Respondent performed a partial
4 matrixectomy on the right hallux. Respondent's chart notes did not include any information or
5 notes on the examination.

6 25. In June 2017, Patient A continued to complain of pain in the right foot. Patient A
7 suffered an infection and her right foot was swollen. Throughout the month, Respondent
8 diagnosed Patient A with having an abscess and edema of the right foot; ankle sprain; and
9 unstable ankle/gait. On June 8 and June 15, 2017, an incision and drainage procedure was
10 performed and an Unna boot was applied to Patient A.

11 26. On or about June 20, 2017, Patient A presented to Respondent for follow-up of
12 cellulitis. An ultrasound was done and found pain around the ankle. Respondent's plan was to
13 continue medication and perform range of motion exercises.

14 27. In July 2017, Respondent performed two incision and drainage of abscess procedures
15 of the right foot.

16 28. On or about August 3, 2017, Patient A underwent an MRI, which was negative for
17 osteomyelitis. Respondent found that there was edema in the right foot and diabetic neuropathy.
18 Patient A was told to continue applying medication and perform range of motion exercises.

19 29. Patient A continued to see Respondent consistently through December 2017, for
20 treatment of her right foot.

21 **FIRST CAUSE FOR DISCIPLINE**

22 (Gross Negligence)

23 30. Respondent is subject to disciplinary action under section 2234, subdivision (b), of
24 the Code in that she committed gross negligence in her care and treatment of Patient A.
25 Complainant refers to and, by this reference, incorporates herein, paragraphs 8 through 29, above,
26 as though fully set forth herein. The circumstances are as follows:

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1 31. The standard of care requires that podiatrists maintain complete, accurate and
2 consistent medical records pertaining to patient care.

3 32. In reviewing Respondent's records for Patient A, there are a significant amount of
4 chart notes that are templates with a great deal of information missing. On numerous dates, the
5 missing information includes Patient A's diagnosis. On other dates, diagnoses are listed but the
6 notes do not include further information or explanation.

7 33. Respondent's records for Patient A also fail to consistently explain why certain
8 procedures are needed, details of the actual procedure performed, and/or the effectiveness of said
9 procedures.

10 34. For example, the chart note dated May 23, 2017, indicates that a second surgery was
11 being considered requiring a V-Y plasty. However, there was no documentation as to why the
12 surgery was needed in that chart note or any subsequent chart note.

13 35. Patient A was seen by Respondent for post-operative care but the documentation of
14 the care was so poor, making Patient A's post-operative status unclear. Respondent failed to take
15 x-rays after the procedure and during the post-operative care, making it unclear if Patient A was
16 healing appropriately and if the post-operative care was within the standard of care.

17 36. The standard of care requires podiatrists to obtain a proper history of a patient before
18 performing any type of procedure.

19 37. Respondent's records indicate that a pre-operative examination was performed.
20 However, there was no mention of the results of that examination. There was no indication that
21 vitals were taken and that Patient A was stable enough for surgery.

22 38. Further, Patient A's medical history was not found in the records. Although Patient A
23 was referred to Respondent, there was no mention of why Patient A's previous podiatrist would
24 not treat her. There is also no indication that Respondent consulted with Patient A's primary
25 doctor regarding the surgery.

26 39. The standard of care, when obtaining informed consent, requires review of medical
27 procedures with a patient in layman's terms and ensuring that the patient understands the
28 procedure, all risks, alternatives, and complications specific to the procedure.

1 40. Patient A's signed Consent for Operation, dated April 7, 2016, included standard
2 medical terminology. There was no indication that Respondent explained the consent form or
3 procedure in layman's terms, or that Patient A had a clear understanding of the procedure and its
4 risks.

5 41. Further, there was no clear documentation attesting to which digit was at issue.
6 Patient A's Consent for Operation indicated that the second digit on the right foot would be
7 operated on. Patient A had a different understanding of which digit is considered the second
8 digit. The medical records did not include any illustrations, which should have been reviewed
9 with Patient A and would have clarified to both where Patient A experienced pain and which digit
10 would be addressed during surgery.

11 42. Respondent's acts and/or omissions as set forth in paragraphs 30 through 41, above;
12 whether proven individually, jointly, or in any combination thereof, constitute gross negligence
13 pursuant to section 2234, subdivision (b), of the Code. Therefore, cause for discipline exists.

14 **SECOND CAUSE FOR DISCIPLINE**

15 (Unprofessional Conduct)

16 43. Respondent is subject to disciplinary action under Code section 2234, subdivision (a),
17 in that Respondent engaged in unprofessional conduct. The circumstances are as follows:

18 44. The allegations of the First Cause for Discipline, in paragraphs 30 through 42, above,
19 are incorporated herein by reference as if fully set forth.

20 **THIRD CAUSE FOR DISCIPLINE**

21 (Failure to Maintain Adequate and Accurate Records)

22 45. Respondent is subject to disciplinary action under section 2266 of the Code in that
23 she failed to maintain adequate and accurate records in her care and treatment of Patient A.
24 Complainant refers to and, by this reference, incorporates herein, paragraphs 8 through 29, above,
25 as though fully set forth herein. The circumstances are as follows:

26 46. The allegations of the First Cause for Discipline, in paragraphs 30 through 42, above,
27 are incorporated herein by reference as if fully set forth.

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DISCIPLINARY CONSIDERATIONS

47. To determine the degree of discipline, if any, to be imposed on Respondent, Complainant alleges that on or about September 7, 2016, in a prior disciplinary action titled *In the Matter of the Accusation Against Nasim Kalhor, D.P.M.* before the Board, in Case Number 500-2014-000144, Respondent's license was revoked, with the revocation stayed, and Respondent was placed on probation for four (4) years, subject to terms and conditions. This action was taken due to sustained allegations of gross negligence, repeated negligent acts, incompetence, and failure to maintain adequate and accurate records. Respondent is still on probation as a result of that decision, which is now final and is incorporated by reference as if fully set forth herein.

48. To determine the degree of discipline, if any, to be imposed on Respondent, Complainant further alleges that on September 5, 2002, in a prior disciplinary action, before the Board, titled *In the Matter of the Statement of Issues Against Nasim Kalhor*, Case No. 1B-2002-135561, a Statement of issues was filed against Respondent. On January 15, 2003, a Decision and Order was issued by the Board where Respondent's application for a Podiatric Medicine Certificate was denied. However, the denial was stayed for three (3) years and Respondent was issued a probationary license, subject to terms and conditions. The action was taken due to sustained allegations of conviction of a crime, knowingly making a false statement of fact on an application, dishonesty, and unprofessional conduct. Respondent petitioned for reconsideration and the Board issued an order Denying Petition for Reconsideration. That decision is now final and is incorporated by reference as if fully set forth herein.

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PRAYER

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

1. Revoking or suspending Podiatrist License Number DPM 4581, issued to Nasim Kalhor, D.P.M.;
2. Ordering Nasim Kalhor, D.P.M. to pay the Podiatric Medical Board the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 2497.5;
3. Ordering Nasim Kalhor, D.P.M. to pay the Podiatric Medical Board the probation monitoring costs, if placed on probation; and,
4. Taking such other and further action as deemed necessary and proper.

DATED: **FEB 22 2021**


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

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