

COMMONWEALTH OF MASSACHUSETTS

Middlesex, SS:

Board of Registration in Medicine

Adjudicatory Case No. 2022-001

In the Matter of

ARASH NIKTARASH, M.D.

CONSENT ORDER

Pursuant to G.L. c. 30A, § 10, Arash Niktarash, M.D. (Respondent) and the Board of Registration in Medicine (Board) (hereinafter referred to jointly as the "Parties") agree that the Board may issue this Consent Order to resolve the above-captioned adjudicatory proceeding. The Parties further agree that this Consent Order will have all the force and effect of a Final Decision within the meaning of 801 CMR 1.01(11)(d). The Respondent admits to the findings of fact specified below and agrees that the Board may make the conclusions of law and impose the sanction set forth below in resolution of investigative Docket No. 20-259.

Findings of Fact

1. The Respondent was born on August 10, 1977. He graduated from Tehran University in 2003. He was first licensed to practice medicine in Massachusetts in 2013 under certificate number 254628. On August 10, 2015, the Respondent's license to practice medicine in Massachusetts first lapsed. He submitted a lapsed license application and was re-licensed on January 11, 2018. On August 10, 2018, the Respondent's license lapsed again, and he has not sought reinstatement.

2. The Respondent holds an active license in Colorado where he currently practices.

3. On May 19, 2020, the Colorado Medical Board disciplined the Respondent for failing to refer a patient with possible cardiac arrhythmia to a cardiologist; and failing to maintain a complete medical record for said patient. See Colorado Medical Board Stipulation and Final Agency Order at Exhibit A and incorporated herein by reference.

Conclusion of Law

A. The Respondent has violated G.L. c. 112, § 5, eighth par. (h) and 243 CMR 1.03(5)(a)12 by having been disciplined in another jurisdiction for reasons substantially the same as those set forth in G.L. c. 112, § 5 and 243 CMR 1.03(5), to wit: The Respondent has violated G.L. c. 112, § 5, eighth par. (h) and 243 CMR 1.03(5)(a)11 by violating a regulation of the Board—to wit, 243 CMR 2.07(13)(a), which requires a physician to: a) maintain a medical record for each patient, which is adequate to enable the licensee to provide proper diagnosis and treatment; and b) maintain a patient's medical record in a manner which permits the former patient or a successor physician access to them.

Sanction and Order

The Respondent is hereby Reprimanded. This sanction is imposed for the violation of law listed in the Conclusion section:

Execution of this Consent Order

Complaint Counsel and the Respondent agree that the approval of this Consent Order is left to the discretion of the Board. The signature of Complaint Counsel, the Respondent, and the Respondent's counsel are expressly conditioned on the Board accepting this Consent Order. If the Board rejects this Consent Order in whole or in part, then the entire document shall be null and void; thereafter, neither of the parties nor anyone else may rely on these stipulations in this proceeding.

As to any matter in this Consent Order left to the discretion of the Board, neither the Respondent, nor anyone acting on her behalf, has received any promises or representations regarding the same.

The Respondent waives any right of appeal that she may have resulting from the Board's acceptance of this Consent Order.

The Respondent shall provide a complete copy of this Consent Order with all exhibits and attachments within ten (10) days by certified mail, return receipt requested, or by hand delivery to the following designated entities: any in- or out-of-state hospital, nursing home, clinic, other licensed facility, or municipal, state, or federal facility at which the Respondent practices medicine; any in- or out-of-state health maintenance organization with whom the Respondent has privileges or any other kind of association; any state agency, in- or out-of-state, with which the Respondent has a provider contract; any in- or out-of-state medical employer, whether or not the Respondent practices medicine there; the state licensing boards of all states in which the Respondent has any kind of license to practice medicine; the Drug Enforcement Administration Boston Diversion Group; and the Massachusetts Department of Public Health Drug Control Program. The Respondent shall also provide this notification to any such designated entities with which the Respondent becomes associated in the year following the date of imposition of this reprimand. The Respondent is further directed to certify to the Board within ten (10) days that the Respondent has complied with this directive.

The Board expressly reserves the authority to independently notify, at any time, any of the entities designated above, or any other affected entity, of any action it has taken.



Arash Niktarash
Licensee

10/20/2021

Date



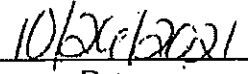
Paul Shaw
Attorney for the Licensee

10/25/2021

Date



James Paikos
Complaint Counsel



Date

So ORDERED by the Board of Registration in Medicine this 6th day of January,
2022.



Board Chair

EXHIBIT A

BEFORE THE COLORADO MEDICAL BOARD

STATE OF COLORADO

CASE NO. 2018-1867-A

STIPULATION AND FINAL AGENCY ORDER

IN THE MATTER OF THE DISCIPLINARY PROCEEDING REGARDING THE LICENSE TO PRACTICE MEDICINE IN THE STATE OF COLORADO OF ARASH H. NIKTARASH, M.D., LICENSE NUMBER DR-55521,

Respondent.

IT IS HEREBY STIPULATED and agreed by and between Inquiry Panel A ("Panel") of the Colorado Medical Board ("Board") and Arash H. Niktarash, M.D. ("Respondent") (collectively, the "Parties") as follows:

JURISDICTION AND CASE HISTORY

1. Respondent was licensed to practice medicine in the state of Colorado on July 2, 2015, and was issued license number DR-55521, which Respondent has held continuously since that date ("License").

2. The Panel and the Board have jurisdiction over Respondent and over the subject matter of this proceeding.

3. On October 10, 2019, the Panel reviewed case number 2018-1867-A and determined that further proceedings by formal complaint were warranted pursuant to Section 12-240-125(4)(c)(V), C.R.S. The Parties have agreed to resolution of this matter prior to referral to the Attorney General.

4. It is the intent of the Parties and the purpose of this Stipulation and Final Agency Order ("Order") to provide for a settlement of all matters set forth in case number 2018-1867-A without the necessity of conducting a formal disciplinary hearing. This Order constitutes the entire agreement between the Parties, and there are no other agreements or promises, written or oral, which modify, interpret, construe or affect this Order.

5. Respondent understands that:

a. Respondent has the right to be represented by an attorney of the Respondent's choice, and Respondent is represented by counsel in this matter;

b. Respondent has the right to a formal complaint and disciplinary hearing pursuant to Sections 12-240-125(4)(c)(V) and 12-240-125(5), C.R.S.;

c. By entering into this Order, Respondent is knowingly and voluntarily giving up the right to a formal complaint and disciplinary hearing, admits the facts contained in this Order, and relieves the Panel of its burden of proving such facts;

d. Respondent is knowingly and voluntarily giving up the right to present a defense by oral and documentary evidence and to cross-examine witnesses who would testify on behalf of the Panel; and

e. Respondent is knowingly and voluntarily waiving the right to seek judicial review of this Order.

FACTUAL BASIS

6. Respondent specifically admits and the Panel finds that:

a. On or about October 30, 2017, Respondent admitted Patient 1 to the Epilepsy Monitoring Unit for evaluation of episodes that the patient had been experiencing for approximately one (1) year.

b. Respondent monitored Patient 1 until the patient's death on or about November 4, 2017.

c. Patient 1 experienced an event on or about October 31, 2017, suggesting the possibility of a cardiac arrhythmia. However, Respondent failed to have Patient 1 evaluated by a cardiologist.

d. Over the course of Patient 1's admission, the patient experienced several other events. Respondent documented his findings related to these events outside of the hospital's recordkeeping system rather than in the patient's daily progress notes.

e. Respondent did not prepare a discharge summary that included Respondent's findings until approximately three (3) weeks after Patient 1's death.

f. Following Patient 1's death, Respondent attempted to review and save the patient data himself rather than following hospital protocol, which required that a technologist archive patient records. As a result, patient data was corrupted and deleted.

7. Respondent admits and the Panel finds that the acts and/or omissions described in the factual basis above constitutes unprofessional conduct pursuant to Section 12-240-121(1)(j), C.R.S., which states:

(1) Unprofessional conduct" as used in this article 240 means:

(j) Any act or omission that fails to meet generally accepted standards of medical practice.

8. Based upon the above, the Parties stipulate that the terms of this Order are authorized by Section 12-240-125(5)(c)(III), C.R.S.

LETTER OF ADMONITION

9. This provision shall constitute a Letter of Admonition as set forth in Sections 12-240-125(4)(c)(IV) and 12-240-125(5)(c)(III), C.R.S. Respondent is hereby admonished for the acts and omissions described in the factual basis above.

10. By entering this Order, Respondent agrees to waive the rights provided by Section 12-20-404(4), C.R.S., to contest this Letter of Admonition.

PROBATIONARY TERMS

11. Respondent's license to practice medicine is hereby placed on probation indefinitely commencing on the effective date of this Order. All terms of probation shall be effective throughout the probationary period and shall constitute terms of this Order.

12. During the probationary period, Respondent agrees to be bound by the terms and conditions set forth below.

PROBE ETHICS PROGRAM

13. On or before January 16, 2020, Respondent shall register for the next available PROBE: Ethics and Boundaries Program ("PROBE") conducted by the Center for Personalized Education for Physicians ("CPEP") and successfully complete the next available PROBE.

14. Respondent shall sign any and all releases necessary to allow CPEP to communicate with the Panel directly. Respondent shall not revoke such releases prior to successful completion and final assessment following completion of PROBE. Any failure to execute such a release or any premature revocation of such a release shall constitute a violation of this Order.

15. In order to successfully complete PROBE, Respondent's participation in the course must be rated as successful, without condition or qualification. The Board in its discretion may impose further remedial coursework if the Respondent receives a conditional pass or negative assessment from CPEP.

16. Respondent shall provide proof of timely and successful completion of PROBE to the Panel within one year of the effective date of this Order.

TOLLING OF THE PROBATIONARY PERIOD

17. If at any time, Respondent ceases the active clinical practice of medicine, defined for the purposes of this Order as evaluating or treating a minimum of five (5) patients per month, the probationary period shall be tolled for the time the Order is in effect and Respondent is not engaged in the active clinical practice of medicine.

18. Respondent must comply with all other terms of the Order and all other terms of probation. Unless otherwise specified, all terms of the Order and all terms of probation shall remain in effect, regardless of whether the probationary period has been tolled, from the effective date of this Order until probation is terminated. The probationary period shall be tolled for any time that Respondent is not in compliance with any term of this Order.

OUT OF STATE PRACTICE

19. Respondent may wish to leave Colorado and practice in another state. At any time other than during a period of suspension imposed by this Order, and whether to practice out of state or for any other reason, Respondent may request, in writing, that the Board place Respondent's License on inactive status as set forth in Section 12-240-141, C.R.S. Respondent's request to place his License on inactive status must include written evidence that Respondent has reported this Order to all other jurisdictions in which Respondent is licensed, as required by the "Other Terms" section of this Order. Upon the approval of such request, Respondent may cease to comply with the terms of this Order. Failure to comply with the terms of this Order while inactive shall not constitute a violation of this Order. While inactive, Respondent shall not perform any act in the state of Colorado that constitutes the practice of medicine, nor shall Respondent perform any act in any other jurisdiction pursuant to the authority of a license to practice medicine granted by the state of Colorado. Unless Respondent's License is inactive, Respondent must comply with all terms of this Order, irrespective of Respondent's location. The probationary period will be tolled for any period of time Respondent's License is inactive.

20. Respondent may resume the active practice of medicine at any time pursuant to written request and as set forth in Section 12-240-141(5), C.R.S.

TERMINATION OF INDEFINITE PROBATION

21. After successful completion of all probationary terms, Respondent may submit a written request for restoration of Respondent's license to unrestricted status. If Respondent has complied with the requirements set forth in this paragraph, such release shall be granted by the Panel in the form of a written notice.

OTHER TERMS

22. The terms of this Order were mutually negotiated and determined.

23. Both Parties acknowledge that they understand the legal consequences of this Order; both Parties enter into this Order voluntarily; and both Parties agree that no term or condition of this Order is unconscionable.

24. All costs and expenses incurred by Respondent to comply with this Order shall be the sole responsibility of Respondent, and shall in no way be the obligation of the Board or Panel.

25. If Respondent is licensed by any other jurisdiction, Respondent shall report this Order to all other jurisdictions in which Respondent is licensed.

26. During the probationary period or any period in which a physician is subject to prescribing restrictions, no physician shall perform an assessment of a patient's medical history and current medical condition, including a personal physical examination, for the purpose of concluding that a patient may benefit from the use of medical marijuana, recommending the use of medical marijuana or certifying a debilitating medical condition for an applicant to the Colorado Medical Marijuana Program. Respondent hereby understands and agrees that he/she shall not certify to the state health agency that a patient has a debilitating medical condition or that the patient may benefit from the use of medical marijuana.

27. Respondent shall obey all state and federal laws while the terms of this Order are in effect.

28. So that the Board may notify hospitals of this agreement pursuant to section 12-240-125(11), C.R.S., Respondent presently holds privileges at or is employed by the following hospitals and facilities:

29. This Order and all its terms shall have the same force and effect as an order entered after a formal disciplinary hearing pursuant to section 12-240-125(5)(c)(III), C.R.S., except that it may not be appealed. Failure to comply with the terms of this Order may be sanctioned by the Inquiry Panel as set forth in section 12-240-125(5)(c)(IV), C.R.S. This Order and all its terms also constitute a valid board order for purposes of section 12-240-121(1)(n), C.R.S.

30. This Order shall be admissible as evidence at any proceeding or future hearing before the Board.

31. Invalidation of any portion of this Order by judgment or court order shall in no way affect any other provision, which shall remain in full force and effect.

32. During the pendency of any action arising out of this Order, the terms of this Order shall be deemed to be in full force and effect and shall not be tolled.

33. Respondent acknowledges that the Panel may choose not to accept the terms of this Agreement and that if the Agreement is not approved by the Panel and signed by a Panel member or other authorized person, it is void.

34. This Order shall be effective upon (a) mailing by first-class mail to Respondent at Respondent's address of record with the Board, or (b) service by electronic means on Respondent at Respondent's electronic address of record with the Board. Respondent hereby consents to service by electronic means if Respondent has an electronic address on file with the Board.

35. Upon becoming effective, this Order shall be open to public inspection and shall be publicized pursuant to the Board's standard policies and procedures. This Order constitutes discipline against Respondent's license. Additionally, this Order shall be reported to the Federation of State Medical Boards, the National Practitioner Data Bank and as otherwise required by law.



ARASH H. NIKTARASH, M.D.

THE FOREGOING Stipulation and Final Agency Order is approved this 19th day of
May, 2020:

FOR THE COLORADO MEDICAL BOARD INQUIRY
PANEL A



Paula E. Martinez

Program Director

Delegated Authority to Sign by Inquiry Panel

THE FOREGOING Stipulation and Final Agency Order is effective upon service to
Respondent, on May 19, 2020.



APPROVED AS TO FORM

FOR RESPONDENT



Steven R. Kabler
The Kabler Law Office, PC