

**Before the
New Hampshire Board of Medicine
Concord, New Hampshire**

In the Matter of:

Docket #: 20-MED-0010

**Mahmoud Rashidi-Naimabadi, M.D.
License No.: 14974
(Adjudicatory/Disciplinary Proceeding)**

FINAL DECISION AND ORDER

Before the New Hampshire Board of Medicine (“Board”) is an adjudicatory/disciplinary proceeding in the matter of Mahmoud Rashidi-Naimabadi, M.D. (“Respondent” or “Dr. Rashidi-Naimabadi”) in Docket Number 20-MED-0010.

Background Information

The Board first granted a license to practice medicine in the State of New Hampshire to Dr. Rashidi-Naimabadi on August 4, 2010. Dr. Rashidi-Naimabadi holds license number 14974.

1) On August 4, 2020, the Medical Board of California (“California Board”), issued a Decision and Order (“Order”) against Dr. Rashidi-Naimabadi. The Order revokes Dr. Rashidi-Naimabadi’s California Physician’s and Surgeon’s Certificate No. A 87654. However, the revocation was stayed and respondent was placed on probation for five years upon the following terms and conditions:

1. Education Course

Within 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 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 65 hours of CME of which 40 hours were in satisfaction of this condition.

2. Medical Record Keeping Course

Within 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 months after respondent's initial enrollment. Respondent shall successfully complete any other component of the course within one year of enrollment. The medical record keeping course shall be at respondent's expense and shall be in addition to the 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 15 calendar days after successfully completing the course, or not later than 15 calendar days after the effective date of the decision, whichever is later.

3. Clinical Competence Assessment Program

Within 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 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 and no more than five 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 that states unequivocally whether the 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 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 any petition to revoke probation. The cessation of practice shall not apply to the reduction of the probationary time period.

4. Practice Monitor

Within 30 calendar days of the effective date of this decision, respondent shall submit to the Board or its designee for prior approval as a practice monitor the name and qualifications of one or more licensed physicians and surgeons whose licenses are valid and in good standing, and who are preferably ABMS certified. A monitor shall have no prior or current business or personal relationship with respondent, or other relationship that could reasonably be expected to compromise the ability of the monitor to render fair and unbiased reports to the Board, including but not limited to any form of bartering; shall be in respondent's field of practice; and must agree to serve as respondent's monitor. Respondent shall pay all monitoring costs.

The Board or its designee shall provide the approved monitor with copies of the decision and accusation, and a proposed monitoring plan. Within 15 calendar days of receipt of the decision, accusation, and proposed monitoring plan, the monitor shall submit a signed statement that the monitor has read the decision and accusation, fully understands the role of a monitor, and agrees or disagrees with the proposed monitoring plan. If the monitor disagrees with the proposed monitoring plan, the monitor shall submit a revised monitoring plan with the signed statement for approval by the Board or its designee. Within 60 calendar days of the effective date of this decision, and continuing throughout probation, respondent's practice shall be monitored by the approved monitor. Respondent shall make all records available for immediate inspection and copying on the premises by the monitor at all times during business hours and shall retain the records for the entire term of probation.

If respondent fails to obtain approval of a monitor within 60 calendar days of the effective date of this decision, respondent shall receive a notification from the Board or its designee to cease the practice of medicine within three calendar days after being so notified. Respondent shall cease the practice of medicine until a monitor is approved to provide monitoring responsibility.

The monitor shall submit a quarterly written report to the Board or its designee which includes an evaluation of respondent's performance, indicating whether respondent's practices are within the standards of medical practice, and whether respondent is practicing medicine safely. It shall be the sole responsibility of respondent to ensure that the monitor submits the quarterly written reports to the Board or its designee within 10 calendar days after the end of the preceding quarter.

If the monitor resigns or is no longer available, respondent shall, within five calendar days of such resignation or unavailability, submit to the Board or its designee, for prior approval, the name and qualifications of a replacement monitor who will be assuming that responsibility within 15 calendar days. If respondent fails to obtain approval of a replacement monitor within 60 calendar days of the resignation or unavailability of the monitor, respondent shall receive a notification from the Board or its designee to cease the practice of medicine within three calendar days after being so notified. Respondent shall cease the practice of medicine until a replacement monitor is approved and assumes monitoring responsibility.

In lieu of a monitor, respondent may participate in a professional enhancement program approved in advance by the Board or its designee, that includes, at minimum, 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.

5. Notification to Hospitals, Other Providers, and Insurance Carriers

Within seven days of the effective date of this decision, respondent shall provide a true copy of the decision and the accusation in this matter 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 15 calendar days.

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

6. Supervision of Physician Assistants and Advanced Practice Nurses
During probation, respondent is prohibited from supervising physician assistants and advanced practice nurses.

7. Obey All-Laws
Respondent shall obey all federal, state, and local laws, and all rules governing the practice of medicine in California. Respondent shall remain in full compliance with any court ordered criminal probation, payments, and other orders.

8. 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 10 calendar days after the end of the preceding quarter.

9. General Probation Requirements
Compliance with Probation Unit: Respondent shall comply with the Board's probation unit and all terms and conditions of this decision.
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, subdivision (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 certificate.
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 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 30 calendar days prior to the dates of departure and return.

10. 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.

11. Non-Practice While on Probation

Respondent shall notify the Board or its designee in writing within 15 calendar days of any periods of non-practice lasting more than 30 calendar days and within 15 calendar days of respondent's return to practice. Non-practice is defined as any period of time respondent is not practicing medicine in California as defined in Business and Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct patient care, clinical activity or teaching, or other activity as approved by the Board. All time spent in an intensive training program which has been approved by the Board or its designee shall not be considered non-practice. 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. In the event respondent's period of non-practice while on probation exceeds 18 calendar months, respondent shall successfully complete a clinical training 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 years.

Periods of non-practice will not apply to the reduction of the probationary term.

Periods of non-practice 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 (Condition 7); and General Probation Requirements (Condition 9).

12. Completion of Probation

Respondent shall comply with all financial obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the completion of probation. Upon successful completion of probation, respondent's certificate shall be fully restored.

13. 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.

14. 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 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.

15. 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.

This action was based on the California Board's finding that the Respondent exhibited "extreme and repeated departures from the standard of care" and "failure to record and explain critical medical events and decisions."

Pursuant to RSA 329:17-c, when the Board receives "an administratively final order from the licensing authority of another jurisdiction which imposes disciplinary sanctions against a licensee of the board. . . . the board may issue an order directing the licensee to appear and show cause why similar disciplinary sanctions . . . should not be imposed in the state." Accordingly, on September 2, 2020, the Board voted to issue a Notice of Hearing to Show Cause. The purpose of the Show Cause hearing was for Respondent to show cause why disciplinary sanctions similar to those imposed by the California Board should not be imposed in New Hampshire.

On September 9, 2020, the Board issued a Notice of Hearing to Show Cause scheduling the hearing to take place on Wednesday, October 14, 2020 at 10:00 A.M. electronically via real-time, two-way video conferencing through the Office of Professional Licensure and Certification ("OPLC") ZOOM account.

The hearing commenced on October 14, 2020 beginning at approximately 10:15 A.M. The Board members present included:

David C. Conway, M.D., Vice President

Michael Barr, M.D.

Gilbert J. Fanciullo, M.D.

Nina C. Gardner, Public Member

Linda M. Tatarczuch, Public Member

Gilbert J. Fanciullo, M.D., Board Member, served as presiding officer. Dr. Rashidi-Naimabadi appeared and represented himself.

Discussion and Rulings

The presiding officer opened the hearing and offered Dr. Rashidi-Naimabadi five minutes for an opening statement. Dr. Rashidi-Naimabadi declined to issue an opening statement and proceeded to testify on his own behalf. He described to the Board what happened in the two cases that led to the disciplinary action in California and indicated to the Board that he would do things differently now. The Board appreciated Dr. Rashidi-Naimabadi's apparent openness and sincerity in answering questions posed to him by Board members; however, the Board remains somewhat concerned about Dr. Rashidi-Naimabadi's judgment and finds that it would be in the public interest to impose certain conditions on his license similar to those imposed by California.

The presiding officer admitted the Board's Exhibit 1 into evidence. The presiding officer closed the hearing at 11:23 A.M.

Disciplinary Sanctions

The issue before the Board is whether Dr. Rashidi-Naimabadi should be subject to disciplinary sanctions similar to those imposed by the California Board pursuant to RSA 329:17-c.

After hearing testimony from Dr. Rashidi-Naimabadi, the Board voted to issue a Reprimand and put the following conditions on Dr. Rashidi-Naimabadi's license:

- 1) Dr. Rashidi-Naimabadi shall provide the Board with the results of the clinical competence assessment program mandated by the Medical Board of California; and
- 2) Dr. Rashidi-Naimabadi shall provide the Board with a copy of the continuing medical education required in his California Decision and Order; and
- 3) Dr. Rashidi-Naimabadi shall provide the New Hampshire Board of Medicine with a copy of the monitor evaluations submitted to the California Board of Medicine; and
- 4) Should Dr. Rashidi-Naimabadi return to practice medicine in New Hampshire prior to completion of his five-year probation period imposed by California, he will be required to practice under a practice monitor for the remainder of his five-year probation period. The practice monitor, preferably ABMS certified, shall be approved by the Board, and shall meet the following criteria:

- a. The monitor shall have no prior or current business or personal relationship with respondent, or other relationship that could reasonably be expected to compromise the ability of the monitor to render fair and unbiased reports to the Board, including but not limited to any form of bartering; shall be in respondent's field of practice; and must agree to serve as respondent's monitor. Respondent shall pay all monitoring costs.
- b. The Respondent shall provide the approved monitor with a copy of this Final Decision and Order ("Decision"), and a proposed monitoring plan shall be submitted by Respondent to the Board for approval. Within 15 calendar days of receipt of the Decision, and proposed monitoring plan, the monitor shall submit a signed statement that the monitor has read the Decision, fully understands the role of a monitor, and agrees or disagrees with the proposed monitoring plan. If the monitor disagrees with the proposed monitoring plan, the monitor shall submit a revised monitoring plan with the signed statement for approval by the Board.
- c. While practicing in New Hampshire under an approved practice monitor, Respondent shall make all records available for immediate inspection and copying on the premises by the monitor at all times during business hours and shall retain the records for the entire monitoring period.
- d. The monitor shall submit a quarterly written report to the Board or its designee which includes an evaluation of Respondent's performance, indicating whether Respondent's practices are within the standards of medical practice, and whether Respondent is practicing medicine safely. It shall be the sole responsibility of Respondent to ensure that the monitor submits the quarterly written reports to the Board or its designee within 10 calendar days after the end of the preceding quarter.
- e. If the monitor resigns or is no longer available, Respondent shall, within five calendar days of such resignation or unavailability, submit to the Board, for prior approval, the name and qualifications of a replacement monitor who will be assuming that responsibility within 15 calendar days. If Respondent fails to obtain approval of a replacement monitor within 60 calendar days of the resignation or unavailability of the monitor, Respondent shall receive a notification from the Board or its designee to cease the practice of medicine within three calendar days after being so notified. Respondent shall cease the practice of medicine until a replacement monitor is approved and assumes monitoring responsibility.

THEREFORE, IT IS ORDERED that the Respondent is **REPRIMANDED**; and

IT IS FURTHER ORDERED that Respondent shall provide the Board with the results of the clinical competence assessment program mandated by the Medical Board of California; and

IT IS FURTHER ORDERED that Dr. Rashidi-Naimabadi shall provide the Board with a copy of the continuing medical education required in his California Decision and Order; and

IT IS FURTHER ORDERED that Dr. Rashidi-Naimabadi shall provide the Board with a copy of the monitor evaluations submitted to the California Board of Medicine; and

IT IS FURTHER ORDERED that, should Dr. Rashidi-Naimabadi return to practice medicine in New Hampshire prior to completion of his five-year probation period imposed by California, he will be required to practice under a practice monitor for the remainder of his five-year probation period. The practice monitor, preferably ABMS certified, shall be approved by the Board, and shall meet the criteria set forth in paragraph 3 (a) through (e) above.

IT IS FURTHER ORDERED that this Final Decision and Order shall become a permanent part of the Respondent's file, which is maintained by the Board as a public document; and

IT IS FURTHER ORDERED that this Final Decision and Order shall take effect as an Order of the Board on the date an authorized representative of the Board signs it.

BY ORDER OF THE BOARD

Dated: 10/22/2020


Penny Taylor Administrator
Authorized Representative of the
New Hampshire Board of Medicine