

1 ROB BONTA
Attorney General of California
2 EDWARD KIM
Supervising Deputy Attorney General
3 JOSHUA M. TEMPLET
Deputy Attorney General
4 State Bar No. 267098
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 269-6688
6 Facsimile: (916) 731-2117
Attorneys for Complainant
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8 **BEFORE THE**
9 **MEDICAL BOARD OF CALIFORNIA**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

11 In the Matter of the First Accusation Against:

Case No. 800-2020-064426

12 **KAMAL BIJANPOUR, M.D.**
13 **3605 Long Beach Blvd., Suite 304**
Long Beach, CA 90807-6018

FIRST AMENDED ACCUSATION

14 **Physician's and Surgeon's**
15 **Certificate No. A 109162,**

Respondent.

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18 **PARTIES**

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

22 2. On or about August 12, 2009, the Board issued Physician's and Surgeon's Certificate
23 Number A 109162 to Kamal Bijanpour, M.D. (Respondent). The Physician's and Surgeon's
24 Certificate was in full force and effect at all times relevant to the charges brought herein and will
25 expire on February 28, 2023, unless renewed.

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JURISDICTION

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

5 4. Section 2004 of the Code provides that the Board shall have the responsibility for the
6 enforcement of the disciplinary provisions of the Medical Practice Act.

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

11 6. Section 2234 of the Code states:

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

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

16 (b) Gross negligence.

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

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

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

 (d) Incompetence.

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

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

 (g) The failure by a certificate holder, in the absence of good cause, to attend

1 and participate in an interview by the board. This subdivision shall only apply to a
2 certificate holder who is the subject of an investigation by the board.

3 7. Section 2236 of the Code states:

4 (a) The conviction of any offense substantially related to the qualifications,
5 functions, or duties of a physician and surgeon constitutes unprofessional conduct
6 within the meaning of this chapter. The record of conviction shall be conclusive
7 evidence only of the fact that the conviction occurred.

8 (b) The district attorney, city attorney, or other prosecuting agency shall notify
9 the Division of Medical Quality of the pendency of an action against a licensee
10 charging a felony or misdemeanor immediately upon obtaining information that the
11 defendant is a licensee. The notice shall identify the licensee and describe the crimes
12 charged and the facts alleged. The prosecuting agency shall also notify the clerk of
13 the court in which the action is pending that the defendant is a licensee, and the clerk
14 shall record prominently in the file that the defendant holds a license as a physician
15 and surgeon.

16 (c) The clerk of the court in which a licensee is convicted of a crime shall,
17 within 48 hours after the conviction, transmit a certified copy of the record of
18 conviction to the board. The division may inquire into the circumstances surrounding
19 the commission of a crime in order to fix the degree of discipline or to determine if
20 the conviction is of an offense substantially related to the qualifications, functions, or
21 duties of a physician and surgeon.

22 (d) A plea or verdict of guilty or a conviction after a plea of nolo contendere is
23 deemed to be a conviction within the meaning of this section and Section 2236.1. The
24 record of conviction shall be conclusive evidence of the fact that the conviction
25 occurred.

26 8. Section 2236.1 of the Code states:

27 (a) A physician and surgeon's certificate shall be suspended automatically
28 during any time that the holder of the certificate is incarcerated after conviction of a
felony, regardless of whether the conviction has been appealed. The Division of
Medical Quality shall, immediately upon receipt of the certified copy of the record of
conviction, determine whether the certificate of the physician and surgeon has been
automatically suspended by virtue of his or her incarceration, and if so, the duration
of that suspension. The division shall notify the physician and surgeon of the license
suspension and of his or her right to elect to have the issue of penalty heard as
provided in this section.

(b) Upon receipt of the certified copy of the record of conviction, if after a
hearing it is determined therefrom that the felony of which the licensee was convicted
was substantially related to the qualifications, functions, or duties of a physician and
surgeon, the Division of Medical Quality shall suspend the license until the time for
appeal has elapsed, if no appeal has been taken, or until the judgment of conviction
has been affirmed on appeal or has otherwise become final, and until further order of
the division. The issue of substantial relationship shall be heard by an administrative
law judge from the Medical Quality Hearing Panel sitting alone or with a panel of the
division, in the discretion of the division.

(c) Notwithstanding subdivision (b), a conviction of any crime referred to in
Section 2237, or a conviction of Section 187, 261, 262, or 288 of the Penal Code,
shall be conclusively presumed to be substantially related to the qualifications,

1 functions, or duties of a physician and surgeon and no hearing shall be held on this
2 issue. Upon its own motion or for good cause shown, the division may decline to
3 impose or may set aside the suspension when it appears to be in the interest of justice
4 to do so, with due regard to maintaining the integrity of and confidence in the medical
5 profession.

6 (d) (1) Discipline may be ordered in accordance with Section 2227, or the
7 Division of Licensing may order the denial of the license when the time for appeal
8 has elapsed, the judgment of conviction has been affirmed on appeal, or an order
9 granting probation is made suspending the imposition of sentence, irrespective of a
10 subsequent order under Section 1203.4 of the Penal Code allowing the person to
11 withdraw his or her plea of guilty and to enter a plea of not guilty, setting aside the
12 verdict of guilty, or dismissing the accusation, complaint, information, or indictment.

13 (2) The issue of penalty shall be heard by an administrative law judge from the
14 Medical Quality Hearing Panel sitting alone or with a panel of the division, in the
15 discretion of the division. The hearing shall not be had until the judgment of
16 conviction has become final or, irrespective of a subsequent order under Section
17 1203.4 of the Penal Code, an order granting probation has been made suspending the
18 imposition of sentence; except that a licensee may, at his or her option, elect to have
19 the issue of penalty decided before those time periods have elapsed. Where the
20 licensee so elects, the issue of penalty shall be heard in the manner described in this
21 section at the hearing to determine whether the conviction was substantially related to
22 the qualifications, functions, or duties of a physician and surgeon. If the conviction of
23 a licensee who has made this election is overturned on appeal, any discipline ordered
24 pursuant to this section shall automatically cease. Nothing in this subdivision shall
25 prohibit the division from pursuing disciplinary action based on any cause other than
26 the overturned conviction.

27 (e) The record of the proceedings resulting in the conviction, including a
28 transcript of the testimony therein, may be received in evidence.

(f) The other provisions of this article setting forth a procedure for the
suspension or revocation of a physician and surgeon's certificate shall not apply to
proceedings conducted pursuant to this section.

9. Section 820 of the Code states:

Whenever it appears that any person holding a license, certificate or permit under this
division or under any initiative act referred to in this division may be unable to
practice his or her profession safely because the licentiate's ability to practice is
impaired due to mental illness, or physical illness affecting competency, the licensing
agency may order the licentiate to be examined by one or more physicians and
surgeons or psychologists designated by the agency. The report of the examiners shall
be made available to the licentiate and may be received as direct evidence in
proceedings conducted pursuant to Section 822.

10. Section 822 of the Code states:

If a licensing agency determines that its licentiate's ability to practice his or her
profession safely is impaired because the licentiate is mentally ill, or physically ill
affecting competency, the licensing agency may take action by any one of the
following methods:

1 (a) Revoking the licentiate's certificate or license.

2 (b) Suspending the licentiate's right to practice.

3 (c) Placing the licentiate on probation.

4 (d) Taking such other action in relation to the licentiate as the licensing agency
in its discretion deems proper.

5 The licensing section shall not reinstate a revoked or suspended certificate or license
6 until it has received competent evidence of the absence or control of the condition
7 which caused its action and until it is satisfied that with due regard for the public
8 health and safety the person's right to practice his or her profession may be safely
9 reinstated.

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9 **REGULATORY PROVISIONS**

10 11. California Code of Regulations, title 16, section 1360 states:

11 (a) For the purposes of denial, suspension or revocation of a license pursuant to
12 Section 141 or Division 1.5 (commencing with Section 475) of the code, a crime,
13 professional misconduct, or act shall be considered to be substantially related to the
14 qualifications, functions or duties of a person holding a license if to a substantial
15 degree it evidences present or potential unfitness of a person holding a license to
16 perform the functions authorized by the license in a manner consistent with the public
health, safety or welfare. Such crimes, professional misconduct, or acts shall include
but not be limited to the following: Violating or attempting to violate, directly or
indirectly, or assisting in or abetting the violation of, or conspiring to violate any
provision of state or federal law governing the applicant's or licensee's professional
practice.

17 (b) In making the substantial relationship determination required under subdivision
18 (a) for a crime, the board shall consider the following criteria:

19 (1) The nature and gravity of the crime;

20 (2) The number of years elapsed since the date of the crime; and

21 (3) The nature and duties of the profession.

22 **COST RECOVERY**

23 12. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
24 administrative law judge to direct a licensee found to have committed a violation or violations of
25 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
26 enforcement of the case, with failure of the licensee to comply subjecting the license to not being
27 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
28 included in a stipulated settlement.

1 **FACTUAL ALLEGATIONS**

2 **Respondent's Mental Evaluation**

3 13. The Board began investigating Respondent after receiving a complaint about him on
4 or about February 7, 2020. During the investigation, Respondent was asked to undergo a physical
5 and mental evaluation. On or about May 6, 2020, an investigator with the Department of
6 Consumer Affairs, Division of Investigation, Health Quality Investigation Unit (HQIU) sent
7 Respondent a certified letter with Voluntary Agreements for Mental and Physical Examination
8 forms, along with Business and Professions Code sections 820, 821, 822, and 823 to his address
9 of record. A stamped self-addressed envelope was enclosed.

10 14. On or about May 19, 2020, the HQIU investigator received the signed Voluntary
11 Agreements for Mental and Physical Examination forms from Respondent. Subsequently,
12 arrangements were made for Respondent to receive a physical examination and a psychiatric
13 evaluation.

14 15. On or about June 16, 2020, Respondent underwent a physical examination, including
15 a urine toxicology screening, by a Board approved physician. Respondent reported using
16 Suboxone 4 mg in the morning and 2 mg in the evening for chronic back pain and Adderall IR 20
17 mg daily, under the care of a physician and a psychiatrist. A 14-point review of systems was
18 significant mainly for a history of chronic low back pain. At the request of the HQIU investigator,
19 Respondent provided a witnessed urine sample for a toxicology screen, the results of which were
20 negative. The examining physician noted that Respondent reported taking Suboxone and Adderall
21 but he did not report a diagnosis of Attention Deficit Disorder or Attention Deficit Hyperactivity
22 Disorder to explain the use of Adderall. The witnessed urine toxicology was negative for
23 buprenorphine, amphetamines, and methamphetamine.

24 16. The examining physician concluded in his June 17, 2020 report that Respondent does
25 not have a physical illness or condition that impacts his ability to safely engage in the practice of
26 medicine and that it did not appear that Respondent's presentation was possibly due to a mental
27 illness. However, he supported the requirement of a mental examination given Respondent's
28 reported use of Adderall. The physician examiner did not believe that Respondent had a physical

1 illness or condition which required monitoring, treatment, oversight, or other terms and
2 conditions to practice medicine safely.

3 17. On or about June 23, 2020, a Board-approved psychiatrist performed a
4 comprehensive psychiatric evaluation of Respondent over the course of three hours. That
5 evaluation included psychological testing and urine alcohol and drug testing.

6 18. The psychiatric evaluator concluded that Respondent needs to follow certain
7 treatment recommendations in order to be safe to practice medicine. Respondent has a history of
8 trauma and is under a number of stressors that if untreated, would negatively impact his ability to
9 safely engage in the practice of medicine. His history of trauma and stressors require monitoring
10 and more aggressive mental health treatment than he was receiving at the time of the evaluation,
11 including a yearlong course of psychotherapy with weekly visits, continued substance abuse
12 treatment, and random urine drug screens. In addition, since he does not have a legitimate
13 diagnosis of ADHD to support his continuing use of Adderall, he should obtain a second
14 psychiatric opinion regarding his diagnosis of ADHD and the need for Adderall. Respondent
15 should also obtain a second medical opinion to determine whether his continued use of opiates for
16 pain is medically indicated. With Respondent following these treatment recommendations, from a
17 psychiatric standpoint, Respondent should be able to practice medicine safely.

18 **Respondent's Criminal Conviction**

19 19. On or about September 20, 2019, a magistrate judge of the United States District
20 Court for the Central District of California issued a criminal complaint against Respondent in
21 *United States v. Kamal Bijanpour*, case number 19MJ03956. The complaint charged Respondent
22 with violating United States Code, Title 26, Section 5861(d) (possession of an unregistered
23 firearm suppressor) and was based on a sworn affidavit by a United States Department of
24 Homeland Security investigator. According to the complaint, in or around 2018 and 2019,
25 Respondent received approximately 768 parcels from China, a known exporter of illegal firearm
26 suppressors and other firearm accessories. Upon executing previous search warrants, law
27 enforcement agents found 13 firearm suppressors and 18 firearms in Respondent's Los Angeles
28 residences on September 18, 2019. The firearms, some of which were loaded, included an AK-

1 47-type assault weapon, two Mossberg 500 shotguns, two Remington 870 shotguns, a PTR-90
2 assault weapon, a Barrett M82 .481 caliber sniper rifle, a Vector short-barreled rifle, and a
3 SOCOM MK16 rifle. Law enforcement agents also found a substance that field-tested positive as
4 methamphetamine on top of Respondent's computer, next to a handgun and rifle. In addition, the
5 agents found a loaded revolver in Respondent's sedan.

6 20. On or about October 8, 2019, a grand jury returned a 23-count indictment in *United*
7 *States v. Kamāl Bijanpour*, case number CR-19-610, charging Respondent with the illegal
8 possession and importation of unregistered firearm silencers in violation of various sections of the
9 United States Code.

10 21. On or about February 19, 2021, Respondent pleaded guilty to Count 22 of the
11 indictment, which charges Respondent with causing the illegal importation of firearms in
12 violation of United States Code, Title 18, Section 922(1) and Section 2(b). In his plea agreement,
13 Respondent admitted to the truth of the following:

14 On or about August 20, 2019, in Los Angeles County, within the Central District of
15 California, [Respondent] knowingly imported, and caused to be imported, a firearm
16 (specifically, a firearm silencer) into the United States without authorization. Around
17 this time, [Respondent] knowingly ordered two silencers from an Internet merchant in
18 China and directed that they be delivered to his home in Los Angeles County, and
19 thus imported into the United States. [Respondent] knew that the importation of these
20 firearms into the United States was not authorized, as provided in Title 18, United
21 States Code, Section 925(d). [Respondent] also knew that the importation was
22 unlawful. [Respondent] admits that he knowingly imported at least 13 firearms into
23 the United States using similar methods, including--as described in the indictment--
24 multiple firearms that were not registered to him in the National Firearms
25 Registration and Transfer Record and/or lacked serial numbers.

26 22. On or about October 4, 2021, the court entered a judgment of Respondent's
27 conviction for causing the illegal importation of firearms in violation of United States Code, Title
28 18, Section 922(1), Section 924(a)(1)(C) and Section 2(b), as charged in Count 22 of the
indictment. Respondent's criminal conviction is substantially related to the qualifications,
function, and duties of a physician and surgeon.

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1 28. The facts and circumstances as set forth in paragraphs 19 through 24, inclusive above,
2 are incorporated by reference herein as if fully set forth.

3 29. The allegations of the First Cause for Discipline are incorporated herein by reference
4 as if fully set forth.

5 **THIRD CAUSE FOR DISCIPLINE**

6 **(General Unprofessional Conduct)**

7 30. Respondent is subject to disciplinary action under Code section 2234, in that
8 Respondent's actions and/or omissions represent unprofessional conduct, generally. The
9 circumstances are as follows:

10 31. The allegations of the First and Second Causes for Discipline are incorporated herein
11 by reference as if fully set forth.

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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 109162, issued to Respondent Kamal Bijanpour, M.D.;
2. Revoking, suspending, or denying approval of Respondent Kamal Bijanpour, M.D.'s authority to supervise physician assistants and advanced practice nurses;
3. Ordering Respondent Kamal Bijanpour, M.D., if placed on probation, to pay the Board the costs of probation monitoring;
4. Ordering Respondent Kamal Bijanpour, M.D., to pay the Medical Board of California the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and
5. Taking such other and further action as deemed necessary and proper.

DATED: DEC 24 2021


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

Reji Varghese
Deputy Director

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