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

12 In the Matter of the Accusation Against:

Case No. 800-2021-076448

13 **DHIA ALSARRAF, M.D.**
14 **4867 Eagle Rock Blvd.**
Los Angeles, CA 90041-2657

**DEFAULT DECISION
AND ORDER**

[Gov. Code, §11520]

15 **Physician's and Surgeon's Certificate**
16 **No. A 36742,**

Respondent.

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20 **FINDINGS OF FACT**

21 1. On January 19, 2023, Complainant Reji Varghese, in his official capacity as the
22 Interim Executive Director of the Medical Board of California, Department of Consumer Affairs,
23 filed Accusation No. 800-2021-076448 against Dhia Alsarraf, M.D. (Respondent) before the
24 Medical Board of California (Board).

25 2. On June 8, 1981, the Board issued Physician's and Surgeon's Certificate No. A 36742
26 to Respondent. The Physician's and Surgeon's Certificate was in full force and effect at all times
27 relevant to the charges brought herein and will expire on July 31, 2024, unless renewed. A true
28 and correct copy of Respondent's Certificate of Licensure is attached as Exhibit 1 to the

1 accompanying "Default Decision Evidence Packet," which is submitted concurrently herewith
2 and incorporated herein by reference.¹

3 3. On January 19, 2023, Sharee Woods, an employee of the Board, served by Certified
4 Mail, a copy of the Accusation No. 800-2021-076448, Statement to Respondent, Notice of
5 Defense (two copies), Request for Discovery, and Government Code sections 11507.5, 11507.6,
6 and 11507.7 (collectively, the Accusation Packet) to Respondent's address of record with the
7 Board, which was and is 4867 Eagle Rock Blvd., Los Angeles, CA 90041-2657. A true and
8 correct copy of the Accusation Packet is attached as Exhibit 2 to the Default Decision Evidence
9 Packet, and incorporated herein by reference.

10 4. Service of the Accusation was effective as a matter of law under the provisions of
11 Government Code section 11505, subdivision (c).

12 5. Government Code section 11506 states, in pertinent part:

13 (a) Within 15 days after service of the accusation, the respondent may file with the
14 agency a notice of defense...

15 ...

16 (c) The respondent shall be entitled to a hearing on the merits if the respondent
17 files a notice of defense, and the notice shall be deemed a specific denial of all parts
18 of the accusation not expressly admitted. Failure to file a notice of defense shall
19 constitute a waiver of respondent's right to a hearing, but the agency in its discretion
20 may nevertheless grant a hearing.

21 6. Respondent failed to file a Notice of Defense within fifteen (15) days after service
22 upon him of the Accusation, and therefore waived his right to a hearing on the merits of
23 Accusation No. 800-2021-076448.

24 7. California Government Code section 11520 states, in pertinent part:

25 (a) If the respondent either fails to file a notice of defense or to appear at the
26 hearing, the agency may take action based upon the respondent's express admissions
27 or upon other evidence and affidavits may be used as evidence without any notice to
28 respondent.

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¹ All exhibits are true and correct copies of the originals, and are attached to the accompanying Default Decision Evidence Packet. The Default Decision Evidence Packet is hereby incorporated by reference, in its entirety, as if fully set forth herein.

1 8. The Declaration of Deputy Attorney General Christine Friar Walton attesting to the
2 foregoing facts is attached as Exhibit 3 to the Default Decision Evidence Packet, and incorporated
3 herein by reference.

4 9. On March 25, 2021, the Board received a complaint, which alleged that Respondent
5 prescribed medications to a patient without having first examined the patient. The patient later
6 died. The Board opened an investigation into the alleged prescribing violation. (Declaration of
7 Special Investigator Jaina Ericson, Exh. 4, ¶ 2.)

8 10. Respondent was a primary care physician who served as the medical director of
9 various skilled nursing facilities, elder care facilities, convalescent centers, and independent
10 living facilities throughout Southern California, from Bakersfield to San Diego. (Exh. 4, ¶ 3.)

11 11. As part of the Board's investigation of the alleged prescribing violation, decedent's
12 medical records were sought from Respondent's office. A certificate of no records was received,
13 although the decedent's family had medication bottles dispensed to the decedent listing
14 Respondent as the prescribing physician. (Exh. 4, ¶ 4.)

15 12. As part of the Board's investigation, Respondent was contacted through his attorney
16 for an interview. Respondent's counsel advised that Respondent was unable to be interviewed
17 due to his medical condition. (Exh. 4, ¶ 5.)

18 13. Respondent provided the Board with a declaration, under penalty of perjury, from his
19 treating neurologist, Dr. Lance J. Lee, which states that Respondent is suffering from a very
20 advanced stage of Alzheimer's dementia, based on clinical and radiographic evaluation. During
21 Dr. Lee's first evaluation of Respondent, Respondent was unable to answer very simple
22 questions, such as his age, orientation of place or time, or the name of the current president. Dr.
23 Lee expected Respondent's condition to progress over time. A true and correct copy of the
24 Declaration of Dr. Lance J. Lee is attached as Exhibit 5 to the Default Decision Evidence Packet,
25 and incorporated herein by reference (Exh. 4, ¶ 6; Exh. 5, ¶¶ 5-6.)

26 14. Dr. Lee further stated that Respondent needed total care at baseline and was
27 wheelchair bound when he was out of bed. (Exh. 5, ¶ 7.)

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15. Dr. Lee also recommended that Respondent limit his contact with others and avoid travel outside his home to minimize potential exposure to COVID-19. (Exh. 5, ¶ 8.)

16. Respondent is subject to disciplinary action under Code sections 820 and 822 in that he suffers from mental and physical disabilities rendering him unsafe to practice medicine.

17. The costs of investigation and enforcement of this case prayed for in the Accusation total \$11,700.75 as evidenced by the attached Declarations of Costs. A true and correct copy of the Declarations of Costs is attached to the Default Decision Evidence Packet as Exhibit 6.

18. Pursuant to its authority under Government Code section 11520, the Board finds Respondent is in default. The Board will take action without further hearing and, based on Respondent's express admissions by way of default and the evidence before it, contained in Exhibits 1 through 6, finds that the allegations in Accusation No. 800-2021-076448 are true.

DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Dhia Alsarraf, M.D. has subjected his Physician's and Surgeon's Certificate No. A 36742 to discipline.

2. A copy of the Accusation and the related documents and Declaration of Service are attached as Exhibit 2.

3. The Board has jurisdiction to adjudicate this case by default.

4. The Board is authorized to revoke Respondent's Physician's and Surgeon's Certificate based upon the following violation alleged in the Accusation: Mental and Physical Impairment: Respondent is suffering from mental and physical impairments, which affect his competency and have rendered him unable to safely practice medicine. Respondent is in violation of Business and Professions Code sections 820 and 822. (See Exhibits 1 through 6, attached hereto and incorporated herein).

5. The Board further finds that pursuant to Business and Professions Code section 125.3, the costs of investigation and enforcement of the case prayed for in the Accusation total \$11,700.75, based on the Declarations of Costs contained in the Exhibit Package.

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ORDER

IT IS SO ORDERED THAT Physician's and Surgeon's Certificate No. A 36742, heretofore issued to Respondent Dhia Alsarraf, M.D., is revoked.

Respondent is ordered to pay \$11,700.75 in costs, payable to the Board. The filing of bankruptcy by Respondent shall not relieve Respondent of his responsibility to reimburse the Board for its costs. Respondent's license may not be renewed or reinstated unless all costs ordered under Business and Professions Code section 125.3 have been paid.

If Respondent ever files an application for relicensure or reinstatement in the State of California, the Board shall treat it as a petition for reinstatement of a revoked license. Respondent must comply with all laws, regulations, and procedures for reinstatement of a revoked license in effect at the time the petition for reinstatement is filed.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The Board in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on **JUN 22 2023**.

It is so ORDERED **MAY 23 2023**



Reji Varghese, Interim Executive Director
For the Medical Board of California
Department of Consumer Affairs

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Los Angeles, CA 90041-2657

A C C U S A T I O N

14 **Physician's and Surgeon's Certificate**
15 **No. A 36742,**

16 Respondent.

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18 **PARTIES**

19 1. Reji Varghese (Complainant) brings this Accusation solely in his official capacity as
20 the Deputy Director of the Medical Board of California, Department of Consumer Affairs
21 (Board).

22 2. On or about June 8, 1981, the Board issued Physician's and Surgeon's Certificate
23 Number A 36742 to Dhia Alsarraf, M.D. (Respondent). The Physician's and Surgeon's
24 Certificate was in full force and effect at all times relevant to the charges brought herein and will
25 expire on July 31, 2024, 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 2004 of the Code states:

The board shall have the responsibility for the following:

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

(b) The administration and hearing of disciplinary actions.

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

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

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

(f) Approving undergraduate and graduate medical education programs.

(g) Approving clinical clerkship and special programs and hospitals for the programs in subdivision (f).

(h) Issuing licenses and certificates under the board's jurisdiction.

(i) Administering the board's continuing medical education program.

5. Section 2227 of the Code provides 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.

STATUTORY PROVISIONS

6. Section 820 of the Code states:

Whenever it appears that any person holding a license, certificate or permit under this division or under any initiative act referred to in this division may be unable to practice his or her profession safely because the licentiate's ability to practice is impaired due to mental illness, or physical illness affecting competency, the licensing agency may order the licentiate to be examined by one or more physicians and surgeons or psychologists designated by the agency. The report of the examiners shall be made available to the licentiate and may be received as direct

evidence in proceedings conducted pursuant to Section 822.

7. Section 822 of the Code states:

If a licensing agency determines that its licentiate's ability to practice his or her profession safely is impaired because the licentiate is mentally ill, or physically ill affecting competency, the licensing agency may take action by any one of the following methods:

(a) Revoking the licentiate's certificate or license.

(b) Suspending the licentiate's right to practice.

(c) Placing the licentiate on probation.

(d) Taking such other action in relation to the licentiate as the licensing agency in its discretion deems proper.

The licensing section shall not reinstate a revoked or suspended certificate or license until it has received competent evidence of the absence or control of the condition which caused its action and until it is satisfied that with due regard for the public health and safety the person's right to practice his or her profession may be safely reinstated.

COST RECOVERY

8. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case, with failure of the licensee to comply subjecting the license to not being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be included in a stipulated settlement.

CAUSE FOR DISCIPLINE

(Mental and Physical Impairment)

9. Respondent Dhia Alsarraf, M.D. is subject to disciplinary action under section 820 and 822 of the Code in that he is suffering from mental and physical impairments which affect his competency. Respondent is, therefore, unable to safely practice medicine. The circumstances are as follows:

10. On or about March 25, 2021, the Board received a complaint which alleged that Respondent prescribed medications to a patient without having first examined the patient. The patient later died. The Board opened an investigation into the alleged prescribing violation.

1 11. Respondent was a primary care physician who served as the medical director of
2 various skilled nursing facilities, elder care facilities, convalescent centers, and independent
3 living facilities throughout Southern California, from Bakersfield to San Diego.

4 12. As part of the Board's investigation of the alleged prescribing violation, decedent's
5 medical records were sought from Respondent's office. A certificate of no records was received,
6 although the decedent's family had medication bottles dispensed to the decedent listing
7 Respondent as the prescribing physician.

8 13. Also as part of the Board's investigation, Respondent was contacted through his
9 attorney for an interview. Respondent's counsel advised that Respondent was unable to be
10 interviewed due to his medical condition.

11 14. Respondent provided the Board with a declaration, under penalty of perjury, from his
12 treating neurologist, Dr. Lance J. Lee, which states that Respondent is suffering from a very
13 advanced stage of Alzheimer's dementia, based on clinical and radiographic evaluation. During
14 Dr. Lee's first evaluation of Respondent, Respondent was unable to answer very simple
15 questions, such as his age, orientation of place or time, or the name of the current president. Dr.
16 Lee expected Respondent's condition to progress over time.

17 15. Dr. Lee further stated that Respondent needed total care at baseline and was
18 wheelchair bound when he was out of bed.

19 16. Dr. Lee also recommended that Respondent limit his contact with others and avoid
20 travel outside his home to minimize potential exposure to COVID-19.

21 17. By reason of the facts set forth in paragraphs 9 through 16, Respondent is subject to
22 disciplinary action under Code sections 820 and 822 in that he suffers from mental and physical
23 disabilities rendering him unsafe to practice medicine.

24 **PRAYER**

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

27 1. Revoking or suspending Physician's and Surgeon's Certificate Number A 36742,
28 issued to Respondent Dhia Alsarraf, M.D.;

1 2. Revoking, suspending or denying approval of Respondent Dhia Alsarraf, M.D.'s
2 authority to supervise physician assistants and advanced practice nurses;

3 3. Ordering Respondent Dhia Alsarraf, M.D., to pay the Board the costs of the
4 investigation and enforcement of this case, and if placed on probation, the costs of probation
5 monitoring; and

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

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8 DATED: JAN 19 2023



REJI VARGHESE
Deputy Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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