COMMONWEALTH OF MASSACHUSETTS

Middlesex, SS. Board of Registration in Medicine

Adjudicatory Case No. 2021-023

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In the Matter of )

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MAHMOUD RASHIDI-NAIMABADI, M.D. )

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**CONSENT ORDER**

Pursuant to Mass. Gen. Laws c. 30A, § 10, Mahmoud Rashidi-Naimabadi, M.D. (the “Respondent” or “Licensee”) and the Board of Registration in Medicine (the “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 Number 20-410.

Findings of Fact

1. The Respondent was born on January 24, 1965. The Respondent graduated in 1993 from the Kerman University of Medical Sciences in Iran. He has been licensed to practice medicine in Massachusetts under license number 246106 since 2011.
2. The Respondent is Board certified in Neurological Surgery.
3. On August 4, 2020, the California Medical Board (the “California Board”) issued a Final Decision and Order (“California Order”) revoking the Respondent’s license to practice medicine. The revocation was stayed upon the completion of a five-year probationary term. This disciplinary action resolved an active case that the California Board opened against him which related to the Respondent’s treatment of Patient 1 and 2.
4. With respect to the specific allegations regarding the care of Patient 1:
   1. On November 10, 2014, Patient 1 appeared in the emergency room at Santa Rosa Memorial Hospital with lower back pain and weakness in his legs. An MRI showed a large disc herniation at T11/12 junction.
   2. The Respondent recommended corrective surgery to Patient 1. The Respondent chose to perform a transpedicular discectomy with the assistance of electrophysiological monitoring. Prior to the surgery, the electrophysiological monitoring showed normal spinal cord conduction. When Patient 1 was switched from the supine to prone position, the electrophysiological monitoring stopped showing conduction below the L1 level. The Respondent proceeded with the surgery.
   3. A post-surgical MRI showed edema and hemorrhage in the posterior soft tissues of the back and the herniated disc remained unchanged. Patient 1 suffered paralysis.
   4. The Respondent failed to document how he described the comparative risks and benefits to Patient 1 between the surgical procedure the Respondent would perform and the option to transfer to another hospital for a different surgical approach.
   5. The California Board determined that the Respondent’s decision to perform a transpedicular discectomy and proceed when electrophysiological monitoring had stopped was an extreme departure from the standard for care for neurological surgery. The Respondents failure to document the rationale for choosing a riskier course of action when a potentially safer course of action was available was an extreme departure from the standard of care.
5. With respect to the specific allegations regarding Patient 2:
   1. On November 15, 2015, Patient 2 arrived at Santa Rosa Memorial Hospital Emergency Room with a severe headache and a rapidly deteriorating condition. A scan showed that a seven-centimeter hematoma on Patient 2’s brain on the right parietal lobe. The Respondent determined that Patient 2 needed immediate surgery to remove the hematoma.
   2. The Respondent assembled an operating room for Patient 2 and the team prepared the room and Patient 2 for surgery. Prior to beginning the surgery, the Respondent and his team did not pause to confirm the site of the surgery.
   3. The Respondent opened the left side of Patient 2’s skull. He realized immediately that he had erred because the hematoma was not present. The Respondent reclosed Patient 2’s skull on the left side and opened the skull on the right side. The Respondent successfully completed the surgery.
   4. The California Board found that the Respondent’s failure to pause and check for the correct surgical site was a simple departure from the standard of care. The Board found that the wrong-side surgery was an extreme departure from the standard of surgical care.
6. A true and accurate copy of the California Board Final Decision and Order is enclosed herewith as Attachment A and incorporated herein by reference.
7. On October 22, 2020, the New Hampshire Board of Medicine (“NH Board”) issued their Final Decision and Order based on the Medical Board of California’s Decision and Order. The NH Board issued a reprimand and placed conditions on the Respondent’s medical license.
8. A true and accurate copy of the NH Board Final Decision and Order is enclosed herewith as Attachment B and incorporated herein by reference.

Conclusions of Law

* 1. The Respondent has violated 243 CMR 1.03(5)(a)(12), in that he has been disciplined in another jurisdiction in any way by the proper licensing authority for reasons substantially the same as those set forth in Mass. Gen. Laws c. 112, § 5 or 243 CMR 1.03(5), specifically:
     1. Mass. Gen. Laws c. 112, § 5, ¶ 9(c) and 243 CMR 1.03(5)(a)(3) (“Conduct which places into question the physician’s competence to practice medicine, including but not limited to gross misconduct in the practice of medicine or practicing medicine fraudulently, or beyond its authorized scope, or with gross incompetence, or with gross negligence on a particular occasion or negligence on repeated occasions.”);
     2. 243 CMR 2.07(13)(a), which requires a physician to:
        1. maintain a medical record for each patient which is adequate to enable the licensee to provide proper diagnosis and treatment;
        2. maintain a patient’s medical record in a manner which permits the former patient or a successor physician access to them;
     3. 243 C.M.R. 1.03(5)(a)18: Misconduct in the practice of medicine
     4. Levy v. Board of Registration in Medicine, 378 Mass. 519 (1979) and Raymond v. Board of Registration in Medicine, 387 Mass. 708 (1982), which provide for discipline where, by proof satisfactory to a majority of the Board, a physician has engaged in conduct that undermines the public confidence in the integrity of the medical profession.

Sanction and Order

The Respondent’s license is hereby reprimanded. The Respondent must also satisfy the following conditions:

* The Respondent shall provide the Massachusetts Board with the results of the clinical competence assessment program mandated by the California Board;
* The Respondent shall provide the Massachusetts Board with a copy of the CMEs required by the California Board;
* The Respondent shall provide the Massachusetts Board with copies of the monitor evaluations submitted to the California Board; and
* Should the Respondent wish to return to practice medicine in Massachusetts prior to the completion of the California five-year probation period, he shall first be required to appear before the Massachusetts Board to demonstrate satisfactory compliance with the California required clinical competence assessment program (and any recommended remediation from that program), and continuing satisfactory California monitoring evaluations for the remainder of his five-year probation period.

Execution of this Consent Order

Complaint Counsel, the Respondent, 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 his behalf, has received any promises or representations regarding the same.

The Respondent waives any right of appeal that he 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 he practices medicine; any in- or out-of-state health maintenance organization with whom he has privileges or any other kind of association; any state agency, in- or out-of-state, with which he has a provider contract; any in- or out-of-state medical employer, whether or not he practices medicine there; and the state licensing boards of all states in which he 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 he 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 he 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.

Signed by Mahmoud Rashidi-Naimabadi, M.D. 4-1-21

Mahmoud Rashidi-Naimabadi, M.D. Date

Licensee

Signed by Stephen C. Hoctor 4-17-21

Stephen C. Hoctor Date

Complaint Counsel

So ORDERED by the Board of Registration in Medicine this 20 day of May , 2021.

Signed by George M. Abraham, M.D.

George M. Abraham, M.D.

Chair

To obtain a copy of the out-of-state disciplinary order, please contact the appropriate state’s medical licensing board directly. A list of state medical boards and contact information is available at <https://www.fsmb.org/contact-a-state-medica-board/>. You may also obtain a copy of the out-of-state disciplinary order by submitting a public records request (PRR) with the Massachusetts Board of Registration in Medicine. PRR forms and additional information can be found at <https://www.mass.gov/board-of-registration-in-medicine-public-records>.