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7 *Attorneys for Complainant*

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:

13 PAYAM SHADI, M.D.
633 S. La Brea Ave.
Los Angeles, California 90036

14 Physician's and Surgeon's Certificate No. A78965,
15 Respondent.

Case No. 800-2014-004664

OAH No. 2016100536

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

16
17 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
18 entitled proceedings that the following matters are true:

19 PARTIES

20 1. Kimberly Kirchmeyer ("Complainant") is the Executive Director of the Medical
21 Board of California ("Board"). She brought this action solely in her official capacity and is
22 represented in this matter by Xavier Becerra, Attorney General of the State of California, by Chris
23 Leong, Deputy Attorney General.

24 2. Respondent Payam Shadi, M.D. ("Respondent") is represented in this proceeding by
25 attorney Henry Lewin whose address is: 1251 Fairburn Ave., Los Angeles, California 90024.

26 3. On or about May 1, 2002, the Board issued Physician's and Surgeon's Certificate No.
27 A 78965 to Payam Shadi, M.D. The Physician's and Surgeon's Certificate was in full force and
28 effect at all times relevant to the charges brought in Accusation No. 800-2014-004664 and will

1 expire on February 28, 2018, unless renewed.

2 JURISDICTION

3 4. Accusation No. 800-2014-004664 was filed before the Board and is currently pending
4 against Respondent. The Accusation and all other statutorily required documents were properly
5 served on Respondent on June 28, 2016. Respondent timely filed his Notice of Defense
6 contesting the Accusation.

7 5. A copy of Accusation No. 800-2014-004664 is attached as Exhibit A and is
8 incorporated herein by reference.

9 ADVISEMENT AND WAIVERS

10 6. Respondent has carefully read, fully discussed with counsel, and understands the
11 charges and allegations in Accusation No. 800-2014-004664. Respondent has also carefully read,
12 fully discussed with counsel, and understands the effects of this Stipulated Settlement and
13 Disciplinary Order.

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

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

23 CULPABILITY

24 9. Respondent does not contest that, at an administrative hearing, complainant could
25 establish a *prima facie* case with respect to the charges and allegations contained in the Second
26 Cause For Discipline of Accusation No. 800-2014-004664 (Failure to Maintain Adequate and
27 Accurate Records) and that he has thereby subjected his license to disciplinary action.

28 10. Respondent agrees that his Physician's and Surgeon's Certificate is subject to

1 discipline and he agrees to be bound by the Board's disciplinary terms as set forth in the
2 Disciplinary Order below.

3 11. Respondent agrees that if the Board ever takes action pursuant to paragraph 4 of the
4 Order below, or if another Accusation is filed against Respondent, all of the charges and
5 allegations contained in the Accusation No. 800-2014-004664, shall be deemed true, correct and
6 fully admitted by Respondent for purposes of that proceeding or any other licensing proceeding
7 involving Respondent in the State of California.

8 RESERVATION

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

13 CONTINGENCY

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

24 14. The parties understand and agree that Portable Document Format (PDF) and facsimile
25 copies of this Stipulated Settlement and Disciplinary Order, including Portable Document Format
26 (PDF) and facsimile signatures thereto, shall have the same force and effect as the originals.

27 15. In consideration of the foregoing admissions and stipulations, the parties agree that
28 the Board may, without further notice or formal proceeding, issue and enter the following

1 Disciplinary Order:

2 **DISCIPLINARY ORDER**

3 **IT IS HEREBY ORDERED** that Physician's and Surgeon's Certificate No. A 78965
4 issued to Respondent Payam Shadi, M.D. is publicly reprimanded pursuant to Business and
5 Professions Code section 2227, as more specifically set forth below.

6 1. **PUBLIC REPRIMAND.** Respondent is publicly reprimanded as follows:

7 “This Public Reprimand is issued pursuant to Business and Professions Code (Code) section
8 2227 as a result of the conduct by Respondent as set forth in the Accusation alleging failure to
9 maintain adequate and accurate records pursuant to Code section 2266, relating to the care and
10 treatment of two patients.”

11 **IT IS FURTHER ORDERED** that Respondent comply with the following:

12 2. **MEDICAL RECORD KEEPING COURSE.** Within 60 calendar days of the effective
13 date of this Decision, Respondent shall enroll in a course in medical record keeping equivalent to
14 the Medical Record Keeping Course offered by the Physician Assessment and Clinical Education
15 Program, University of California, San Diego School of Medicine (Program), approved in
16 advance by the Board or its designee. Respondent shall provide the program with any
17 information and documents that the Program may deem pertinent. Respondent shall participate in
18 and successfully complete the classroom component of the course not later than six (6) months
19 after Respondent’s initial enrollment. Respondent shall successfully complete any other
20 component of the course within one (1) year of enrollment. The medical record keeping course
21 shall be at Respondent’s expense and shall be in addition to the Continuing Medical Education
22 (CME) requirements for renewal of licensure.

23 A medical record keeping course taken after the acts that gave rise to the charges in the
24 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board
25 or its designee, be accepted towards the fulfillment of this condition if the course would have
26 been approved by the Board or its designee had the course been taken after the effective date of
27 this Decision.

28 Respondent shall submit a certification of successful completion to the Board or its

1 designee not later than 15 calendar days after successfully completing the course, or not later than
2 15 calendar days after the effective date of the Decision, whichever is later.

3 3. EDUCATION COURSE. Within 60 calendar days of the effective date of this
4 Decision, Respondent shall submit to the Board or its designee for its prior approval an
5 educational program(s) or course(s) which shall not be less than 40 hours for one year. The
6 educational program(s) or course(s) shall be aimed at correcting any areas of deficient practice or
7 knowledge and shall be Category I certified. The educational program(s) or course(s) shall be at
8 Respondent's expense and shall be in addition to the Continuing Medical Education (CME)
9 requirements for renewal of licensure. Following the completion of each course, the Board or its
10 designee may administer an examination to test Respondent's knowledge of the course.
11 Respondent shall provide proof of attendance for 40 hours of CME in satisfaction of this
12 condition.

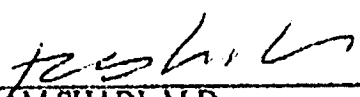
13 4. VIOLATION OF THIS AGREEMENT. Failure to fully comply with any term or
14 condition of this agreement is unprofessional conduct and grounds for further disciplinary action.

15 ACCEPTANCE

16 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
17 discussed it with my attorney, Henry Lewin. I understand the stipulation and the effect it will
18 have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement and
19 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the
20 Decision and Order of the Medical Board of California.

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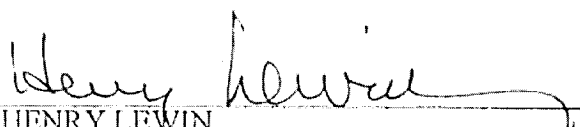
DATED: 2/14/17


PAYAM SHADI, M.D.
Respondent

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I have read and fully discussed with Respondent Payam Shadi, M.D. the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

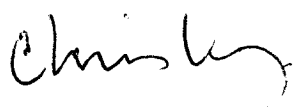
DATED: 02/14/17 
HENRY LEWIN
Attorney for Respondent

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Medical Board of California.

Dated: 2/15/17

Respectfully submitted,
XAVIER BECERRA
Attorney General of California
ROBERT MCKIM BELL
Supervising Deputy Attorney General


CHRIS LEONG
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 800-2014-004664

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO June 28, 20 16
BY R. Firdaus ANALYST

1 KAMALA D. HARRIS
Attorney General of California
2 E. A. JONES III
Supervising Deputy Attorney General
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8 **BEFORE THE**
MEDICAL BOARD OF CALIFORNIA
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 800-2014-004664

12 **PAYAM SHADI, M.D.**
13 633 S. La Brea Ave.
Los Angeles, CA 90036

ACCUSATION

14 Physician's and Surgeon's Certificate
15 No. A78965

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

20 1. Kimberly Kirchmeyer (Complainant) brings this Accusation solely in her official
21 capacity as the Executive Director of the Medical Board of California, Department of Consumer
22 Affairs (Board).

23 2. On or about May 1, 2002, the Board issued Physician's and Surgeon's Certificate
24 Number A78965 to Payam Shadi, M.D. (Respondent). The Physician's and Surgeon's Certificate
25 was in effect at all times relevant to the charges brought herein and will expire on February 28,
26 2018, unless renewed.
27

28 ///

1 JURISDICTION

2 3. This Accusation is brought before the Board under the authority of the following
3 laws. All section references are to the Business and Professions Code (Code) unless otherwise
4 indicated.

5 4. Section 2227 of the Code provides that a licensee who is found guilty under the
6 Medical Practice Act may have his or her license revoked, suspended for a period not to exceed
7 one year, placed on probation and required to pay the costs of probation monitoring, or such other
8 action taken in relation to discipline as the Board deems proper.

9 5. Section 2004 of the Code states:

10 "The board shall have the responsibility for the following:

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

13 "(b) The administration and hearing of disciplinary actions.

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

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

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

20 "(f) Approving undergraduate and graduate medical education programs.

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

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

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

25 6. Section 2002 of the Code states:

26 "Unless otherwise expressly provided, the term "board" as used in this chapter means the
27 Medical Board of California. As used in this chapter or any other provision of law, "Division of
28 Medical Quality" and a "Division of Licensing" shall be deemed to refer to the board.

1 7. Section 2234 of the Code, states:

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

5 “(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the
6 violation of, or conspiring to violate any provision of this chapter.

7 “(b) Gross negligence.

8 “(c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or
9 omissions. An initial negligent act or omission followed by a separate and distinct departure from
10 the applicable standard of care shall constitute repeated negligent acts.

11 “(1) An initial negligent diagnosis followed by an act or omission medically appropriate
12 for that negligent diagnosis of the patient shall constitute a single negligent act.

13 “(2) When the standard of care requires a change in the diagnosis, act, or omission that
14 constitutes the negligent act described in paragraph (1), including, but not limited to, a
15 reevaluation of the diagnosis or a change in treatment, and the licensee's conduct departs from the
16 applicable standard of care, each departure constitutes a separate and distinct breach of the
17 standard of care.

18 “(d) Incompetence.

19 “(e) The commission of any act involving dishonesty or corruption which is substantially
20 related to the qualifications, functions, or duties of a physician and surgeon.

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

22 “(g) The practice of medicine from this state into another state or country without meeting
23 the legal requirements of that state or country for the practice of medicine. Section 2314 shall not
24 apply to this subdivision. This subdivision shall become operative upon the implementation of the
25 proposed registration program described in Section 2052.5.

26 “(h) The repeated failure by a certificate holder, in the absence of good cause, to attend and
27 participate in an interview by the board. This subdivision shall only apply to a certificate holder
28 who is the subject of an investigation by the board.”

1 emergency department's (ED) record from CSMC, Adderall was listed in his prior to admission
2 medication list. It was continued in the inpatient setting and carried over with his discharge
3 orders at the time of transfer to the Sharon Care Center (SCC). Respondent did not perform a
4 medication reconciliation when patient C.R.'s care transitioned.

5 14. On August 2, 2014, Patient C.R. was discharged from CSMC. At that time his
6 medication regiment was as follows: Adderall 20 mg daily; Ambien 10 mg at bedtime; Fentanyl
7 patch 25 mcg every 72 hrs.; Oxycodone 10-20 mg every 4 hours as needed; and Valium 5 mg QD
8 PRN. Based on A.R.'s concern, the physician covering for Respondent, discontinued the
9 Adderall and fentanyl patch. However, Respondent's discharge summary makes no mention of
10 discharge medications. Patient C.R. was transitioned to a skilled nursing facility, SCC, for
11 continuation of intravenous antibiotics. He received physical therapy/occupational therapy there
12 and intravenous antibiotics. He subsequently developed fever.

14 15. On September 18, 2014, C.R. was transferred back to the CSMC emergency
15 department (ED), for tachycardia, and was admitted to the hospital.

17 16. On September 25, 2014, C.R. was discharged home with his spouse under hospice
18 care. On October 1, 2014, C.R. expired at home.

19 17. While at SCC, A.R. was concerned that patient C.R. was on too many medications,
20 that he was not required to ambulate, and that his dentures were lost, which impaired his oral
21 intake. During this period of time A.R. made multiple phone calls to Respondent, attempting to
22 express her concerns about the care provided to patient C.R., but was unable to speak with
23 Respondent. Respondent failed to communicate with A.R. about patient C.R.'s condition.

25 18. Respondent is subject to disciplinary action under Code sections 2234, subdivision
26 (c), in that he was repeatedly negligent in the care and treatment of patient C.R. The
27 circumstances are as follows:
28

1 A. Respondent failed to perform a medication reconciliation at transitions of care
2 (i.e., from home to hospital, hospital to home or Skilled Nursing Facility) which was key to
3 prevent adverse outcomes from medication errors.

4 B. Respondent failed to fulfill his responsibility as a treating clinician to update
5 patient C.R. and, if patient C.R. was not capable of understanding his medical condition, then to
6 update the responsible party, A.R., who had attempted to contact Respondent on multiple
7 occasions.
8

9 C. Respondent failed to maintain accurate and adequate medical records at the
10 Skilled Nursing Facility including: no progress notes were written; the admission history and
11 physical were inadequate lacking elements; no history of presenting illness was charted; no
12 review of symptoms was performed; no allergies were listed; and no assessment was set forth.
13 Also the notes were not dated.

14 D. Respondent failed to maintain accurate and adequate medical records at
15 CSMC including: numerous elements were copied from previous progress notes, including the
16 physical exam section, which did not change from one day to the next. The discharge summary
17 fails to mention the discharge medications. Also, C.R.'s perineal wound was not mentioned on
18 his admission notes to CSMC or on subsequent follow-up notes.
19

20 **Patient H.D.**

21 19. On April 8, 2014, the Board received a consumer complaint from V.R., the life
22 partner of deceased patient H.D. V.R.'s complaint alleged that Respondent had provided
23 negligent care and treatment to patient H.D.
24

25 20. On July 13, 2011, patient H.D. was admitted to Olympia Medical Center (OMC),
26 after a fall, which had resulted in a broken shoulder. He was subsequently discharged.
27

28 ///

1 21. On July 24, 2011, patient H.D. returned to OMC for shortness of breath and high
2 heart rate. While in the ED physician's note there is mention of gross hematuria with clots, there
3 is no mention of this in Respondent's history and physical. Even though the ED physician did the
4 appropriate treatment for this issue, the follow up plan should have come from the attending
5 physician. Respondent failed to document and acknowledge a significant medical issue and
6 create a follow up plan for this issue.

7 22. On August 18, 2011, Patient H.D. was still in intensive care unit (ICU). He was
8 having fever as high as 101 degrees Fahrenheit.

9 23. On August 19, 2011, the last progress note from the critical care specialist
10 recommended keeping patient in ICU. Despite this, Respondent gave a verbal order on the same
11 day to discharge patient H.D. to Hancock Care, a rehabilitation unit. Patient H.D. was not stable
12 for transfer. Patient H.D. had undergone an invasive procedure on the day of his discharge.
13 Respondent did not transfer the patient to a step down unit in the hospital.

14 24. On August 20, 2011, Patient H.D. returned to OMC. On September 6, 2011, the
15 hospital disconnected all of patient H.D.'s life support and he passed away.

16 25. Respondent is subject to disciplinary action under Code sections 2234, subdivision
17 (c), in that he was repeatedly negligent in the care and treatment of patient H.D. The
18 circumstances are as follows:

19 A. Respondent failed to ensure patient H.D. was stable for discharge on
20 August 19, 2011.

21 B. Respondent's medical records from OMC show significant amount of
22 illegible writing. Notes cosigned by Respondent, in the brief addendum, are not dated and timed.

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1 C. Respondent failed to maintain a complete list of patient's problems and
2 follow up plan. There was no mention in the discharge summary as to why the Foley catheter
3 was inserted into patient H.D. and no mention about the hematuria which he had developed,
4 which would have needed a follow up plan.

5
6 **SECOND CAUSE FOR DISCIPLINE**

7 (Failure to Maintain Adequate and Accurate Records)

8 24. Respondent is subject to disciplinary action under section 2266 of the Code in that he
9 failed to maintain adequate and accurate records relating to the provision of services to patients
10 C.R. and H.D. The facts and allegations in paragraphs 9 through 25 are hereby incorporated here
11 as if fully set forth.

12 **PRAYER**

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

- 15 1. Revoking or suspending Physician's and Surgeon's Certificate No. A78965, issued to
16 Payam Shadi, M.D.;
- 17 2. Revoking, suspending or denying approval of Payam Shadi, M.D.'s authority to
18 supervise physician assistants, pursuant to section 3527 of the Code;
- 19 3. Ordering Payam Shadi, M.D., if placed on probation, to pay the Medical Board of
20 California the costs of probation monitoring; and,
- 21 4. Taking such other and further action as deemed necessary and proper.

22
23 DATED: June 28, 2016


24 KIMBERLY KIRCHMEYER
25 Executive Director
26 Medical Board of California
27 Department of Consumer Affairs
28 State of California
Complainant

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