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

In the Matter of the Accusation Against: 

MOHAMED FEKRY AL-SAdek, M.D. 

Case No. 800-2014-008628

Physician's and Surgeon's 
Certificate No. A 89182 

Respondent

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary 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 1, 2018.

IT IS SO ORDERED: April 16, 2018.

MEDICAL BOARD OF CALIFORNIA

[Signature]
Ronald H. Lewis, M.D., Chair
Panel A
BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

MOHAMED FEKRY AL-SADEK, M.D.
9239 Spectrum
Irvine, California 92618
Physician's and Surgeon's Certificate
No. A 89182,

Respondent.

Case No. 800-2014-008628
OAH No. 2017100794

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

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

PARTIES

1. Kimberly Kirchmeyer (“Complainant”) is the Executive Director of the Medical
Board of California (“Board”). She brought this action solely in her official capacity and is
represented in this matter by Xavier Becerra, Attorney General of the State of California, by
Rebecca L. Smith, Deputy Attorney General.

2. Respondent Mohamed Fekry Al-Sadek, M.D. (“Respondent”) is represented in this
proceeding by attorney John C. Kelly, whose address is 111 West Ocean Boulevard, 14th Floor
Long Beach, California 90801-5636.

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STIPULATED SETTLEMENT (800-2014-008628)
3. On or about October 27, 2004, the Board issued Physician's and Surgeon's Certificate No. A 89182 to Respondent. That license was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2014-008628, and will expire on October 31, 2018, unless renewed.

JURISDICTION

4. Accusation No. 800-2014-008628 was filed before the Board, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on August 17, 2017. Respondent filed his Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 800-2014-008628 is attached as Exhibit A and is incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 800-2014-008628. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

7. 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 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.

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

CULPABILITY

9. Respondent does not contest that, at an administrative hearing, Complainant could establish a prima facie case with respect to the charges and allegations contained in Accusation No. 800-2014-008628 and that he has thereby subjected his license to disciplinary action.
10. Respondent agrees that if he ever petitions for early termination or modification of probation, or if the Board ever petitions for revocation of probation, all of the charges and allegations contained in Accusation No. 800-2014-008628 shall be deemed true, correct and fully admitted by Respondent for purposes of that proceeding or any other licensing proceeding involving Respondent in the State of California.

11. Respondent agrees that his Physician's and Surgeon's Certificate is subject to discipline and he agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

CONTINGENCY

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

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

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

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DISCIPLINARY ORDER

IT IS HEREBY ORDERED THAT on or after June 1, 2018, Physician's and Surgeon's Certificate No. A 89182 issued to Respondent Mohamed Fekry Al-Sadek, M.D. is revoked. However, the revocation is stayed and Respondent is placed on probation for three (3) years on the following terms and conditions.

1. **EDUCATION COURSE.** Within sixty (60) calendar days of the effective date of this Decision, and on an annual basis thereafter, Respondent shall submit to the Board or its designee for its prior approval educational program(s) or course(s) which shall not be less than forty (40) hours per year, for each year of probation. The educational program(s) or course(s) shall be aimed at correcting any areas of deficient practice or knowledge and shall be Category I certified. The educational program(s) or course(s) shall be at Respondent’s expense and shall be in addition to the Continuing Medical Education (“CME”) requirements for renewal of licensure. Following the completion of each course, the Board or its designee may administer an examination to test Respondent’s knowledge of the course. Respondent shall provide proof of attendance for sixty-five (65) hours of CME of which forty (40) hours were in satisfaction of this condition.

2. **PRESCRIBING PRACTICES COURSE.** Within sixty (60) calendar days of the effective date of this Decision, Respondent shall enroll in a course in prescribing practices approved in advance by the Board or its designee. Respondent shall provide the approved course provider with any information and documents that the approved course provider may deem pertinent. Respondent shall participate in and successfully complete the classroom component of the course not later than six (6) months after Respondent’s initial enrollment. Respondent shall successfully complete any other component of the course within one (1) year of enrollment. The prescribing practices course shall be at Respondent’s expense and shall be in addition to the Continuing Medical Education (“CME”) requirements for renewal of licensure.

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

   Respondent shall submit a certification of successful completion to the Board or its
designee not later than fifteen (15) calendar days after successfully completing the course, or not
later than fifteen (15) calendar days after the effective date of the Decision, whichever is later.

3. **MEDICAL RECORD KEEPING COURSE.** Within sixty (60) calendar days of the
effective date of this Decision, Respondent shall enroll in a course in medical record keeping
approved in advance by the Board or its designee. Respondent shall provide the approved course
provider with any information and documents that the approved course provider may deem
pertinent. Respondent shall participate in and successfully complete the classroom component of
the course not later than six (6) months after Respondent’s initial enrollment. Respondent shall
successfully complete any other component of the course within one (1) year of enrollment. The
medical record keeping course shall be at Respondent’s expense and shall be in addition to the
Continuing Medical Education (“CME”) requirements for renewal of licensure.

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

   Respondent shall submit a certification of successful completion to the Board or its
designee not later than fifteen (15) calendar days after successfully completing the course, or not
later than fifteen (15) calendar days after the effective date of the Decision, whichever is later.

4. **PROFESSIONALISM PROGRAM (ETHICS COURSE).** Within sixty (60) calendar
days of the effective date of this Decision, Respondent shall enroll in a professionalism program,
that meets the requirements of Title 16, California Code of Regulations (“CCR”) section 1358.1.
Respondent shall participate in and successfully complete that program. Respondent shall
provide any information and documents that the program may deem pertinent. Respondent shall
successfully complete the classroom component of the program not later than six (6) months after
Respondent’s initial enrollment, and the longitudinal component of the program not later than the
time specified by the program, but no later than one (1) year after attending the classroom component. The professionalism program shall be at Respondent’s expense and shall be in addition to the Continuing Medical Education (“CME”) requirements for renewal of licensure.

A professionalism program taken after the acts that gave rise to the charges in the Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board or its designee, be accepted towards the fulfillment of this condition if the program would have been approved by the Board or its designee had the program been taken after the effective date of this Decision.

Respondent shall submit a certification of successful completion to the Board or its designee not later than fifteen (15) calendar days after successfully completing the program or not later than fifteen (15) calendar days after the effective date of the Decision, whichever is later.

5. **CLINICAL COMPETENCE ASSESSMENT PROGRAM.** Within sixty (60) calendar days of the effective date of this Decision, Respondent shall enroll in a clinical competence assessment program approved in advance by the Board or its designee. Respondent shall successfully complete the program not later than six (6) months after Respondent’s initial enrollment unless the Board or its designee agrees in writing to an extension of that time.

The program shall consist of a comprehensive assessment of Respondent’s physical and mental health and the six general domains of clinical competence as defined by the Accreditation Council on Graduate Medical Education and American Board of Medical Specialties pertaining to Respondent’s current or intended area of practice. The program shall take into account data obtained from the pre-assessment, self-report forms and interview, and the Decision(s), Accusation(s), and any other information that the Board or its designee deems relevant. The program shall require Respondent’s on-site participation for a minimum of three (3) and no more than five (5) days as determined by the program for the assessment and clinical education evaluation. Respondent shall pay all expenses associated with the clinical competence assessment program.

At the end of the evaluation, the program will submit a report to the Board or its designee which unequivocally states whether Respondent has demonstrated the ability to practice safely
and independently. Based on Respondent's performance on the clinical competence assessment, the program will advise the Board or its designee of its recommendation(s) for the scope and length of any additional educational or clinical training, evaluation or treatment for any medical condition or psychological condition, or anything else affecting Respondent's practice of medicine. Respondent shall comply with the program's recommendations.

Determination as to whether Respondent successfully completed the clinical competence assessment program is solely within the program's jurisdiction.

If Respondent fails to enroll, participate in, or successfully complete the clinical competence assessment program within the designated time period, Respondent shall receive a notification from the Board or its designee to cease the practice of medicine within three (3) calendar days after being so notified. Respondent shall not resume the practice of medicine until enrollment or participation in the outstanding portions of the clinical competence assessment program have been completed. If Respondent did not successfully complete the clinical competence assessment program, Respondent shall not resume the practice of medicine until a final decision has been rendered on the accusation and/or a petition to revoke probation. The cessation of practice shall not apply to the reduction of the probationary time period.

Within sixty (60) days after Respondent has successfully completed the clinical competence assessment program, Respondent shall participate in a professional enhancement program approved in advance by the Board or its designee, which shall include quarterly chart review, semi-annual practice assessment, and semi-annual review of professional growth and education. Respondent shall participate in the professional enhancement program at Respondent's expense during the term of probation, or until the Board or its designee determines that further participation is no longer necessary.

6. **NOTIFICATION.** Within seven (7) days of the effective date of this Decision, Respondent shall provide a true copy of this Decision and Accusation to the Chief of Staff or the Chief Executive Officer at every hospital where privileges or membership are extended to Respondent, at any other facility where Respondent engages in the practice of medicine, including all physician and locum tenens registries or other similar agencies, and to the Chief
Executive Officer at every insurance carrier which extends malpractice insurance coverage to Respondent. Respondent shall submit proof of compliance to the Board or its designee within fifteen (15) calendar days.

This condition shall apply to any change(s) in hospitals, other facilities or insurance carrier.

7. **SUPERVISION OF PHYSICIAN ASSISTANTS AND ADVANCED PRACTICE NURSES.** During probation, Respondent is prohibited from supervising physician assistants and advanced practice nurses.

8. **OBEY ALL LAWS.** Respondent shall obey all federal, state and local laws, all rules governing the practice of medicine in California and remain in full compliance with any court ordered criminal probation, payments, and other orders.

9. **QUARTERLY DECLARATIONS.** Respondent shall submit quarterly declarations under penalty of perjury on forms provided by the Board, stating whether there has been compliance with all the conditions of probation.

   Respondent shall submit quarterly declarations not later than ten (10) calendar days after the end of the preceding quarter.

10. **GENERAL PROBATION REQUIREMENTS.**

   **Compliance with Probation Unit**

   Respondent shall comply with the Board’s probation unit.

   **Address Changes**

   Respondent shall, at all times, keep the Board informed of Respondent’s business and residence addresses, email address (if available), and telephone number. Changes of such addresses shall be immediately communicated in writing to the Board or its designee. Under no circumstances shall a post office box serve as an address of record, except as allowed by Business and Professions Code section 2021(b).

   **Place of Practice**

   Respondent shall not engage in the practice of medicine in Respondent’s or patient’s place of residence, unless the patient resides in a skilled nursing facility or other similar licensed facility.
License Renewal

Respondent shall maintain a current and renewed California physician’s and surgeon’s license.

Travel or Residence Outside California

Respondent shall immediately inform the Board or its designee, in writing, of travel to any areas outside the jurisdiction of California which lasts, or is contemplated to last, more than thirty (30) calendar days.

In the event Respondent should leave the State of California to reside or to practice, Respondent shall notify the Board or its designee in writing thirty (30) calendar days prior to the dates of departure and return.

11. INTERVIEW WITH THE BOARD OR ITS DESIGNEE. Respondent shall be available in person upon request for interviews either at Respondent’s place of business or at the probation unit office, with or without prior notice throughout the term of probation.

12. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or its designee in writing within fifteen (15) calendar days of any periods of non-practice lasting more than thirty (30) calendar days and within fifteen (15) calendar days of Respondent’s return to practice. Non-practice is defined as any period of time Respondent is not practicing medicine as defined in Business and Professions Code sections 2051 and 2052 for at least forty (40) hours in a calendar month in direct patient care, clinical activity or teaching, or other activity as approved by the Board. If Respondent resides in California and is considered to be in non-practice, Respondent shall comply with all terms and conditions of probation. All time spent in an intensive training program which has been approved by the Board or its designee shall not be considered non-practice and does not relieve Respondent from complying with all the terms and conditions of probation. Practicing medicine in another state of the United States or Federal jurisdiction while on probation with the medical licensing authority of that state or jurisdiction shall not be considered non-practice. A Board-ordered suspension of practice shall not be considered as a period of non-practice.

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In the event Respondent’s period of non-practice while on probation exceeds 18 calendar months, Respondent shall successfully complete the Federation of State Medical Boards’ Special Purpose Examination, or, at the Board’s discretion, a clinical competence assessment program that meets the criteria of Condition 18 of the current version of the Board’s “Manual of Model Disciplinary Orders and Disciplinary Guidelines” prior to resuming the practice of medicine.

Respondent’s period of non-practice while on probation shall not exceed two (2) years. Periods of non-practice will not apply to the reduction of the probationary term.

Periods of non-practice for a Respondent residing outside of California will relieve Respondent of the responsibility to comply with the probationary terms and conditions with the exception of this condition and the following terms and conditions of probation: Obey All Laws; General Probation Requirements; Quarterly Declarations; Abstain from the Use of Alcohol and/or Controlled Substances; and Biological Fluid Testing.

13. **COMPLETION OF PROBATION.** Respondent shall comply with all financial obligations (e.g., restitution, probation costs) not later than one-hundred twenty (120) calendar days prior to the completion of probation. Upon successful completion of probation, Respondent’s certificate shall be fully restored.

14. **VIOLATION OF PROBATION.** Failure to fully comply with any term or condition of probation is a violation of probation. If Respondent violates probation in any respect, the Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke Probation, or an Interim Suspension Order is filed against Respondent during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

15. **LICENSE SURRENDER.** Following the effective date of this Decision, if Respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy the terms and conditions of probation, Respondent may request to surrender his license. The Board reserves the right to evaluate Respondent’s request and to exercise its discretion in determining whether or not to grant the request, or to take any other action deemed appropriate.
and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent shall within fifteen (15) calendar days deliver Respondent’s wallet and wall certificate to the Board or its designee and Respondent shall no longer practice medicine. Respondent will no longer be subject to the terms and conditions of probation. If Respondent re-applies for a medical license, the application shall be treated as a petition for reinstatement of a revoked certificate.

16. PROBATION MONITORING COSTS. Respondent shall pay the costs associated with probation monitoring each and every year of probation, as designated by the Board, which may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of California and delivered to the Board or its designee no later than January 31 of each calendar year.

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, John C. Kelly. I understand the stipulation and the effect it will have on my Physician’s and Surgeon’s Certificate. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Medical Board of California.

DATED: 3/5/2018

MOHAMED FEKRY AL-SADEK, M.D.
Respondent

I have read and fully discussed with Respondent MOHAMED FEKRY AL-SADEK, 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: 3/5/18

JOHN C. KELLY
Attorney for Respondent
ENDORSEMENT

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

Dated: March 12, 2018

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
ROBERT MCKIM BELL
Supervising Deputy Attorney General

REBECCA L. SMITH
Deputy Attorney General
Attorneys for Complainant
Exhibit A

Accusation No. 800-2014-008628
BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: Case No. 800-2014-008628

MOHAMED FEKRY AL-SADEK, M.D. A C U S A T I O N
9239 Spectrum
Irvine, California 92618

Physician's and Surgeon's Certificate
No. A 89182,

Respondent.

Complainant alleges:

PARTIES

1. Kimberly Kirchmeyer ("Complainant") brings this Accusation solely in her official
   capacity as the Executive Director of the Medical Board ("Board").

2. On October 27, 2004, the Board issued Physician's and Surgeon's Certificate number
   A 89182 to Mohamed Fekry Al-Sadek, M.D. ("Respondent"). That license was in full force and
   effect at all times relevant to the charges brought herein and will expire on October 31, 2018,
   unless renewed.

JURISDICTION

3. This Accusation is brought before the Board under the authority of the following
   provisions of the California Business and Professions Code ("Code") unless otherwise indicated.
4. 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.

"...

5. 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 year upon order of the board.

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

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

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

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

6. Section 2234 of the Code, states:

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

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

“(b) Gross negligence.

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

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

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

“(d) Incompetence.

“...”

7. Section 2266 of the Code states: “The failure of a physician and surgeon to maintain
adequate and accurate records relating to the provision of services to their patients constitutes
unprofessional conduct.”

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FACTUAL ALLEGATIONS

8. Patient C.F., a then 55-year-old male patient, was admitted to Saddleback Memorial Medical Center ("the hospital") on May 10, 2013 after being referred from his primary care physician with complaints of profound weakness, back pain and fevers.

9. The patient presented to the hospital emergency room by wheelchair at approximately 12:54 p.m., escorted by a family member. He was evaluated by a hospital emergency room physician, Dr. G.S., who noted that C.F. was referred for a "possible GI bleed" by Dr. D.K. at the San Clemente Medi-Center Urgent Care where the patient was found to be profoundly anemic and heme positive on rectal examination. The patient reported pain in his lower neck and back as well as fevers. Dr. G.S. noted that the patient's past medical history was positive for hypertension, depression, prostate cancer, and alcohol abuse (which ceased in January of 2013). The patient reported taking anti-hypertension medications metoprolol and losartan/hydrochlorothiazide as well as bupropion, an antidepressant.

10. Dr. G.S.'s review of systems in the emergency department documented a chronic wound on the bottom of the patient's right foot, back pain, and headaches. The patient's physical examination revealed a fever initially of 97°F at 1:00 p.m. on May 10, 2013 that increased to 101.1°F by 2:58 p.m. His heart rate was 115-117, his respiration rate was 16 and his blood pressure was 126/67 with a normal pulse oximeter reading (98%). The patient’s physical examination was essentially negative except for tenderness in his paraspinal musculature, a chronic wound over his first metatarsophalangeal joint ("MTP joint") with partial flap, but without drainage or obvious infection. A portable chest x-ray at 4:00 p.m. was negative. The patient’s lactic acid value was elevated at 2.6 mmol/L² and his urinalysis was negative. His glucose was elevated at 145 mg/dL and his Aspartate Aminotransferase Test (AST) was elevated

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1 Initials are used for privacy purposes.

2 Normal lactic acid values are in the range of 0.6-2.5 mmol/L.
at 54 U/L. The patient’s white blood count in the emergency room was 7.6 K/UL with 37% bands. His hemoglobin was low at 8.2 and his hematocrit was low at 24.7.

11. At approximately 5:37 p.m., Dr. G.S. contacted Respondent to have the patient admitted from the emergency room to the hospital. Dr. G.S.’s diagnoses were “acute febrile illness, rule out viral syndrome. Anemia, rule out occult gastrointestinal bleed, and alcoholism with mild alcoholic ketoacidosis.”

12. The final laboratory results for the tests performed in the emergency room reflected a markedly elevated C-Reactive Protein Test (CRP) of 20.548 and erythrocyte sedimentation rate (ESR) of 120.

13. Respondent agreed telephonically to admit Patient C.F. to the hospital and the patient was admitted to the inpatient ward at approximately 8:50 p.m. on May 10, 2013. The patient was received by registered nurse Z.F. At 11:31 p.m. and again at 2:00 a.m. on May 11, 2013, Nurse Z.F. noted that the patient had severely impaired movement of his left and right lower extremities. At 12:17 a.m. on May 11, 2013, Nurse Z.F. noted incontinence and that the patient had a large void/output on the incontinence pad. In her end of shift summary at 6:39 a.m. on May 11, 2013, Nurse Z.F. documented that the patient was incontinent of urine, had lower extremity weakness and was unable to stand.

14. At 8:00 a.m., registered nurse T.T. documented that she paged infectious disease physician, Dr. J.R., and informed him of the positive blood culture results. Dr. J.R. issued orders. At 8:00 a.m., Nurse T.T. also noted that the patient’s temperature was 102.5 °F. At 8:57 a.m., Nurse T.T. documented that both the right and left extremities were “severely impaired” in their movement.

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3 Normal glucose values are in the range of 50-99 mg/dL. Normal AST values are in the range of 14-36 U/L.

4 Normal white blood count values are in the range of 3.6-11.0 and normal bands are in the range of 0-5%.

5 Normal hemoglobin values are in the range of 13.3-17.1. Normal hematocrit values are in the range of 37.7-49.9.

6 Normal values for CRP are less than 0.5 mg/dl/L. Normal values for ESR are less than 20 mm/HR.
15. At the time of his interview with the Board on August 23, 2016, Respondent stated that he first saw the patient on May 11, 2013 in the early morning, "somewhere between 7:30 and 9..." and the patient had no neurological deficits. There is no real-time documentation of this visit by Respondent nor any reference to the visit by the nursing staff. The nursing notes do, however, document that at 10:00 a.m. on May 11, 2013, Respondent was at the patient’s bedside, aware of fever, positive blood culture and numbness in the lower extremities bilaterally.

16. At the time of his interview with the Board on August 23, 2016, Respondent stated that the nursing staff notified him by phone that the patient’s neurological examination had changed since he had seen the patient. At 9:56 a.m., Nurse T.T. wrote Respondent’s verbal order for an MRI of the brain, to be performed with and without contrast as well as neurological evaluations every four hours for the next 24-hours. Respondent electronically signed the order at 10:49 p.m. on May 11, 2013.

17. Also at the time of his interview with the Board on August 23, 2016, Respondent stated that he received a call from a treating infectious disease specialist at approximately 3:30 or 4:00 p.m., who reported that the patient was paralyzed and would be taken to the operating room in 30 minutes.

18. On May 11, 2013 at approximately 6:19 p.m., neurosurgeon Dr. R.J. took the patient to surgery, at which time it was noted that the patient had a large epidural abscess at the T2-T5 levels of his spine, causing compression of this spinal cord. Patient C.F. was left with lower extremity paraplegia.

19. Patient C.F. remained hospitalized until May 23, 2013, at which time he was discharged to a skilled nursing facility for rehabilitation.

20. Respondent’s Initial History and Physical Report for Patient C.F. is dated May 10, 2013 at 6:06 p.m. Between 6:06 p.m. on May 10, 2013 and 10:02 p.m. on May 11, 2013, Respondent edited the History and Physical Report on nine occasions. Patient C.F.’s medical chart contains nine versions of Respondent’s Initial History and Physical Report, all of which are dated May 10, 2013 and timed at 6:06 p.m. Versions 2 through 9 also reflect an addendum date and time, which are likely the dates and times that Respondent edited the Report. The Report
does not provide information regarding timing of events (i.e., the time Respondent saw the
patient, the time Respondent obtained the patient's current history, the time Respondent obtained
the patient's past history, the time Respondent performed a review of systems, the time
Respondent performed a physical examination of the patient, the time Respondent assessed the
patient and the time Respondent formulated a plan of care for the patient).

21. In his Initial History and Physical Report for Patient C.F., Respondent adds to the
third draft at 9:13 p.m. on May 10, 2013 that the patient was seen and examined (though he fails
to specify by whom the patient was seen and examined and fails to specify what the examination
entailed). In the fourth draft of the Report, created the following day at 3:55 p.m., Respondent
adds the subjective, past medical history, past surgical history, allergies, family history, social
history, smoking status, drug use, medications prior to admission and a review of systems that
reflects "negative for headaches, gait problems, and weakness." Respondent further noted the
patient's vital signs since admissions and with respect to the patient's physical examination,
Respondent noted that the neurological examination is a "non-focal exam," meaning a normal
neurological examination that does not suggest any focal injury or problem. In the sixth draft of
the Report created at 9:40 p.m. on May 11, 2013, Respondent changed the non-focal exam to
state strength was symmetrically bilaterally and central nerves II through XII were grossly intact.

22. Respondent's Daily Progress Note for May 11, 2013 was timed at 3:38 p.m. Between
3:38 p.m. and 10:05 p.m. on May 11, 2013, Respondent edited the Daily Progress Note on seven
occasions. Patient C.F.'s medical chart included seven versions of Respondent's May 11, 2013-
Daily Progress Note. Versions 1 through 4 were dated May 11, 2013 and timed at 3:38 p.m.
Versions 5 through 7 were dated May 11, 2013 and timed at 2:38 p.m. Versions 2 through 9 also
reflected an addendum date and time, which were likely the dates and times that Respondent
edited the Report. Similar to the Initial History and Physical Report, the Progress Note does not
provide information regarding timing of events. Further, the seventh and final version of the
Progress Note was completed at 10:04 p.m. on May 11, 2013, two minutes after Respondent
completed the ninth version of the Initial History and Physical Report.
23. In his first draft of his Daily Progress Note for May 11, 2013 at 3:30 p.m., Respondent noted under the physical examination section that the patient had a non-focal neurological examination. In his fourth draft of the note created at 3:48 p.m., Respondent noted an acute new neurologic deficit, despite the neurological exam being documented as non-focal in the physical examination section. In his sixth draft of the note created at 10:04 p.m., Respondent changed the neurological examination to “bilateral lower extremity weakness 4/5. Numbness in the medial aspect of the right thigh.” In his seventh draft of the note created at 10:05 p.m., Respondent changed the neurologic examination from “right” to “left” thigh.

STANDARD OF CARE

24. The standard of medical practice in California requires that a physician maintain accurate, legible, timely, honest, and complete medical records regarding patient evaluation, physical examination, assessment and plan, therapy, and follow-up.

25. The standard of medical practice in California requires that a physician timely see and evaluate critically ill patients.

26. The standard of medical practice in California requires that a physician perform a complete evaluation of a critically ill patient to determine the nature, extent, and interaction of all the diagnoses, as well as order appropriate imaging studies, consultations, and therapy.

27. The standard of medical practice in California requires that a physician have a high index of suspicion for sepsis since time is of the essence in improving outcomes.

28. In order to begin treatment, the standard of medical practice in California requires that a physician formulate diagnoses based upon an evaluation of the patient’s history, vital signs, physical examination, laboratory values, and imaging studies.

FIRST CAUSE FOR DISCIPLINE

(Gross Negligence – Lack of Accurate, Legible, Timely and Complete Medical Records for Patient C.F.)

29. Respondent is subject to disciplinary action under section 2234, subdivision (b), of the Code, in that he engaged in gross negligence by failing to accurately and timely complete Patient C.F.’s medical records. Complainant refers to and, by this reference, incorporates herein,
paragraphs 8 through 28, above, as though fully set forth herein. The circumstances are as follows:

A. The medical records Respondent prepared to reflect his care and treatment of Patient C.F. are not complete or accurate.

B. Respondent edited the Initial History and Physical Report on nine occasions between 6:06 p.m. on May 10, 2013 and 10:02 p.m. on May 11, 2013.

C. The Initial History and Physical Report does not provide information regarding timing of events (i.e., the time Respondent saw the patient, the time Respondent obtained the patient’s current history, the time Respondent obtained the patient’s past history, the time Respondent performed a review of systems, the time Respondent performed a physical examination of the patient, the time Respondent assessed the patient and the time Respondent formulated a plan of care for the patient).

D. The Initial History and Physical Report was finalized almost twenty-eight hours after Patient C.F. was admitted to the hospital.

E. The Initial History and Physical Report should have been prepared and completed in a timely fashion in order to provide guidance to the other medical specialties who were providing care to Patient C.F.

F. The Initial History and Physical Report was finalized after the patient had undergone a neurosurgical decompression of the spine and after the diagnosis of epidural abscess with paraplegia was known.

G. Respondent edited the Daily Progress Note for May 11, 2013 on seven occasions between 3:38 p.m. and 10:05 p.m. on May 11, 2013.

H. The Daily Progress Note does not provide information regarding timing of events and therefore fails to provide real-time information to the other medical specialties who were providing care to Patient C.F.

I. The Daily Progress Note was finalized after the patient had undergone a neurosurgical decompression of the spine and after the diagnosis of epidural abscess with paraplegia was known.
30. Respondent's acts and/or omissions as set forth in paragraphs 8 through 28, above, whether proven individually, jointly, or in any combination thereof, constitute gross negligence pursuant to section 2234, subdivision (b), of the Code. Therefore cause for discipline exists.

SECOND CAUSE FOR DISCIPLINE

(Gross Negligence – Failure to Evaluate Patient C.F. within a Reasonable Period of Time)

31. Respondent is subject to disciplinary action under section 2234, subdivision (b), of the Code, in that he engaged in gross negligence by failing to evaluate Patient C.F. within a reasonable period of time. Complainant refers to and, by this reference, incorporates herein, paragraphs 8 through 28, above, as though fully set forth herein. The circumstances are as follows:

A. Patient C.F. was admitted to the inpatient ward at approximately 8:50 p.m. on May 10, 2013 after presenting to the hospital with marked vital sign abnormalities of high fever, back pain and laboratory values suggestive of infection. He was critically ill with signs and symptoms of sepsis.

B. Respondent did not see the patient for at least 10 ¼ hours after admission.7

32. Respondent's acts and/or omissions as set forth in paragraphs 8 through 28, above, whether proven individually, jointly, or in any combination thereof, constitute gross negligence pursuant to section 2234, subdivision (b), of the Code. Therefore cause for discipline exists.

THIRD CAUSE FOR DISCIPLINE

(Gross Negligence – Failure to Completely Examine Patient C.F.)

33. Respondent is subject to disciplinary action under section 2234, subdivision (b), of the Code, in that he engaged in gross negligence by failing to completely examine Patient C.F. relative to the patient's complaints and presentation. Complainant refers to and, by this reference, incorporates herein, paragraphs 8 through 28, above, as though fully set forth herein. The circumstances are as follows:

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7 Respondent claimed at the time of his interview with the Board on August 23, 2016 that he first saw the patient on May 11, 2013 between 7:30 a.m. and 9:00 a.m. Nursing staff documented that Respondent was at the patient's bedside at 10:00 a.m.
A. Respondent’s physical examination of the patient on the morning of May 11, 2013 was cursory, incomplete, and changed multiple times, especially after the diagnosis was known.

B. The night before Respondent saw the patient, the nursing staff documented that the patient’s left and right legs had “severely impaired” movement and that the patient was incontinent.

C. Respondent failed to detect neurological abnormalities at the time of his May 11, 2013 morning examination.

34. Respondent’s acts and/or omissions as set forth in paragraphs 8 through 28, above, whether proven individually, jointly, or in any combination thereof, constitute gross negligence pursuant to section 2234, subdivision (b), of the Code. Therefore cause for discipline exists.

FOURTH CAUSE FOR DISCIPLINE
(Repeated Acts of Negligence)

35. Respondent is subject to disciplinary action under section 2234, subdivision (c), of the Code, in that he engaged in repeated acts of negligence in the care and treatment of Patient C.F. Complainant refers to and, by this reference, incorporates herein, paragraphs 8 through 34, above, as though fully set forth herein. The circumstances are as follows:

A. Respondent failed to accurately and timely complete Patient C.F.’s medical records.

B. Respondent failed to evaluate Patient C.F. within a reasonable period of time of the patient being admitted to the hospital.

C. Respondent failed to perform a complete examination of Patient C.F. following his admission to the hospital.

D. Respondent failed to identify the signs of sepsis and failed to begin treatment with appropriate antibiotics even though the patient had a high fever, prior open wound on his foot, abnormal vital signs and abnormal laboratory values at the time of admission.

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36. Respondent's acts and/or omissions as set forth in paragraphs 8 through 34, above, whether proven individually, jointly, or in any combination thereof, constitute repeated acts of negligence pursuant to section 2234, subdivision (c), of the Code. Therefore cause for discipline exists.

FIFTH CAUSE FOR DISCIPLINE

(Failure to Maintain Adequate and Accurate Medical Records).

37. Respondent is subject to disciplinary action under section 2266 of the Code for failing to maintain adequate and accurate records relating to his care and treatment of Patient C.F. Complainant refers to and, by this reference, incorporates herein, paragraphs 15 through 17 and 20 through 24, 29 through 30 and 35, above, as though fully set forth herein.

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 89182, issued to Mohamed Fekry Al-Sadek, M.D.;

2. Revoking, suspending or denying approval of his authority to supervise physician assistants pursuant to section 3527 of the Code, and advanced practice nurses;

3. If placed on probation, ordering him to pay the Board the costs of probation monitoring; and

4. Taking such other and further action as deemed necessary and proper.

DATED: August 17, 2017

KIMBERLY KIRCHMEYER
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California

Complainant

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