

By: Kimberly Kirchmeyer
Kimberly Kirchmeyer
Interim Executive Director

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7 *Attorneys for Complainant*

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

12 In the Matter of the Accusation Against:

Case No. 16-2013-229396

13 **ABOLGHASSEM MASUD GOHARI, M.D.,**
14 5915 Greenbelt Rd.
College Park, MD 20740

**STIPULATED SURRENDER OF
LICENSE**

15
16 Physician's and Surgeon's
Certificate No. C50604

17 Respondent.
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19 IT IS HEREBY STIPULATED AND AGREED by and between the parties in this
20 proceeding that the following matters are true:

21 1. Kimberly Kirchmeyer (Complainant) is the Interim Executive Director of the Medical
22 Board of California. This action has at all times been maintained solely in the official capacity of
23 the Executive Director of the Medical Board of California (Board), who is represented in this
24 matter by Kamala D. Harris, Attorney General of the State of California, by Jane Zack Simon,
25 Deputy Attorney General.
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2. Abolghassem Masud Gohari, M.D.¹ (Respondent) is representing himself in this proceeding.

3. Respondent has received, read and understands the Accusation which is presently on file and pending in case number 16-2013-229396 (Accusation) a copy of which is attached as Exhibit A.

4. Respondent has carefully read and understands the charges and allegations in the Accusation. Respondent also has carefully read and understands the effects of this Stipulated Surrender of License.

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

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

7. Respondent agrees that based on the action taken by the Maryland State Board of Physicians as alleged in the Accusation, cause exists to discipline his California physician's and surgeon's certificate pursuant to Business and Professions Code sections 141 and 2305. Respondent has retired from the practice of medicine, has no plans to practice in California and wishes to surrender his California license at this time.

8. Pursuant to section 2224(b) of the Business and Professions Code, this Stipulation for Surrender of License shall be subject to the approval of the Board. Respondent understands and agrees that the Medical Board's staff and counsel for complainant may communicate directly with

¹ The Accusation incorrectly spells Respondent's first name. The correct spelling of Respondent's name is Abolghassem Masud Gohari, M.D.

1 the Board regarding this stipulation and settlement, without notice to or participation by
2 Respondent. By signing this stipulation, Respondent understands and agrees that he may not
3 withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers
4 and acts upon it. In the event that this stipulation is rejected for any reason by the Board, it will
5 be of no force or effect for either party. The Board will not be disqualified from further action in
6 this matter by virtue of its consideration of this stipulation.

7 9. Upon acceptance of this stipulation by the Board, Respondent understands that he
8 will no longer be permitted to practice as a physician and surgeon in California, and also agrees to
9 surrender and cause to be delivered to the Board any license and wallet certificate in his
10 possession before the effective date of the decision.

11 10. The admissions made by Respondent herein are only for the purposes of this
12 proceeding, or any other proceedings in which the Medical Board or other professional licensing
13 agency is involved, and shall not be admissible in any other criminal or civil proceeding.

14 11. Respondent fully understands and agrees that if he ever files an application for
15 relicensure or reinstatement in the State of California, the Board shall treat it as a petition for
16 reinstatement, and Respondent must comply with all laws, regulations and procedures for
17 reinstatement of a revoked license in effect at the time the petition is filed.

18 12. Respondent understands that he may not petition for reinstatement as a physician and
19 surgeon for a period of three (3) years from the effective date of his surrender. Information
20 gathered in connection with Accusation number 16-2013-229396 may be considered by the Board
21 in determining whether or not to grant the petition for reinstatement. For the purposes of the
22 reinstatement hearing, the allegations contained in Accusation number 16-2013-229396 shall be
23 deemed to be admitted by Respondent, and Respondent waives any and all defenses based on a
24 claim of laches or the statute of limitations.

25 13. The parties understand and agree that facsimile or electronic copies of this Stipulated
26 Surrender of License, including facsimile or electronic signatures thereto, shall have the same
27 force and effect as the originals.

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ACCEPTANCE

I have carefully read the above Stipulated Surrender of License. I enter into it freely and voluntarily and with full knowledge of its force and effect, do hereby surrender my Physician and Surgeon's Certificate Number C50604 to the Medical Board of California, for its formal acceptance. By signing this stipulation to surrender my license, I recognize that upon its formal acceptance by the Board, I will lose all rights and privileges to practice as a physician and surgeon in the State of California and I also will cause to be delivered to the Board any license and wallet certificate in my possession before the effective date of the decision.

DATED: Nov-21, 2013

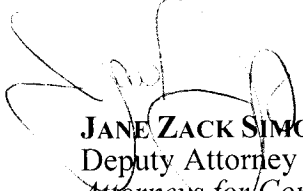

ABOLGHASSEM MASUD GOHARI, M.D.
Respondent

ENDORSEMENT

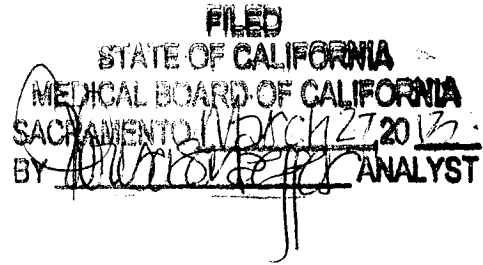
The foregoing Stipulated Surrender of License is hereby respectfully submitted for consideration by the Medical Board of California.

Dated: 12/4/13

KAMALA D. HARRIS
Attorney General of California


JANE ZACK SIMON
Deputy Attorney General
Attorneys for Complainant

1 KAMALA D. HARRIS
Attorney General of California
2 JOSE R. GUERRERO
Supervising Deputy Attorney General
3 JANE ZACK SIMON (SBN 116564)
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6 E-mail: Janezack.simon@doj.ca.gov



7 *Attorneys for Complainant*
8 *Medical Board of California*

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

13 In the Matter of the Accusation Against:

Case No. 16-2013-229396

14 **ABOLGHASSEN MASUD GOHARI, M.D.**
15 5915 Greenbelt Road
College Park, MD 20740
16 Physician's and Surgeon's
Certificate No. C50604

A C C U S A T I O N

17 Respondent.

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19 The Complainant alleges:

20 1. Linda K. Whitney (Complainant) is the Executive Director of the Medical
21 Board of California, Department of Consumer Affairs, and brings this Accusation solely in her
22 official capacity.

23 2. On June 20, 2001, Physician's and Surgeon's Certificate No. C50604 was
24 issued by the Medical Board of California to Abolghassen Masud Gohari, M.D. (Respondent).
25 Said certificate is renewed and current with an expiration date of October 31, 2014.

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1 **JURISDICTION**

2 3. This Accusation is brought before the Medical Board of California¹, (the
3 Board) under the authority of the following sections of the California Business and Professions
4 Code (Code) and/or other relevant statutory enactment:

5 A. Section 2227 of the Code provides in part that the Board may
6 revoke, suspend for a period not to exceed one year, or place on probation, the license of any
7 licensee who has been found guilty under the Medical Practice Act, and may recover the costs of
8 probation monitoring.

9 B. Section 2305 of the Code provides, in part, that the revocation,
10 suspension, or other discipline, restriction or limitation imposed by another state upon a license to
11 practice medicine issued by that state, that would have been grounds for discipline in California
12 under the Medical Practice Act, constitutes grounds for discipline for unprofessional conduct.

13 C. Section 141 of the Code provides:

14 “(a) For any licensee holding a license issued by a board
15 under the jurisdiction of a department, a disciplinary action taken by another state, by any
16 agency of the federal government, or by another country for any act substantially related
17 to the practice regulated by the California license, may be ground for disciplinary action
18 by the respective state licensing board. A certified copy of the record of the disciplinary
19 action taken against the licensee by another state, an agency of the federal government, or
20 by another country shall be conclusive evidence of the events related therein.

21 “(b) Nothing in this section shall preclude a board from
22 applying a specific statutory provision in the licensing act administered by the board that
23 provides for discipline based upon a disciplinary action taken against the licensee by
24 another state, an agency of the federal government, or another country.”
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26 _____
27 ¹. The terms “Board” and “Division” or “Division of Medical Quality” mean the Medical
28 Board of California.

FIRST CAUSE FOR DISCIPLINE

(Discipline, Restriction, or Limitation Imposed by Another State)

4. On December 19, 2012, the Maryland State Board of Physicians issued a Consent Order regarding Respondent's license to practice medicine in Maryland. The Consent Order contains factual findings that Respondent, who is board certified in obstetrics and gynecology, engaged in unprofessional conduct, practiced with an unauthorized person or aided an unauthorized person in the practice of medicine, and impermissibly delegated medical acts to unlicensed office staff persons. Patient A went to Respondent's office for an elective medical abortion. Respondent was not present and had no contact with Patient A. A medical assistant performed a sonogram to determine gestational age and provided Patient A with mifepristone, a drug used to induce early medical abortion. Patient A had misgivings about taking the medication in the absence of a physician, and sought treatment from another physician. When Patient A. called Respondent the next day to obtain a refund of the money she paid, Respondent became irate and yelled at her. Patient B. visited Respondent's office for a surgical abortion. Neither Respondent nor his office staff provided Patient B any direct counseling about the procedure. When Patient B became upset and began to cry, Respondent became belligerent, abusive and yelled at her. Respondent's Maryland license was reprimanded, and he was placed on probation for a minimum of one year. He was required to pay a civil fine and to complete a course of "significant duration" in appropriate physician-patient relations and communication. Respondent shall not permit any unlicensed medical personnel to practice medicine in his office; he must ensure that all sonograms are reviewed by a licensed physician prior to performing any medical abortion services; and he must personally advise all patients of the risks, benefits and alternatives to medical abortions services in obtaining their informed consent. A copy of the Consent Order issued by the Maryland Board of Physicians is attached as Exhibit A.

5. Respondent's conduct and the action of the Maryland Board of Physicians as set forth in paragraph 4, above, constitute unprofessional conduct within the meaning of section 2305 and conduct subject to discipline within the meaning of section 141(a).

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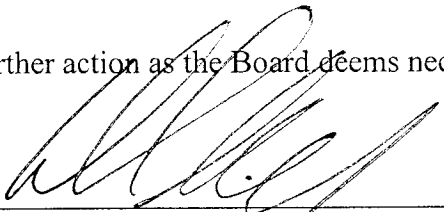
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PRAYER

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

1. Revoking or suspending Physician's and Surgeon's Certificate Number C50604 issued to respondent Abolghassen Masud Gohari, M.D.;
2. Revoking, suspending or denying approval of Respondent's authority to supervise physician assistants;
3. Ordering Respondent, if placed on probation, to pay the costs probation monitoring; and
4. Taking such other and further action as the Board deems necessary and proper.

DATED: March 27, 2013



LINDA K. WHITNEY
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California

Complainant

EXHIBIT A

IN THE MATTER OF	*	BEFORE THE
ABOLGHASSEM M. GOHARI, M.D.	*	MARYLAND STATE
Respondent	*	BOARD OF PHYSICIANS
License Number: D18165	*	Case Numbers: 2009-0573 2011-0509

* * * * *

CONSENT ORDER

PROCEDURAL BACKGROUND

On August 8, 2012, the Maryland State Board of Physicians (the "Board") charged Abolghassem M. Gohari, M.D. (the "Respondent") (D.O.B. 10/06/1941), License Number D18165, under the Maryland Medical Practice Act (the "Act"), Md. Health Occ. Code Ann. ("H.O.") §§ 14-101 *et seq.* (2009 Repl. Vol.); and the Code of Maryland Regulations ("COMAR") tit. 10, § 32.12 *et seq.*

Specifically, the Board charged the Respondent with violating the following provisions of the Act under H.O. § 14-404, which provide the following:

(a) *In general.* -- Subject to the hearing provisions of § 14-405 of this subtitle, the Board, on the affirmative vote of a majority of the quorum, may reprimand any licensee, place any licensee on probation, or suspend or revoke a license if the licensee:

(3) Is guilty of: (ii) unprofessional conduct in the practice of medicine; [and/or]

(18) Practices medicine with an unauthorized person or aids an unauthorized person in the practice of medicine.

The pertinent provisions under COMAR 10.32.12 provide the following:

10.32.12.04 Scope of Delegation.

E. A physician may not delegate to an assistant acts which include but are not limited to:

- (1) Conducting physical examinations;
- (2) Administering any form of anesthetic agent or agent of conscious sedation other than topical anesthetics or small amounts of local anesthetics;
- (3) Initiating independently any form of treatment, exclusive of cardiopulmonary resuscitation;
- (4) Dispensing medications;
- (5) Giving medical advice without the consult of a physician[.]

10.32.12.05 Prohibited Conduct.

B. A delegating physician, through either act or omission, facilitation, or otherwise enabling or forcing an assistant to practice beyond the scope of this chapter, may be subject to discipline for grounds within Health Occupations Article, § 14-404(a), Annotated Code of Maryland, including, but not limited to, practicing medicine with an unauthorized person or aiding an unauthorized person in the practice of medicine.

On November 7, 2012, a Case Resolution Conference was convened in this matter. Based on negotiations occurring as a result of this Case Resolution Conference, the Respondent agreed to enter into this Consent Order, consisting of Procedural Background, Findings of Fact, Conclusions of Law, Order, and Consent.

FINDINGS OF FACT

The Board finds the following:

BACKGROUND FINDINGS

1. At all times relevant hereto, the Respondent was and is licensed to practice medicine in the State of Maryland. The Respondent was originally licensed to practice medicine in Maryland on July 24, 1975, under License Number D18165. The Respondent's license is current through September 30, 2012.

2. The Respondent is board-certified in obstetrics and gynecology.

3. The Respondent maintains professional offices at the following locations: 5915 Greenbelt Road, Berwyn Heights, Maryland 20740; 5625 Allentown Road, Suite 203, Suitland, Maryland 20746 (the "Suitland office"); and 9063 Shady Grove Court, Gaithersburg, Maryland 20877 (the "Gaithersburg office").

4. The Board initiated an investigation of the Respondent after receiving two complaints from former patients. The Board investigated the first complaint under Case Number 2009-0573. The Board investigated the second complaint under Case Number 2011-0509.

5. The Board's investigation determined that in Case Number 2009-0573, the Respondent: engaged in unprofessional conduct in the practice of medicine; practiced medicine with an unauthorized person or aided an unauthorized person in the practice of medicine; and impermissibly delegated medical acts to unlicensed office staff persons, in violation of the Act and Board regulations.

6. The Board's investigation determined that in Case Number 2011-0509, the Respondent engaged in unprofessional conduct in the practice of medicine, in violation of the Act.

7. The Board's investigative findings are set forth *infra*.

Case Number 2009-0573

8. In Case Number 2009-0573, the complainant ("Patient A")¹ alleged that the Respondent was allowing medical assistants to perform medical abortions.

¹ To ensure confidentiality, patient names will not be identified in this Consent Order. The Respondent is aware of the identity of all individuals who are referenced herein.

9. Patient A reported that she went to the Respondent's Gaithersburg office on January 22, 2009, to undergo an elective medical abortion. Patient A reported that the Respondent was not present and had no contact with her while she was present at the Gaithersburg office on this date.

10. Patient A reported that a medical assistant had her fill out a number of forms, after which the medical assistant performed a sonogram to determine the gestational age of her fetus. Patient A stated that she asked the medical assistant if she was qualified to make this assessment, to which the medical assistant stated she "does it all the time." Patient A then asked the medical assistant if there was a physician present, to which the medical assistant stated that he was "around the corner." Patient A then stated that the medical assistant gave her a small cup containing the RU-486 pill (mifepristone, a drug that is used to induce early medical abortions). Patient A refused to take the medication, having misgivings about taking it in the Respondent's absence.

11. Patient A reported that she went to another physician's office the next day, who assessed her as having a gestational age pregnancy requiring a surgical abortion. Patient A then telephoned the Respondent to obtain a refund of the money she paid for her January 22, 2009, visit, since she did not have the procedure performed. In response, the Respondent became irate, started yelling at Patient A, and used profanity when speaking to her.

12. Board investigators subsequently interviewed the Respondent about this incident. The Respondent admitted that he permitted his unlicensed medical assistant to perform the sonogram and administer the RU-486 pill to Patient A in his absence.

The Respondent stated that he permits his medical assistants to do this one-to-two percent of the time for patients who seek medical abortions in his office. The Respondent admitted that he did "lose his temper" when speaking to Patient A by telephone.

13. The Respondent's actions, as described above, constitute a violation of the following provisions of the Act: unprofessional conduct in the practice of medicine, in violation of H.O. § 14-404(a)(3)(ii); and practicing medicine with an unauthorized person or aiding an unauthorized person in the practice of medicine, in violation of H.O. § 14-404(a)(18). The Respondent's actions, as described above, constitute a violation of the following regulations: COMAR 10.32.12.04 and 10.32.12.05. The Respondent practiced with an unauthorized person, his medical assistant, and aided his medical assistant, who is not licensed to practice medicine in the State of Maryland, in the practice of medicine. The Respondent permitted his medical assistant to perform non-delegable tasks, including performing a physical examination, initiating independently a form of treatment, dispensing medications, and giving medical advice. The Respondent violated the Act and its regulations by his practice of permitting unlicensed medical assistants to perform non-delegable tasks in his absence.

Case Number 2011-0509

14. In Case Number 2011-0509, the complainant ("Patient B") reported that the Respondent and his staff engaged in unprofessional conduct in the practice of medicine when she visited his office on January 15, 2011, to undergo a surgical abortion. Patient B reported that on this date, office staff did not give her any direct counseling about the procedure. Instead, they gave her explanatory paperwork.

Patient B reported that prior to the initiation of the procedure while she was on the operating table, she became upset and began to cry. In response, the Respondent became belligerent, abusive and started yelling at her. At one point, the Respondent left the operating room and audibly uttered profanity when speaking to a medical assistant. The Respondent then finished the surgery, after which a staff person performed a post-operative sonogram. Patient B reported that she was instructed to come for a follow-up visit but refused to do so because of the Respondent's verbal abusiveness.

15. The Respondent's conduct towards Patient B, which included belligerent, abusive and insensitive behavior, constitutes unprofessional conduct in the practice of medicine, in violation of H.O. § 14-404(a)(3)(ii).

CONCLUSIONS OF LAW

Based on the above Findings of Fact, the Board finds as a matter of law that the Respondent violated the following provisions of the Medical Practice Act: is guilty of unprofessional conduct in the practice of medicine, in violation of H.O. § 14-404(a)(3)(ii); and practicing medicine with an unauthorized person or aiding an unauthorized person in the practice of medicine, in violation of H.O. § 14-404(a)(18).

Based on the above Findings of Fact, the Board finds as a matter of law that the Respondent violated COMAR 10.32.12.04 and 10.32.12.05.

ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law, it is this 19th day of December, 2012, by an affirmative vote of a majority of a quorum of the Board considering this case:

ORDERED that the Respondent is hereby **REPRIMANDED**; and it is further

ORDERED that the Respondent shall be placed on **PROBATION** for a minimum period of **ONE (1) YEAR**, to commence on the date the Board executes this Consent Order, and continuing until he successfully completes the following terms and conditions of probation:

1. Within **one (1) year** of the date the Board executes this Consent Order, the Respondent shall pay a civil fine in the amount of \$10,000.00, by certified check or money order, payable to the Maryland Board of Physicians, P.O. Box 37217, Baltimore, Maryland 21297.

2. Within **six (6) months** of the date the Board executes this Consent Order, the Respondent shall successfully complete a Board-approved course of significant duration in appropriate physician-patient relations and communication. The Respondent shall enroll in this required course within **ninety (90) days** of the date the Board executes this Consent Order. The Respondent shall submit written documentation to the Board regarding the particular course he proposes to fulfill this condition. The Board reserves the right to require the Respondent to provide further information regarding the course he proposes, and further reserves the right to reject his proposed course and require submission of an alternative proposal. The Board will approve a course only if it deems the curriculum and the duration of the course adequate to satisfy its concerns. The Respondent shall be responsible for submitting written documentation to the Board of his successful completion of this course. The Respondent understands and agrees that he may not use this coursework to fulfill any requirements mandated for licensure renewal. The Respondent shall be solely

responsible for furnishing the Board with adequate written verification that he has completed the course according to the terms set forth herein.

3. The Respondent shall practice according to the Maryland Medical Practice Act and in accordance with all applicable laws, statutes, and regulations pertaining to the practice of medicine.

4. The Board reserves the right to conduct a practice review of the Respondent's practice, or may delegate the practice review, to be determined at the discretion of the Board.

5. The Respondent shall not permit any unlicensed medical personnel to practice medicine in his office. Prior to performing any medical abortion services, he will ensure that all sonograms will be reviewed by a licensed physician. The Respondent will also ensure that he will personally advise all patients of the risks, benefits and alternatives to medical abortion services in obtaining their informed consent prior to rendering the services.

AND IT IS FURTHER ORDERED that after the conclusion of the entire **ONE (1) YEAR** period of **PROBATION**, the Respondent may file a written petition to the Board requesting termination of his probation. After consideration of his petition, the probation may be terminated through an order of the Board or designated Board committee. The Respondent may be required to appear before the Board or designated Board committee. The Board, or designated Board committee, will grant the termination if the Respondent has fully and satisfactorily complied with all of the probationary terms and conditions of this Consent Order, including the expiration of the one (1) year period of

probation, and if there are no outstanding complaints related to the charges before the Board; and it is further

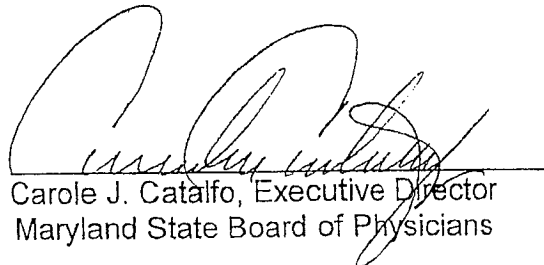
ORDERED that if the Respondent violates any of the terms or conditions of probation or this Consent Order, the Board, in its discretion, after notice and an opportunity for a hearing before an administrative law judge at the Office of Administrative Hearings if there is a genuine dispute as to the underlying material facts, or an opportunity for a show cause hearing before the Board, may impose any other disciplinary sanctions the Board may have imposed, including a reprimand, probation, suspension, revocation and/or a monetary fine, said violation being proven by a preponderance of the evidence; and it is further

ORDERED that the Respondent shall not apply for early termination of probation; and it is further

ORDERED that the Respondent shall be responsible for all costs incurred in fulfilling the terms and conditions of the Consent Order; and it is further

ORDERED that this Consent Order is considered a **PUBLIC DOCUMENT** pursuant to Md. State Gov't. Code Ann. § 10-611 *et seq.* (2009 Repl. Vol. and 2012 Supp.).

12-19-12


Carole J. Catalfo, Executive Director
Maryland State Board of Physicians

CONSENT

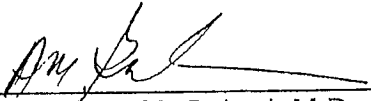
I, Abolghassem M. Gohari, M.D., acknowledge that I have had the opportunity to consult with counsel before signing this document. By this Consent, I agree and accept

to be bound by this Consent Order and its conditions and restrictions. I waive any rights I may have had to contest the Findings of Fact and Conclusions of Law.

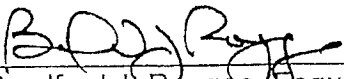
I acknowledge the validity of this Consent Order as if entered into after the conclusion of a formal evidentiary hearing in which I would have had the right to counsel, to confront witnesses, to give testimony, to call witnesses on my own behalf, and to all other substantive and procedural protections as provided by law. I acknowledge the legal authority and the jurisdiction of the Board to initiate these proceedings and to issue and enforce this Consent Order. I also affirm that I am waiving my right to appeal any adverse ruling of the Board that might have followed any such hearing.

I sign this Consent Order after having had an opportunity to consult with counsel, without reservation, and I fully understand and comprehend the language, meaning and terms of this Consent Order. I voluntarily sign this Order, and understand its meaning and effect.

11-14-12
Date


Abolghassem M. Gohari, M.D.
Respondent

Read and approved by:


Bradford J. Roegge, Esquire
Counsel for Dr. Gohari

NOTARY

STATE OF Maryland

CITY/COUNTY OF Fredrick

I HEREBY CERTIFY that on this 14th day of November, 2012, before me, a Notary Public of the State and County aforesaid, personally appeared Abolghessem M. Gohari, M.D., and gave oath in due form of law that the foregoing Consent Order was his voluntary act and deed.

AS WITNESS, my hand and Notary Seal.

Lillian Keenan
Notary Public

My commission expires: 6-16-2013

I HEREBY ATTEST AND CERTIFY UNDER
PENALTY OF PERJURY ON 1-22-13
THAT THE FORGOING DOCUMENT IS A
FULL, TRUE AND CORRECT COPY OF THE
ORIGINAL ON FILE IN MY OFFICE AND
IN MY LEGAL CUSTODY.

[Signature]
EXECUTIVE DIRECTOR
MARYLAND BOARD OF PHYSICIANS