

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

In the Matter of the Accusation Against:

Hooshang Tabibian, M.D.

**Physician's and Surgeon's
Certificate No. A 40845**

Respondent.

Case No. 800-2022-092780

DECISION

The attached Stipulated Surrender of License and 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 June 22, 2023.

IT IS SO ORDERED June 15, 2023.

MEDICAL BOARD OF CALIFORNIA



**Reji Varghese
Interim Executive Director**

1 ROB BONTA
Attorney General of California
2 ROBERT MCKIM BELL
Supervising Deputy Attorney General
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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 Accusation Against:

Case No. 800-2022-092780

13 **HOOSHANG TABIBIAN, M.D.**
14 **11611 San Vicente Blvd.**
15 **Los Angeles, CA 90049**

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

16 **Physician's and Surgeon's Certificate**
17 **Number A 40845**

18 Respondent.

19
20 In the interest of a prompt and speedy settlement of this matter, consistent with the public
21 interest and the responsibility of the Medical Board of California of the Department of Consumer
22 Affairs, the parties hereby agree to the following Stipulated Surrender and Disciplinary Order
23 which will be submitted to the Board for approval and adoption as the final disposition of the
24 Accusation No. 800-2022-092780.

25 **PARTIES**

26 1. Reji Varghese (Complainant) is the Interim Executive Director of the Medical Board
27 of California (Board). He brought this action solely in his official capacity and is represented in
28 this matter by Rob Bonta, Attorney General of the State of California, by Wendy Widlus, Deputy

1 Attorney General.

2 2. Hooshang Tabibian, M.D. (Respondent) is represented in this proceeding by attorney
3 Derek F. O'Reilly-Jones, whose address is: Bonne Bridges Mueller O'Keefe & Nichols - Los
4 Angeles, 355 South Grand Ave., Ste. 1750, Los Angeles, CA 90071-1562.

5 3. On or about May 21, 1984, the Board issued Physician's and Surgeon's Certificate
6 No. A 40845 to Hooshang Tabibian, M.D. (Respondent). The Physician's and Surgeon's
7 Certificate was in full force and effect at all times relevant to the charges brought in Accusation
8 No. 800-2022-092780 and will expire on September 20, 2023, unless renewed.

9 **JURISDICTION**

10 4. Accusation No. 800-2022-092780 was filed before the Board, and is currently
11 pending against Respondent. The Accusation and all other statutorily required documents were
12 properly served on Respondent on February 17, 2023. Respondent timely filed his Notice of
13 Defense contesting the Accusation No. 800-2022-092780. A copy of Accusation No. 800-2022-
14 092780 is attached as Exhibit A and incorporated by reference.

15 **ADVISEMENT AND WAIVERS**

16 5. Respondent has carefully read, fully discussed with counsel, and understands the
17 charges and allegations in Accusation No. 800-2022-092780. Respondent also has carefully read,
18 fully discussed with counsel, and understands the effects of this Stipulated Surrender of License
19 and Order.

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

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

28 //

1 **CULPABILITY**

2 8. Respondent admits the truth of each and every charge and allegation in Accusation
3 No. 800-2022-092780, agrees that cause exists for discipline and hereby surrenders his
4 Physician's and Surgeon's Certificate No. A 40845 for the Board's formal acceptance.

5 9. Respondent understands that by signing this stipulation he enables the Board to issue
6 an order accepting the surrender of his Physician's and Surgeon's Certificate without further
7 process.

8 **CONTINGENCY**

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

18 11. The parties understand and agree that Portable Document Format (PDF) and facsimile
19 copies of this Stipulated Surrender of License and Order shall have the same force and effect as
20 the originals.

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

23 **ORDER**

24 **IT IS HEREBY ORDERED** that Physician's and Surgeon's Certificate No. A 40845,
25 issued to Respondent Hooshang Tabibian, M.D., is surrendered and accepted by the Board.

26 1. The surrender of Respondent's Physician's and Surgeon's Certificate and the
27 acceptance of the surrendered license by the Board shall constitute the imposition of discipline
28 against Respondent. This stipulation constitutes a record of the discipline and shall become a part

1 of Respondent's license history with the Board.

2 2. Respondent shall lose all rights and privileges as a Physician and Surgeon in
3 California as of the effective date of the Board's Decision and Order.

4 3. Respondent shall cause to be delivered to the Board his pocket license and, if one was
5 issued, his wall certificate on or before the effective date of the Decision and Order.

6 4. If Respondent ever files an application for licensure or a petition for reinstatement in
7 the State of California, the Board shall treat it as a petition for reinstatement. Respondent must
8 comply with all the laws, regulations and procedures for reinstatement of a revoked or
9 surrendered license in effect at the time the petition is filed, and all of the charges and allegations
10 contained in Accusation No. 800-2022-092780 shall be deemed to be true, correct and admitted
11 by Respondent when the Board determines whether to grant or deny the petition.

12 5. Respondent shall pay the agency its costs of investigation and enforcement in the
13 amount of \$32,783.25 prior to filing a petition for a reinstated license or submitting an application
14 for the issuance of a new or a reinstated license.

15 6. If Respondent should ever apply or reapply for a new license or certification, or
16 petition for reinstatement of a license, by any other health care licensing agency in the State of
17 California, all of the charges and allegations contained in Accusation No. 800-2022-092780, shall
18 be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of
19 Issues or any other proceeding seeking to deny or restrict licensure.

20 //

21 //

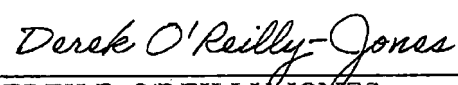
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1 ACCEPTANCE

2 I have carefully read the above Stipulated Surrender of License and Order and have fully
3 discussed it with my attorney Derek F. O'Reilly-Jones. I understand the stipulation and the effect
4 it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Surrender of
5 License and 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: 5/24-23 
9 HOOSHANG TABIBIAN, M.D.
Respondent

10 I have read and fully discussed with Respondent Hooshang Tabibian, M.D. the terms and
11 conditions and other matters contained in this Stipulated Surrender of License and Order. I
12 approve its form and content.

13 DATED: 06/05/2023 
14 DEREK F. O'REILLY-JONES
15 Attorney for Respondent

16 ENDORSEMENT

17 The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted
18 for consideration by the Medical Board of California of the Department of Consumer Affairs.

19 DATED: June 6, 2023

Respectfully submitted,

20 ROB BONTA
21 Attorney General of California
22 ROBERT MCKIM BELL
Supervising Deputy Attorney General

23 

24 WENDY WIDLUS
25 Deputy Attorney General
26 Attorneys for Complainant

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Exhibit A

Accusation No. 800-2022-092780

1 ROB BONTA
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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. 800-2022-092780

13 **HOOSHANG TABIBIAN, M.D.**

A C C U S A T I O N

14 **11611 San Vicente Boulevard**
15 **Los Angeles, CA 90049-5106**

16 **Physician's and Surgeon's Certificate**
17 **No. A 40845,**

Respondent.

18
19
20 **PARTIES**

21 1. Reji Varghese (Complainant) is the Deputy Director of the Medical Board of
22 California (Board). He brought this action solely in his official capacity and is represented in this
23 matter by Rob Bonta, Attorney General of the State of California, by Wendy Widlus, Deputy
24 Attorney General.

25 2. On May 21, 1984, the Board issued Physician's and Surgeon's Certificate Number A
26 40845 to Hooshang Tabibian, M.D. (Respondent). That license was in full force and effect at all
27 times relevant to the charges brought herein and will expire on September 30, 2023, unless
28 renewed.

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 2001.1 of the Code states:

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

5. 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.

6. Section 2227 of the Code states:

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

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

(2) Have his or her right to practice suspended for a period not to exceed one

1 year upon order of the board.

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

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

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

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

15 STATUTORY PROVISIONS

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

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

20 ...

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

22 8. Section 820 of the Code states:

23 Whenever it appears that any person holding a license, certificate or permit
24 under this division or under any initiative act referred to in this division may be
25 unable to practice his or her profession safely because the licentiate's ability to
26 practice is impaired due to mental illness, or physical illness affecting competency,
27 the licensing agency may order the licentiate to be examined by one or more
28 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.

9. 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.

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

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

8 10. Section 11529 of the Government Code states:

9 (a) The administrative law judge of the Medical Quality Hearing Panel
10 established pursuant to Section 11371 may issue an interim order suspending a
11 license, imposing drug testing, continuing education, supervision of procedures,
12 limitations on the authority to prescribe, furnish, administer, or dispense controlled
13 substances, or other license restrictions. Interim orders may be issued only if the
14 affidavits in support of the petition show that the licensee has engaged in, or is about
15 to engage in, acts or omissions constituting a violation of the Medical Practice Act or
16 the appropriate practice act governing each allied health profession, or is unable to
17 practice safely due to a mental or physical condition, and that permitting the licensee
18 to continue to engage in the profession for which the license was issued will endanger
19 the public health, safety, or welfare. The failure to comply with an order issued
20 pursuant to Section 820 of the Business and Professions Code may constitute grounds
21 to issue an interim suspension order under this section.

22 (b) All orders authorized by this section shall be issued only after a hearing
23 conducted pursuant to subdivision (d), unless it appears from the facts shown by
24 affidavit that serious injury would result to the public before the matter can be heard
25 on notice. Except as provided in subdivision (c), the licensee shall receive at least 15
26 days' prior notice of the hearing, which notice shall include affidavits and all other
27 information in support of the order.

28 (c) If an interim order is issued without notice, the administrative law judge
who issued the order without notice shall cause the licensee to be notified of the
order, including affidavits and all other information in support of the order by a 24-
hour delivery service. That notice shall also include the date of the hearing on the
order, which shall be conducted in accordance with the requirement of subdivision
(d), not later than 20 days from the date of issuance. The order shall be dissolved
unless the requirements of subdivision (a) are satisfied.

(d) For the purposes of the hearing conducted pursuant to this section, the
licentiate shall, at a minimum, have the following rights:

(1) To be represented by counsel.

(2) To have a record made of the proceedings, copies of which may be obtained
by the licentiate upon payment of any reasonable charges associated with the record.

(3) To present written evidence in the form of relevant declarations, affidavits,
and documents.

The discretion of the administrative law judge to permit testimony at the
hearing conducted pursuant to this section shall be identical to the discretion of a
superior court judge to permit testimony at a hearing conducted pursuant to Section
527 of the Code of Civil Procedure.

(4) To present oral argument.

(e) Consistent with the burden and standards of proof applicable to a preliminary injunction entered under Section 527 of the Code of Civil Procedure, the administrative law judge shall grant the interim order if, in the exercise of discretion, the administrative law judge concludes that:

(1) There is a reasonable probability that the petitioner will prevail in the underlying action.

(2) The likelihood of injury to the public in not issuing the order outweighs the likelihood of injury to the licensee in issuing the order.

(f) In all cases in which an interim order is issued, and an accusation or petition to revoke probation is not filed and served pursuant to Sections 11503 and 11505 within 30 days of the date on which the parties to the hearing on the interim order have submitted the matter, the order shall be dissolved.

Upon service of the accusation or petition to revoke probation the licensee shall have, in addition to the rights granted by this section, all of the rights and privileges available as specified in this chapter. If the licensee requests a hearing on the accusation, the board shall provide the licensee with a hearing within 30 days of the request, unless the licensee stipulates to a later hearing, and a decision within 15 days of the date the decision is received from the administrative law judge, or the board shall nullify the interim order previously issued, unless good cause can be shown by the Division of Medical Quality for a delay.

(g) If an interim order is issued, a written decision shall be prepared within 15 days of the hearing, by the administrative law judge, including findings of fact and a conclusion articulating the connection between the evidence produced at the hearing and the decision reached.

(h) Notwithstanding the fact that interim orders issued pursuant to this section are not issued after a hearing as otherwise required by this chapter, interim orders so issued shall be subject to judicial review pursuant to Section 1094.5 of the Code of Civil Procedure. The relief that may be ordered shall be limited to a stay of the interim order. Interim orders issued pursuant to this section are final interim orders and, if not dissolved pursuant to subdivision (c) or (f), may only be challenged administratively at the hearing on the accusation.

(i) The interim order provided for by this section shall be:

(1) In addition to, and not a limitation on, the authority to seek injunctive relief provided for in the Business and Professions Code.

(2) A limitation on the emergency decision procedure provided in Article 13 (commencing with Section 11460.10) of Chapter 4.5.

COST RECOVERY

11. Section 125.3 of the Code states:

(a) Except as otherwise provided by law, in any order issued in resolution of a disciplinary proceeding before any board within the department or before the Osteopathic Medical Board, upon request of the entity bringing the proceeding, the

1 administrative law judge may direct a licensee found to have committed a violation or
2 violations of the licensing act to pay a sum not to exceed the reasonable costs of the
3 investigation and enforcement of the case.

4 (b) In the case of a disciplined licensee that is a corporation or a partnership, the
5 order may be made against the licensed corporate entity or licensed partnership.

6 (c) A certified copy of the actual costs, or a good faith estimate of costs where
7 actual costs are not available, signed by the entity bringing the proceeding or its
8 designated representative shall be prima facie evidence of reasonable costs of
9 investigation and prosecution of the case. The costs shall include the amount of
10 investigative and enforcement costs up to the date of the hearing, including, but not
11 limited to, charges imposed by the Attorney General.

12 (d) The administrative law judge shall make a proposed finding of the amount
13 of reasonable costs of investigation and prosecution of the case when requested
14 pursuant to subdivision (a). The finding of the administrative law judge with regard
15 to costs shall not be reviewable by the board to increase the cost award. The board
16 may reduce or eliminate the cost award, or remand to the administrative law judge if
17 the proposed decision fails to make a finding on costs requested pursuant to
18 subdivision (a).

19 (e) If an order for recovery of costs is made and timely payment is not made as
20 directed in the board's decision, the board may enforce the order for repayment in any
21 appropriate court. This right of enforcement shall be in addition to any other rights
22 the board may have as to any licensee to pay costs.

23 (f) In any action for recovery of costs, proof of the board's decision shall be
24 conclusive proof of the validity of the order of payment and the terms for payment.

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

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

(h) All costs recovered under this section shall be considered a reimbursement
for costs incurred and shall be deposited in the fund of the board recovering the costs
to be available upon appropriation by the Legislature.

(i) Nothing in this section shall preclude a board from including the recovery of
the costs of investigation and enforcement of a case in any stipulated settlement.

(j) This section does not apply to any board if a specific statutory provision in
that board's licensing act provides for recovery of costs in an administrative
disciplinary proceeding.

DEFINITIONS

12. The American Psychiatric Association's *Diagnostic and Statistical Manual of Mental*

1 *Disorders*, 5th Edition (DSM-5) is used to diagnose and classify mental disorders. It is compiled
2 by international experts in all aspects of mental health and is used to diagnose and classify mental
3 disorders. This work is the authoritative resource practitioners use to define and classify mental
4 disorders to improve diagnoses, treatment, and research.

5 13. According to the DSM-5, Mild Neurocognitive Disorder is defined by a noticeable
6 decrement (i.e., reduction) in cognitive functioning that goes beyond normal changes seen in
7 aging. Mild neurocognitive disorder typically presents as a marked decline in cognitive
8 functioning and significant impairment in cognitive performance. Mild neurocognitive disorder
9 should be referred for standardized neuropsychological testing and is diagnosed based on
10 evidence of cognitive decline and reduction in performance of cognitive tasks. The test results
11 should be compared with those deemed normal for the age, educational level, and cultural
12 background of the patient.

13 **FACTUAL ALLEGATIONS**

14 14. Respondent is subject to disciplinary action under section 822 of the Code in that he
15 is unable to practice his profession safely because his ability to practice is impaired due to mental
16 illness, or physical illness affecting his competency. The circumstances are as follows:

17 15. On January 26, 2017, the Superior Court of Los Angeles issued an Order prohibiting
18 the Respondent's practice of medicine. On August 29, 2018, the Board filed an Accusation
19 against Respondent, and on October 4, 2018, the Board filed a First Amended Accusation Case
20 No. 800-2015-016954 against Respondent. The following factual circumstances in paragraphs 16
21 through 18 support these actions.

22 16. The Respondent was employed as a physician by a medical spa practice to examine
23 patients seeking various medical procedures, including filler injections, laser hair removal, laser
24 vascular treatment, vascular treatment, sclerotherapy injection for varicose veins, and acne
25 treatment. Each of these procedures is defined as the practice of medicine and requires a
26 physician to provide the treatments instead of an unlicensed person. After Respondent examined
27 patients, he referred them to an unlicensed cosmetologist at the medical spa practice who
28 performed the medical procedures required to be performed by a licensed physician and surgeon.

1 17. As a result of Respondent's referral of patients to an unlicensed person, it was alleged
2 in the First Amended Accusation in case number 800-2015-016954 that Respondent aided and
3 abetted the unlicensed practice of medicine, committed gross negligence, repeated negligent acts,
4 dishonest or corrupt acts, and unprofessional conduct.

5 18. On October 18, 2019, while represented by counsel, Respondent entered prima facie
6 admissions to all of the charges alleged in the First Amended Accusation in Case No. 800-2015-
7 016954.

8 19. On December 13, 2019, the Board's Decision In the Matter of the First Amended
9 Accusation in Case No. 800-2015-016954 became effective. The Decision placed Respondent on
10 five years' probation under certain terms and conditions that were explained to and accepted by
11 Respondent.

12 20. Due to COVID-19 restrictions, Respondent's original probation inspector conducted
13 phone interviews of Respondent to discuss his compliance with the terms and conditions of his
14 probation in the above matter. On May 20, 2022, Respondent's new Board probation inspector
15 went to Respondent's office and conducted her first quarterly probation interview with
16 Respondent.

17 21. During the new probation inspector's interview with Respondent, the inspector
18 became concerned about Respondent's cognitive ability as Respondent appeared to her to be
19 "confused, slow of speech, slow to answer. . ." The inspector noticed Respondent was having a
20 hard time understanding her questions, took a long time to answer her questions, and spoke very
21 slowly when he did respond. The inspector was not aware that any previous similar issues had
22 occurred with Respondent during his probationary period.

23 22. Respondent struggled to answer the inspector's question about whether he had
24 completed his community service hours.

25 23. The inspector thought it was very odd that Respondent could not remember doing his
26 community service as it was a major requirement of his probation, and he had allegedly finished it
27 very quickly, completing twelve hours of community service a week during a three-month period
28 in 2021.

1 24. Probation records indicated Respondent completed one hundred and fifty hours of
2 community service from August 5, 2021, to October 28, 2021, in six-hour blocks every Tuesday
3 and Thursday.

4 25. The inspector specifically asked Respondent if he had performed the community
5 service required by his probation. Respondent stated he had not and did not know why. The
6 inspector spoke with Respondent's office manager and asked if Respondent had performed his
7 community service. Respondent's office manager said Respondent had, in fact, completed all of
8 his community service and that she would provide documentation to the inspector. When the
9 inspector again asked Respondent if he remembered doing any community service during the last
10 year, he stated he did not remember doing any community service.

11 26. Respondent ultimately agreed to be examined by a psychiatrist. On October 24,
12 2022, the psychiatrist retained by the Board to conduct the voluntary mental examination of
13 Respondent examined Respondent at the psychiatrist's office to determine whether he exhibited
14 any condition which could interfere with his ability to practice medicine safely. Subsequently,
15 the psychiatrist prepared a report expressing his views regarding the diagnosis of Respondent,
16 based upon his examination.

17 27. According to the psychiatrist's report, the examination of Respondent was comprised
18 of a clinical interview, psychological testing, the psychiatrist's direct observations, and a review
19 of records. Following the examination, the psychiatrist believed that Respondent did not need to
20 undergo a physical examination to rule out a physical illness.

21 28. However, the psychiatrist did conclude that the Respondent met the criteria for the
22 diagnosis of Mild Neurocognitive Disorder under the *Diagnostic and Statistical Manual of*
23 *Mental Disorders*, 5th Edition (DSM-5). Respondent's neurocognitive disorder diagnosis meant
24 Respondent's cognitive domains of complex attention, learning and memory, language, and social
25 cognition are affected by this disorder. Consequently, the psychiatrist opined Respondent is
26 unable to practice medicine safely at this time due to the neurocognitive disorder. Therefore, his
27 continued practice of medicine poses a danger to public health, welfare, and safety.

28 29. Based on the above facts on January 13, 2023, the Board filed a petition for issuance

1 of an Interim Suspension Order (ISO petition) pursuant to Government Code section 11529, with
2 the Office of Administrative Hearings (OAH) in Los Angeles.

3 30. On February 3, 2023, the ISO petition was heard via videoconference by OAH
4 Administrative Law Judge (ALJ) Julie Cabos-Owen. Deputy Attorney General (DAG) Widlus,
5 represented Petitioner and attorney Derek O'Reilly-Jones represented Respondent.

6 31. The ALJ read and considered both sides' filed papers supporting and opposing the
7 ISO petition, heard testimony from the Board's expert psychiatrist, and argument from both sides
8 at the noticed hearing which was then submitted on February 3, 2023.

9 32. On February 8, 2023, the ALJ's Order granting the Board's ISO petition was issued.
10 In the ALJ's Order the ALJ found that Respondent's expert's materials recommended Respondent
11 undergo a PET/MRI of his brain to help determine any intracranial and functional abnormalities
12 that would explain his Major Neurocognitive Disorder; undergo a full physical examination to
13 further assess his health status; should undergo peer review, now and every three months until he
14 retires from his practice; review of a random proportion of his charts, and reduce his patient
15 volume down to 50% of his prior practice.

16 33. The ALJ found that Respondent's expert's materials did not adequately explain how
17 these recommendations would ensure Respondent could practice medicine safely, despite
18 Respondent's cognitive impairment and likely continued decline.

19 34. The ALJ found that the Board's expert psychiatrist testified credibly at the hearing
20 when he opined that Respondent's expert's materials and recommendations of chart review and
21 reduced patient volume are insufficient to protect public safety. The Board's expert psychiatrist
22 noted that periodic chart review is focused on proper recordkeeping and cannot necessarily detect
23 whether a physician is practicing safely. The Board's expert psychiatrist also noted that, given
24 Respondent's cognitive decline, reducing his patient volume to even one percent does not make
25 patients safer and insisted Respondent's patient case load should be zero because he cannot safely
26 practice medicine

27 35. In the ALJ's Order granting the Board's ISO petition, the ALJ stated that both
28 evaluators diagnosed Respondent with mild cognitive impairment and that given the consensus

1 regarding Respondent's mental condition and its effect on his ability to practice medicine safely,
2 there is a reasonable probability that Petitioner will prevail in the underlying action.

3 36. In the ALJ's Order granting the Board's ISO petition, the ALJ stated that the evidence
4 established the likelihood of injury to the public in not issuing an interim order outweighs the
5 likelihood of injury to the licensee in issuing an interim order of suspension.

6 37. In the ALJ's Order granting the Board's ISO petition, the ALJ stated under the
7 applicable law the Board is not required to wait until actual patient harm occurs and therefore the
8 issuance of the interim order of suspension is necessitated by the Board's priority of public
9 protection.

10 **FIRST CAUSE FOR DISCIPLINE**

11 **(Mental Illness or Physical Illness Affecting Competence)**

12 **(Bus. & Prof. Code, § 822)**

13 38. Respondent Hooshang Tabibian, M.D. is subject to disciplinary action under section
14 822 of the Code in that Respondent is unable to practice his profession safely because his ability
15 to practice medicine is impaired due to mental illness, or physical illness affecting competency.
16 The circumstances are as follows:

17 39. The complainant re-alleges paragraphs 14 through 37, inclusive above, as
18 incorporated by reference as if fully set forth herein.

19 **SECOND CAUSE FOR DISCIPLINE**

20 **(Conduct Warranting Denial of a Certificate)**

21 **(Bus. & Prof. Code, § 2234, subd. (f))**

22 40. Respondent Hooshang Tabibian, M.D. is subject to disciplinary action under Code
23 section under section 2234, subdivision (f), in that he engaged in action or conduct that would
24 have warranted the denial of a certificate. The circumstances are as follows:

25 41. Complainant re-alleges paragraphs 14 through 37, inclusive above, as incorporated by
26 reference as if fully set forth herein.

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DISCIPLINARY CONSIDERATIONS

42. To determine the degree of discipline, if any, to be imposed on Respondent Hooshang Tabibian, M.D., Complainant alleges that on January 26, 2017, in the Superior Court of California, Los Angeles County, in Case No. GD02106, the Court granted an order sought by the Board under Penal Code Section 23, and prohibited Respondent from practicing medicine in California, as a condition of bail.

43. To determine the degree of discipline, if any, to be imposed on Respondent Hooshang Tabibian, M.D., Complainant alleges that on August 29, 2018, the Board filed an accusation against Respondent (*In the Matter of the Accusation Against Hooshang Tabibian, M.D.*, Case No. 800-2015-016954.)

44. To determine the degree of discipline, if any, to be imposed on Respondent Hooshang Tabibian, M.D., Complainant alleges that on October 4, 2018, the Board filed a first amended accusation against the Respondent. (*In the Matter of the First Amended Accusation Against Hooshang Tabibian, M.D.*, Case No. 800-2015-016954.) On November 13, 2019, the Board issued a Decision that revoked Respondent's license, stayed the revocation, and placed Respondent on five years' probation under various terms and conditions. (*In the Matter of the First Amended Accusation Against Hooshang Tabibian, M.D.*, case no. 800-2015-016954.) 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 Medical Board of California issue a decision:

1. Revoking or suspending Physician's and Surgeon's Certificate Number A 40845, issued to Hooshang Tabibian, M.D.;
2. Revoking, suspending or denying approval of Hooshang Tabibian, M.D.'s authority to supervise physician assistants and advanced practice nurses;
3. Ordering Hooshang Tabibian, M.D., to pay the Board the costs of the investigation and enforcement of this case and if placed on probation, the costs of probation monitoring; and
4. Taking such other and further action as deemed necessary and proper.

DATED: FEB 17 2023


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

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