

# Los Angeles Times

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From the Los Angeles Times

## Medical Board of California dismisses accusations against Kaiser doctor

Perinatologist Hamid Safari had been accused of negligence in the deliveries of two babies who died in 2004 and 2005. A judge found that he complied with standards of care.

By Jia-Rui Chong

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After a vigorous debate among experts, the state medical board this week dismissed accusations of negligence against a perinatologist at Kaiser Permanente's Fresno Medical Center who was involved in two tragic deliveries.

The Medical Board of California had accused Dr. Hamid Safari of mishandling the procedures. One child died in the delivery room in April 2005, and the other died months after her January 2004 birth.

The Times published a front-page story about the cases in October 2007, reporting that doctors and nurses had complained repeatedly to higher-ups about Safari's medical and interpersonal skills before the deliveries, according to internal documents, a lawsuit and interviews. Federal health inspectors subsequently faulted Kaiser Fresno's medical oversight.

In the medical board case, however, "the evidence established that the respondent complied with applicable standards of care," wrote Cheryl R. Tompkin, the administrative law judge who heard the case and recommended dismissal to the board.

The case pitted two sets of medical experts against each other in a debate over what precisely constituted the standard of care in complex deliveries.

In her written opinion, Tompkin said Safari could have kept better records establishing the patients' understanding of medical risks, but she did not see "any cause for discipline of the respondent's license." The board, which has final say on the discipline of doctors, adopted the verdict Tuesday.

Safari, who has been suspended from treating Kaiser patients for the last year, was relieved and gratified by the ruling, said his lawyer Stephen Schear.

"This is a complete vindication of Dr. Safari by a neutral, unbiased judge," Schear said. "I'm extremely happy to see justice really working."

The allegations have given rise to conflicting responses. Last January, federal health inspectors found that if the hospital had acted on complaints and kept a closer watch over its medical staff, the two babies might still be alive.

Although the Kaiser hospital suspended Safari from caring for patients, the affiliated physicians group continued to pay his salary.

The Times' story from October 2007 reported that Safari repeatedly and vigorously attempted to draw out a baby boy, a twin, with a vacuum extractor in 2005. The first twin had been delivered naturally, but the second died in the delivery room because of a severed spinal cord.

The year before, The Times reported, the doctor had waited more than three hours to do a cesarean section even though a baby girl was in distress and her family said they had been pleading for the procedure.

Obstetrician-gynecologists testifying for the medical board said that Safari made "extreme departure[s] from the standard of care" in the two cases.

But experts testifying on Safari's behalf argued that in the 2004 delivery, Safari could not force a patient to undergo a procedure against her will and the cesarean section was done in a "timely" manner. The judge accepted Safari's contention that he had recommended the C-section numerous times to the patient.

In the 2005 delivery, Safari's experts said, the doctor's use of the vacuum extractor was appropriate.

"The reasoning of [Safari's] experts is found to be persuasive," the judge wrote.

It is unusual for the board to dismiss an accusation. In the last two years, only about 3% have been dismissed, according to Debbie Nelson, associate analyst at the board.

Dr. Robert L. Rusche, one of the doctors who spoke against Safari, said he was stunned by the judge's decision.

Rusche retired in 2006 shortly after reporting Safari's actions to the medical board and, with a former colleague, has sued Kaiser for alleged retaliation. The suit is expected to be settled soon, Rusche said.

He said he was not sorry for raising an alarm, noting that federal investigators backed up his group's claims.

"I'm concerned for patients' well-being," Rusche said. "The facts of the case speak for themselves. I'm not sure the facts were really understood at the judicial level."

Safari still faces two internal hearings at Kaiser to decide if his credentials as a Kaiser doctor should be revoked and whether his suspension is fair, Schear said.

"We're hoping the medical board decision will influence them to stop what they're doing and allow Dr. Safari to go back to work," Schear said.

A Kaiser spokeswoman said the company cannot discuss the internal proceedings involving Safari under California law but said it was reviewing the medical board decision.

"At this time the Medical Board's finding will not change Dr. Safari's status at Kaiser Permanente," said spokeswoman Gerri Ginsburg, in a statement. "Our internal processes adhere to different legal standards than that of the Medical Board, and there may be no implications."

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