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9
10 **BEFORE THE**
MEDICAL BOARD OF CALIFORNIA
11 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA
12

13 In the Matter of the Accusation Against:

Case No. 800-2018-048259

14 **Arian S. Mowlavi, M.D.**
15 **32406 South Coast Highway**
Laguna Beach, CA 92651

A C C U S A T I O N

16 **Physician's and Surgeon's Certificate**
17 **No. A 85870,**

18 Respondent.

19
20 **PARTIES**

21 1. William Prasifka (Complainant) brings this Accusation solely in his official capacity
22 as the Executive Director of the Medical Board of California, Department of Consumer Affairs
23 (Board).

24 2. On or about February 4, 2004, the Medical Board issued Physician's and Surgeon's
25 Certificate No. A 85870 to Arian S. Mowlavi, M.D. (Respondent). The Physician's and
26 Surgeon's Certificate was in full force and effect at all times relevant to the charges brought
27 herein and will expire on February 28, 2022, unless renewed.

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JURISDICTION

1
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 2220 of the Code states:

6 Except as otherwise provided by law, the board may take action against all
7 persons guilty of violating this chapter. . .

8 5. Section 2227 of the Code states:

9 (a) A licensee whose matter has been heard by an administrative law judge of
10 the Medical Quality Hearing Panel as designated in Section 11371 of the Government
11 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:

12 (1) Have his or her license revoked upon order of the board.

13 (2) Have his or her right to practice suspended for a period not to exceed one
14 year upon order of the board.

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

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

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

20 . . .

21 6. Section 2234 of the Code states:

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

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

26 (b) Gross negligence.

27 . . .

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1 (e) The commission of any act involving dishonesty or corruption that is
2 substantially related to the qualifications, functions, or duties of a physician and
3 surgeon.

3 ...

4 7. Section 2052 of the Code states:

5 (a) Notwithstanding Section 146, any person who practices or attempts to
6 practice, or who advertises or holds himself or herself out as practicing, any system or
7 mode of treating the sick or afflicted in this state, or who diagnoses, treats, operates
8 for, or prescribes for any ailment, blemish, deformity, disease, disfigurement,
9 disorder, injury, or other physical or mental condition of any person, without having
10 at the time of so doing a valid, unrevoked, or unsuspended certificate as provided in
11 this chapter [Chapter 5, the Medical Practice Act], or without being authorized to
perform the act pursuant to a certificate obtained in accordance with some other
provision of law, is guilty of a public offense, punishable by a fine not exceeding ten
thousand dollars (\$10,000), by imprisonment pursuant to subdivision (h) of Section
1170 of the Penal Code, by imprisonment in a county jail not exceeding one year, or
by both the fine and either imprisonment.

12 (b) Any person who conspires with or aids or abets another to commit any act
13 described in subdivision (a) is guilty of a public offense, subject to the punishment
14 described in that subdivision.

15 (c) The remedy provided in this section shall not preclude any other remedy
16 provided by law.

17 8. Section 2264 of the Code states:

18 The employing, directly or indirectly, the aiding, or the abetting of any
19 unlicensed person or any suspended, revoked, or unlicensed practitioner to engage in
20 the practice of medicine or any other mode of treating the sick or afflicted which
21 requires a license to practice constitutes unprofessional conduct.

22 9. Section 2261 of the Code states:

23 Knowingly making or signing any certificate or other document directly or
24 indirectly related to the practice of medicine or podiatry which falsely represents the
25 existence or nonexistence of a state of facts, constitutes unprofessional conduct.

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10. Section 651 of the Code states:

(a) It is unlawful for any person licensed under this division or under any initiative act referred to in this division to disseminate or cause to be disseminated any form of public communication containing a false, fraudulent, misleading, or deceptive statement, claim, or image for the purpose of or likely to induce, directly or indirectly, the rendering of professional services or furnishing of products in connection with the professional practice or business for which he or she is licensed. A "public communication" as used in this section includes, but is not limited to, communication by means of mail, television, radio, motion picture, newspaper, book, list or directory of healing arts practitioners, Internet, or other electronic communication.

(b) A false, fraudulent, misleading, or deceptive statement, claim, or image includes a statement or claim that does any of the following:

- (1) Contains a misrepresentation of fact.
- (2) Is likely to mislead or deceive because of a failure to disclose material facts.
- ...

(5) Contains other representations or implications that in reasonable probability will cause an ordinarily prudent person to misunderstand or be deceived.

...

(8) Includes any statement, endorsement, or testimonial that is likely to mislead or deceive because of a failure to disclose material facts.

...

(g) Any violation of this section by a person so licensed shall constitute good cause for revocation or suspension of his or her license or other disciplinary action.

...

11. Section 2216.3 of the Code states:

(a) An outpatient setting accredited pursuant to Section 1248.1 of the Health and Safety Code shall report an adverse event to the board no later than five days after the adverse event has been detected, or, if that event is an ongoing urgent or emergent threat to the welfare, health, or safety of patients, personnel, or visitors, not later than 24 hours after the adverse event has been detected. Disclosure of individually identifiable patient information shall be consistent with applicable law.

(b) For the purposes of this section, "adverse event" includes any of the following:

- (1) Surgical or other invasive procedures, including the following:

...

1 (F) Transfer of a patient to a hospital or emergency center for medical treatment
2 for a period exceeding 24 hours following a scheduled procedure outside of a general
3 acute care hospital, as defined in subdivision (a) of Section 1250 of the Health and
4 Safety Code.

5 ...

6 12. Unprofessional conduct under section 2234 of the Code is conduct which breaches
7 the rules or ethical code of the medical profession, or conduct which is unbecoming a member in
8 good standing of the medical profession, and which demonstrates an unfitness to practice
9 medicine. (*Shea v. Board of Medical Examiners* (1978) 81 Cal.App.3d 564, 575.)

10 **FIRST CAUSE FOR DISCIPLINE**

11 **(Gross Negligence)**

12 13. Respondent has subjected his Physician's and Surgeon's Certificate No. A 85870 to
13 disciplinary action under sections 2227 and 2234, as defined by section 2234, subdivision (b), of
14 the Code, in that he committed gross negligence in his care and treatment of Patient A,¹ as more
15 particularly alleged hereinafter:

16 **Respondent's VASER® Liposuction Practice**

17 14. Respondent is a Board-certified plastic surgeon. At all times relevant to the
18 allegations herein, Respondent was a solo practitioner at the Laguna Surgery Institute, an
19 outpatient surgical center located in Laguna Beach, California.

20 15. According to Respondent, approximately 80 to 90 percent of his practice constitutes
21 VASER® liposuction. Respondent describes VASER® liposuction as a high definition liposuction
22 procedure involving the infusion of tumescent solution, followed by cavitation (or melting) of the
23 fat, and then aspiration (or siphoning) of the liquid fat. According to Respondent, the VASER®
24 procedure enables the infiltration of both the deep and superficial layers of fat, thereby leading to
25 "stunning results" and "more high defined muscle patterns and . . . etching" than traditional
26 liposuction.

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28 ¹ References to "Patient A" herein are used to protect patient privacy.

1 16. Respondent began utilizing the VASER® liposuction procedure in or about March
2 2017, when he first purchased the VASER® liposuction machine. Since then, Respondent states
3 that he has become well regarded for the VASER® liposuction procedure and has trained more
4 than 50 surgeons on the procedure.

5 17. Prior to August 30, 2018, Respondent performed approximately 150 to 180 VASER®
6 liposuction cases. After August 30, 2018, Respondent performed in excess of approximately 100
7 VASER® liposuction cases. For VASER® liposuction procedures performed at Respondent's
8 surgical facility, surgical technicians² are present and provide assistance to Respondent during the
9 procedures.

10 18. Surgical techs assist Respondent during VASER® liposuction procedures by, *inter*
11 *alia*, performing liposuction on patients, including surgical techs J.G. and A.J.R.

12 **Respondent's "High Definition Liposuction" Book**

13 19. Sometime after Respondent began performing VASER® liposuction procedures,
14 Respondent authored a book entitled, "High Definition Liposuction." The book starts by
15 describing Respondent's distinctions and credentials, awards, lectures, and articles published.
16 The book states that Respondent "is considered one of the top body sculptors around the world,"
17 has performed "over 15,000 procedures[.]" and is "well-regarded as a world-renowned face,
18 body, and breast sculptor because of his superior outcomes and body transformations."

19 20. The book then provides an introduction to high definition liposuction, describing it as
20 a "'Game Changer' in the body contouring arena as it allows your surgeon to precisely sculpt
21 your body to previously unattainable results." To obtain such results, the book identifies two

22
23 ² Surgical technicians are also referred to as "surgical technologists," "surgical techs," or
24 "scrub techs." Surgical technicians work in the operating room with surgeons, anesthesiologists,
25 and nurses. Preoperatively, their tasks and duties include sterilizing the equipment and operating
26 room; gathering, counting, and arranging the equipment and surgical tools needed during the
27 surgery; and preparing patients for the procedure. Intraoperatively, surgical techs keep the
28 operating room sterile; pass surgical tools to the surgeon and the surgeon's assistant; and assist in
retracting tissues from the patient. Postoperatively, their tasks and duties include counting all of
the tools and instruments used during the surgery; applying dressings to surgical sites; disposing
of needles and gauze; and maintaining the sterile environment of the operating room until the
patient is brought to the recovery room. Surgical technicians must possess a high school diploma
(or equivalent) and complete an accredited surgical technology training program, typically lasting
12 to 24 months.

1 critical factors, one of which is “mastery in the use of VASER technology.” According to the
2 book, “Mastery requires: Understanding VASER capacity[;] Intimate knowledge of muscle
3 anatomy[;] Appropriate training in VASER application[;] Surgical experience with VASER
4 technology[;] Artistic approach to sculpting the body[;] 360 degree or circumferential body
5 contouring[;] Accurate preoperative high definition markings[;] [and] Strategically sound
6 operative plan[.]”

7 21. Thereafter, the book discusses patient selection, the second critical factor for attaining
8 high definition liposuction results, and related considerations, including body scale and surgical
9 algorithm and body scale case studies. A section on preoperative markings follows, along with a
10 discussion of specific procedures for various areas of the body and complications relating to body
11 contouring and a photo gallery of before and after body contouring cases.

12 22. At the end of the book, Respondent’s services and staff are highlighted. The book
13 states, “To ensure optimum high definition liposuction results, it is critical to choose a surgeon
14 that offers a full spectrum high definition liposuction body contouring center.” It further states
15 that Respondent’s surgical facility offers “state of the art equipment,” a state-certified operating
16 room that provides “a safe operative and postoperative recovery center[.]” and an experienced
17 staff, including a front office coordinator, a patient coordinator, and a surgical tech.

18 23. Respondent’s book does not include any statement that for VASER® liposuction
19 procedures performed at Respondent’s surgical facility, surgical techs, including surgical techs
20 J.G. and A.J.R., also perform liposuction on patients.

21 24. Respondent’s book is disseminated on his website, which includes a webpage that
22 prominently features the book.³ The webpage states, “Dr. Mowlavi’s High Definition
23 Liposuction patient guide is available with a consultation appointment. [] You may also
24 purchase the book online for \$49.95 here: www.lulu.com.”

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27 ³ See [https://cosmeticplasticsurgeryinstitute.com/dr-mowlavi-high-definition-lipo-](https://cosmeticplasticsurgeryinstitute.com/dr-mowlavi-high-definition-lipo-booklet/)
28 [booklet/](https://cosmeticplasticsurgeryinstitute.com/dr-mowlavi-high-definition-lipo-booklet/).

1 **Patient A**

2 25. On or about August 2, 2018, Patient A had a consultation with Respondent regarding
3 possible liposuction of the abdomen, back, flanks, and thighs as well as a breast implant
4 replacement, a medial thigh tuck, and a tummy tuck. Respondent recommended high definition
5 VASER® liposuction of the abdomen, back, and flanks, an abdominoplasty incision line revision
6 (or “mini tummy tuck”), and a medial and lateral thigh tuck. In addition, Respondent
7 recommended a right breast capsulorrhaphy with implant reposition and fat grafting to the
8 buttocks.

9 26. On or about August 30, 2018, Patient A underwent surgery at the Laguna Surgery
10 Institute. Respondent was the operating surgeon. Also present were Dr. E.A., the
11 anesthesiologist; Nurse R.D., the Registered Nurse First Assist; Nurse N.R., the circulating
12 registered nurse; surgical tech J.G.; and surgical tech A.J.R. Multiple procedures were performed
13 during the surgery, including high definition liposuction of the abdomen, back, flanks, and lateral
14 thighs; right breast implant removal, capsulorrhaphy, and replacement; mini abdominoplasty
15 incision line revision; lateral and medial thigh tuck; and fat grafting to the buttocks and breasts.

16 27. During the surgery, surgical techs J.G. and A.J.R. assisted Respondent by, *inter alia*,
17 performing liposuction on Patient A. Surgical tech J.G. infused the tumescent solution, and
18 surgical tech A.J.R. removed the fat.

19 28. Patient A was discharged home at approximately 8:02 p.m. on the same day. At
20 approximately 1:06 a.m., on or about August 31, 2018, Patient A was admitted to the hospital.
21 According to the Emergency Department Report, Patient A suffered a syncopal episode at home
22 after complaining of shortness of breath and collapsing. She was brought to the Emergency
23 Department by ambulance and arrived unresponsive.

24 29. On or about August 31, 2018, Respondent saw Patient A in the intensive care unit of
25 the hospital. The next day, on or about September 1, 2018, Respondent wrote a postoperative
26 note documenting Patient A’s hospitalization and condition. Respondent noted that Patient A
27 decompensated at home following her surgery and suffered anoxic brain injury with a
28 “devastating prognosis.”

1 **FOURTH CAUSE FOR DISCIPLINE**

2 **(Dissemination of Public Communication Containing False Representations)**

3 35. Respondent has subjected his Physician's and Surgeon's Certificate No. A 85870 to
4 disciplinary action under sections 2227, 651, subdivisions (a), (b), and (g), and 2234, subdivision
5 (a), of the Code, in that he disseminated or caused to be disseminated a public communication
6 containing a false, misleading, or deceptive statement for the purpose of or with the likelihood of
7 inducing the rendering of medical services, as more particularly alleged in paragraphs 14 through
8 32, above, which are hereby incorporated by reference and realleged as if fully set forth herein.

9 **FIFTH CAUSE FOR DISCIPLINE**

10 **(Dishonesty or Corruption)**

11 36. Respondent has subjected his Physician's and Surgeon's Certificate No. A 85870 to
12 disciplinary action under sections 2227 and 2234, subdivision (e), of the Code, in that he engaged
13 in an act or acts involving dishonesty that are substantially related to the qualifications, functions,
14 or duties of a physician and surgeon, as more particularly alleged in paragraphs 14 through 32,
15 above, which are hereby incorporated by reference and realleged as if fully set forth herein.

16 **SIXTH CAUSE FOR DISCIPLINE**

17 **(Failure to Timely Report Adverse Event)**

18 37. Respondent has subjected his Physician's and Surgeon's Certificate No. A 85870 to
19 disciplinary action under sections 2227 and 2234, subdivision (a), as defined by section 2216.3,
20 subdivisions (a) and (b), of the Code, in that Respondent failed to timely report an adverse event
21 relating to Patient A to the Board after detecting the adverse event, as more particularly alleged in
22 paragraphs 25 through 31, above, which are hereby incorporated by reference and realleged as if
23 fully set forth herein.

24 **SEVENTH CAUSE FOR DISCIPLINE**

25 **(General Unprofessional Conduct)**

26 38. Respondent has subjected his Physician's and Surgeon's Certificate No. A 85870 to
27 disciplinary action under sections 2227 and 2234 of the Code, in that he has engaged in conduct
28 which breaches the rules or ethical code of the medical profession, or conduct which is


1 unbecoming to a member in good standing of the medical profession, and which demonstrates an
2 unfitness to practice medicine, as more particularly alleged in paragraphs 14 through 37, above,
3 which are hereby incorporated by reference and realleged as if fully set forth herein.

4 **PRAYER**

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

- 7 1. Revoking or suspending Physician's and Surgeon's Certificate No. A 85870, issued
8 to Respondent Arian S. Mowlavi, M.D.;
- 9 2. Revoking, suspending or denying approval of Respondent Arian S. Mowlavi, M.D.'s
10 authority to supervise physician assistants, pursuant to section 3527 of the Code, and advanced
11 practice nurses;
- 12 3. Ordering Respondent Arian S. Mowlavi, M.D., if placed on probation, to pay the
13 Board the costs of probation monitoring; and
- 14 4. Taking such other and further action as deemed necessary and proper.

15
16 DATED: **AUG 25 2021**



WILLIAM PRASIFKA
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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