

BEFORE THE  
NORTH CAROLINA MEDICAL BOARD

|                       |   |                   |
|-----------------------|---|-------------------|
| In re:                | ) |                   |
|                       | ) | NOTICE OF CHARGES |
| Ramesh Gihwala, M.D., | ) | AND ALLEGATIONS;  |
|                       | ) | NOTICE OF HEARING |
| Respondent.           | ) |                   |

The North Carolina Medical Board ("Board") has preferred and does hereby prefer the following charges and allegations:

1. The Board is a body duly organized under the laws of North Carolina and is the proper party to bring this proceeding under the authority granted it in Article 1 of Chapter 90 of the North Carolina General Statutes and the rules and regulations promulgated thereto.

2. On September 18, 1993, the Board issued Ramesh Gihwala, M.D. ("Dr. Gihwala") a license to practice medicine and surgery, license number 9300472.

3. During the times relevant herein, Dr. Gihwala practiced psychiatry in Gastonia, North Carolina.

FIRST CLAIM - UNPROFESSIONAL CONDUCT  
MEDICAL RECORDS AND QUALITY OF CARE

4. Paragraphs one through three are re-alleged and incorporated herein by reference.

Medical Records

5. In 2010, the Board had concerns regarding Dr. Gihwala's ability to appropriately and timely complete and maintain

medical records. As a result, the Board ordered Dr. Gihwala on October 13, 2010, to attend the Center for Personalized Education for Physicians Patient Documentation Seminar and participate in a follow-up chart review component called a Personalized Implementation Program ("CPEP Program"). Dr. Gihwala attended the CPEP Program seminar portion on March 11, 2011, and participated in the chart review component over the next several months. A report was then generated regarding Dr. Gihwala's participation in the CPEP Program that concluded that Dr. Gihwala's medical records were unacceptable and, as a result, Dr. Gihwala failed the CPEP Program.

#### Quality of Care

6. The Board thereafter obtained the medical records for six patients who Dr. Gihwala treated (these patients shall be referred to collectively as Patients A - F). The Board sent the medical records for Patients A - F to a qualified medical expert who is board certified in psychiatry. The Board's medical expert opined that Dr. Gihwala's diagnosis, treatment, prescribing and medical records for Patients A - F fell below the accepted and prevailing standards of care in North Carolina.

#### Quality of Care - Patient A

7. In relevant part, Dr. Gihwala treated Patient A from on or about November 2008, to on or about January 2012. Patient A

was initially seen by a nurse at Dr. Gihwala's office who noted that Patient A had a history of chronic pain and opioid dependence. Patient A reported that he was taking Prozac® (fluoxetine) daily and clonazepam (a benzodiazepine) once a week.

8. Dr. Gihwala diagnosed Patient A with depression and prescribed Suboxone® (buprenorphine and naloxone), Cymbalta® (duloxetine HCL) and the clonazepam was increased to a daily dose. Dr. Gihwala thereafter prescribed other controlled substances to Patient A and discontinued the clonazepam. In December 2011, Patient A tested positive for tramadol and clonazepam, neither of which medications were being prescribed to Patient A at the time.

9. With respect to Patient A, Dr. Gihwala engaged in unprofessional conduct including, but not limited to, departure from, or the failure to conform to, the standards of acceptable and prevailing medical practice, or the ethics of the medical profession within the meaning of N.C. Gen. Stat. § 90-14(a)(6), which is grounds under that section of the North Carolina General Statutes for the Board to annul, suspend, revoke, condition or limit Dr. Gihwala's license to practice medicine issued by the Board based on the following:

- a. Dr. Gihwala diagnosed depression in Patient A before Patient A's substance dependence was fully treated;
- b. The initial intake that started Patient A's Suboxone® (buprenorphine and naloxone) prescribing was not done by Dr. Gihwala or another physician;
- c. Dr. Gihwala prescribed Suboxone® (buprenorphine and naloxone) to Patient A for months at high doses without appropriate monitoring;
- d. Dr. Gihwala prescribed Patient A refills of controlled substances without appropriate monitoring;
- e. Dr. Gihwala prescribed higher doses of benzodiazepines to Patient A without written justification or rationale and in the face of Patient A reporting early on in treatment that he took them very rarely;
- f. Dr. Gihwala failed to practice appropriate pharmacovigilance in the face of Patient A having positive urine screens for medications not prescribed and a negative urine screen for a medication that was prescribed;
- g. Dr. Gihwala prescribed controlled substances to Patient A without a treatment contract for controlled substances; and



h. Portions of Dr. Gihwala's medical records are missing and/or incomplete.

Quality of Care - Patient B

10. In relevant part, Dr. Gihwala treated Patient B from on or about May 2008, to on or about December 2011. Patient B presented to Dr. Gihwala's office with a history of hypothyroidism, fibromyalgia, prior gastric bypass surgery, prior suicide attempts and mood and psychotic symptoms. Patient B was initially seen by a social worker at Dr. Gihwala's office who diagnosed bipolar disorder and recommended monthly outpatient psychotherapy. Patient B was thereafter treated by Dr. Gihwala with antipsychotic, antidepressant and benzodiazepine medications.

11. With respect to Patient B, Dr. Gihwala engaged in unprofessional conduct including, but not limited to, departure from, or the failure to conform to, the standards of acceptable and prevailing medical practice, or the ethics of the medical profession within the meaning of N.C. Gen. Stat. § 90-14(a)(6), which is grounds under that section of the North Carolina General Statutes for the Board to annul, suspend, revoke, condition or limit Dr. Gihwala's license to practice medicine issued by the Board based on the following:

a. Dr. Gihwala failed to perform an initial comprehensive psychiatric assessment on Patient B;

b. Dr. Gihwala failed to practice appropriate pharmacovigilance during his treatment of Patient B which included failing to obtain a treatment contract for controlled substances;

c. Dr. Gihwala failed to change his treatment plan for Patient B when she tested positive for cocaine;

d. Dr. Gihwala failed to coordinate appropriate laboratory monitoring of Patient B's metabolic conditions with other care providers;

e. Dr. Gihwala's treatment plan was incomplete in documenting why psychotherapy or other supportive care was not consistently implemented; and

f. Portions of Dr. Gihwala's medical records are missing and/or incomplete.

#### Quality of Care - Patient C

12. In relevant part, Dr. Gihwala treated Patient C from on or about March 2007, to on or about December 2011. Patient C had a history of schizophrenia and, at his first appointment at Dr. Gihwala's office, he was psychotic with delusional thoughts

and illogical speech. Dr. Gihwala thereafter prescribed antipsychotic medications.

13. Patient C had sporadic contact with Dr. Gihwala from 2008 to 2010. In 2011, Patient C was noted to have a disheveled appearance, rapid speech and an irritable affect. In May 2011, Dr. Gihwala planned on discharging patient C from his practice due to medication noncompliance. Dr. Gihwala thereafter continued treating Patient C until on or about December 2011.

14. With respect to Patient C, Dr. Gihwala engaged in unprofessional conduct including, but not limited to, departure from, or the failure to conform to, the standards of acceptable and prevailing medical practice, or the ethics of the medical profession within the meaning of N.C. Gen. Stat. § 90-14(a)(6), which is grounds under that section of the North Carolina General Statutes for the Board to annul, suspend, revoke, condition or limit Dr. Gihwala's license to practice medicine issued by the Board based on the following:

a. Dr. Gihwala failed to complete a psychiatric assessment of Patient C;

b. Dr. Gihwala failed to adequately address medication noncompliance with Patient C;

c. Dr. Gihwala failed to make appropriate attempts to increase the level of care Patient C received in the face of medication noncompliance and symptoms of psychosis;

d. Dr. Gihwala failed to coordinate appropriate laboratory monitoring of Patient C's metabolic conditions with other care providers; and

e. Portions of Dr. Gihwala's medical records are missing and/or incomplete.

#### Quality of Care - Patient D

15. Dr. Gihwala treated Patient D in January 2012. Patient D was referred to Dr. Gihwala by his primary care physician due to chest pain and anxiety. Patient D reported that he was experiencing increased anxiety, irritability, decreased sleep and difficulty concentrating for the past several weeks. Patient D reported a history of prior alcohol, cocaine and marijuana abuse with an associated driving while intoxicated criminal charge, but denied any of this abuse behavior in the recent past. Patient D also had no prior history of psychiatric treatment.

16. Dr. Gihwala diagnosed Patient D with generalized anxiety disorder and mood disorder NOS (not otherwise specified) with psychosis and referred Patient D to a therapist. Dr. Gihwala

also prescribed Latuda® (lurasidone) for anxiety and scheduled follow-up in one month.

17. With respect to Patient D, Dr. Gihwala engaged in unprofessional conduct including, but not limited to, departure from, or the failure to conform to, the standards of acceptable and prevailing medical practice, or the ethics of the medical profession within the meaning of N.C. Gen. Stat. § 90-14(a)(6), which is grounds under that section of the North Carolina General Statutes for the Board to annul, suspend, revoke, condition or limit Dr. Gihwala's license to practice medicine issued by the Board based on the following:

a. Dr. Gihwala improperly diagnosed general anxiety disorder because the onset and duration of Patient D's symptoms were not consistent with this diagnosis;

b. Dr. Gihwala improperly diagnosed mood disorder NOS;

c. Dr. Gihwala improperly prescribed benzodiazepines and atypical antipsychotics to Patient D where other medications were indicated; and

d. Dr. Gihwala failed to document justification for his diagnoses and treatment plan for Patient D in the medical record.

Quality of Care - Patient E

18. In relevant part, Dr. Gihwala treated Patient E from on or about December 2011, to on or about March 2012. In December 2011, Patient E reported a history of depression, anxiety and acute stressors (death of a close relative). Patient E told Dr. Gihwala that she had been seeing another physician for years and had been taking Paxil® (paroxetine hydrochloride) and alprazolam, but wanted to see Dr. Gihwala because her symptoms were worsening under that physician's care. Dr. Gihwala diagnosed Patient E with generalized anxiety disorder and prescribed Paxil® (paroxetine hydrochloride) and alprazolam.

19. Although Patient E reported taking Paxil® (paroxetine hydrochloride) and alprazolam, an office urine drug screen during this time was positive for methadone. A confirmatory laboratory urine sample completed in January 2012 was positive for methadone, alprazolam and clonazepam and negative for Paxil® (paroxetine hydrochloride). In February 2012, Dr. Gihwala prescribed Suboxone® (buprenorphine and naloxone) and then gradually reduced the amount of alprazolam.

20. With respect to Patient E, Dr. Gihwala engaged in unprofessional conduct including, but not limited to, departure from, or the failure to conform to, the standards of acceptable and prevailing medical practice, or the ethics of the medical

profession within the meaning of N.C. Gen. Stat. § 90-14(a)(6), which is grounds under that section of the North Carolina General Statutes for the Board to annul, suspend, revoke, condition or limit Dr. Gihwala's license to practice medicine issued by the Board based on the following:

a. Dr. Gihwala failed to appropriately diagnose generalized anxiety disorder because the onset and duration of Patient E's anxiety symptoms were not consistent with the diagnosis of generalized anxiety disorder;

b. Dr. Gihwala prescribed controlled substances without a treatment contract and without practicing appropriate pharmacovigilance;

c. Dr. Gihwala's treatment plan did not reflect available clinical information;

d. Dr. Gihwala's psychiatric evaluation and progress notes do not reference laboratory results;

e. Dr. Gihwala does not document justification for the diagnoses he makes; and

f. Portions of Dr. Gihwala's medical records are missing and/or incomplete.

### Quality of Care - Patient F

21. In relevant part, Dr. Gihwala treated Patient F from on or about March 2008, to on or about October 2011. Patient F presented to Dr. Gihwala with multiple medical problems and a complicated psychological history. Patient F reported a history of depression, a nervous breakdown in 2008, dissociative personality, anxiety, panic attacks, guilt, impulse control and homicidal feelings against a woman she was angry with.

22. At the time of Patient F's first visit to Dr. Gihwala's office, Patient F reported obsessional and racing thoughts, increased goal directed activity, irritability, severe hyperactivity with inability to sit still, auditory and visual hallucinations and panic attacks. Dr. Gihwala diagnosed bipolar disorder with psychotic features, panic attacks with and without agoraphobia, post-traumatic stress disorder and dissociative personality disorder. Dr. Gihwala's treatment plan included therapy and prescriptions for Zoloft® (sertraline), folic acid and Seroquel® (quetiapine). From 2009 to 2011, Dr. Gihwala continued treating Patient F with medication management and therapy.

23. With respect to Patient F, Dr. Gihwala engaged in unprofessional conduct including, but not limited to, departure from, or the failure to conform to, the standards of acceptable



and prevailing medical practice, or the ethics of the medical profession within the meaning of N.C. Gen. Stat. § 90-14(a)(6), which is grounds under that section of the North Carolina General Statutes for the Board to annul, suspend, revoke, condition or limit Dr. Gihwala's license to practice medicine issued by the Board based on the following:

a. Dr. Gihwala did not gather appropriate information sufficient to make his diagnoses in Patient F and did not rule out medical causes for Patient F's symptoms while he was making his psychiatric diagnoses;

b. Dr. Gihwala diagnosed bipolar disorder, but the information contained in Patient F's medical records does not support this diagnosis;

c. Dr. Gihwala prescribed controlled substances without a treatment contract and without practicing appropriate pharmacovigilance;

d. Dr. Gihwala's treatment plan did not adequately reflect accepted standards of practice for Patient F's working diagnoses;

e. Dr. Gihwala failed to coordinate appropriate laboratory monitoring of Patient F's metabolic conditions with other care providers; and

f. Patient F's treatment plan was incomplete in documenting why psychotherapy or other supportive care was not consistently implemented.

SECOND CLAIM - UNPROFESSIONAL  
CONDUCT AND MEDICAL INCOMPETENCE

24. Paragraphs one through twenty-three are re-alleged and incorporated herein by reference.

25. In October 2010, the Board received a patient complaint that Dr. Gihwala's office was closed unexpectedly and that a patient could not receive appropriate refills of medications. On April 4, 2011, the Board ordered Dr. Gihwala to be assessed by the North Carolina Physicians Health Program ("NCPHP"). Dr. Gihwala was assessed by NCPHP on May 24, 2011, and thereafter tested positive for a controlled substance that was not prescribed for him and, as a result, NCPHP recommended that Dr. Gihwala obtain a comprehensive four day assessment. NCPHP diagnosed Dr. Gihwala with having an "occupational problem."

26. On August 18, 2011, Dr. Gihwala was ordered to be assessed at a comprehensive assessment center as recommended by NCPHP. Dr. Gihwala was assessed at Ridgeview Institute from December 18, 2011, to December 21, 2011. Ridgeview Institute had several concerns and recommendations for Dr. Gihwala that included entering into a diagnostic monitoring contract with NCPHP and receiving psychotherapy treatment. Dr. Gihwala

entered into a diagnostic monitoring contract with NCPHP on May 10, 2012, and thereafter failed to maintain full compliance with his NCPHP contract for a period of time. Upon information and belief, Dr. Gihwala is currently in compliance with his NCPHP contract.

27. Dr. Gihwala's conduct, as described above, constitutes unprofessional conduct within the meaning of N.C. Gen. Stat. § 90-14(a)(6), which is grounds under that section of the North Carolina General Statutes for the Board to annul, suspend, revoke, condition or limit Dr. Gihwala's license to practice medicine issued by the Board.

28. The totality of Dr. Gihwala's (a) failure of the CPEP Program, (b) inappropriate management and treatment of Patients A - F, (c) need to obtain psychiatric care, (d) prior non-compliance with his NCPHP contract and (e) failures related to Patient G (discussed herein) render him unable to have sufficient professional competence to practice medicine with a reasonable degree of skill and safety for patients and indicates that Dr. Gihwala failed to maintain acceptable standards of one or more areas of professional physician practice within the meaning of N.C. Gen. Stat. § 90-14(a)(11) which is grounds under that section of the North Carolina General Statutes for the Board to annul, suspend, revoke, condition or limit his license

to practice medicine and surgery or to deny any application he may make in the future.

**THIRD CLAIM - UNPROFESSIONAL CONDUCT AND  
FAILURE TO TIMELY RESPOND TO BOARD INQUIRY**

29. Paragraphs one through twenty-eight are re-alleged and incorporated herein by reference.

30. On June 19, 2012, the Board received a complaint from the mother of one of Dr. Gihwala's patients ("Patient G") claiming that she had called Dr. Gihwala's office repeatedly for medication refills for Patient G, but had not received any response from Dr. Gihwala.

31. On June 22, 2012, the Board sent Dr. Gihwala a copy of Patient G's complaint and requested a response to Patient G's complaint in writing and a copy of Patient G's medical records within forty-five days. Dr. Gihwala failed to timely respond to this request.

32. On August 7, 2012, the Board sent Dr. Gihwala a second copy of Patient G's complaint and requested a response to Patient G's complaint in writing and a copy of Patient G's medical records within three weeks. Dr. Gihwala failed to timely respond to this request.

33. On September 7, 2012, an employee of the Board sent an electronic mail to Dr. Gihwala further advising him that his

response regarding the Patient G complaint had not been received. Dr. Gihwala responded and requested ten days to respond. The Board staff member then permitted Dr. Gihwala until September 17, 2012, to respond. Dr. Gihwala then failed to timely respond to Patient G's complaint by September 17, 2012.

34. On September 28, 2012, and October 11, 2012, an employee of the Board sent electronic mail requests to Dr. Gihwala further advising him that his response regarding the Patient G complaint had not been received. Dr. Gihwala failed to respond in any manner to these repeated requests.

35. Dr. Gihwala's conduct, as described above with respect to Patient G, constitutes unprofessional conduct within the meaning of N.C. Gen. Stat. § 90-14(a)(6), which is grounds under that section of the North Carolina General Statutes for the Board to annul, suspend, revoke, condition or limit Dr. Gihwala's license to practice medicine issued by the Board.

36. Dr. Gihwala's conduct in failing to reasonably respond to Board inquiries related to Patient G violated N.C. Gen. Stat. § 90-14(a)(14) which is grounds under that section of the North Carolina General Statutes for the Board to annul, suspend, revoke, condition or limit Dr. Gihwala's license to practice medicine or to deny any application he may make in the future.

NOTICE TO DR. GIHWALA

Pursuant to N.C. Gen. Stat. § 90-14.2, it is hereby ordered that a hearing on the foregoing Notice of Charges and Allegations will be held before the Board, or a panel thereof, on Thursday, June 20, 2013, at 8:00 a.m. or as soon thereafter, at the offices of the Board at 1203 Front Street, Raleigh, North Carolina, to continue until completed. The hearing will be held pursuant to N.C. Gen. Stat. § 150B-40, 41, and 42, and N.C. Gen. Stat. § 90-14.2, 14.3, 14.5, 14.6 and 14.7 as well as 21 NCAC 32N .0110 and 21 NCAC 32N .0111. You may appear personally and through counsel, may cross-examine witnesses and present evidence in your own behalf.

You may, if you desire, file written answers to the charges and complaints preferred against you within thirty (30) days after the service of this notice.

Unless otherwise permitted by the presiding officer, all exhibits shall be provided to the Board electronically.

All preliminary motions, including motions for continuances, shall be received at the office of the Board no later than fourteen (14) days prior to the date of the hearing.

Pursuant to N.C. Gen. Stat. § 150B-40(c)(5) and 21 NCAC 32N .0110(c), it is further ordered that the parties shall arrange a prehearing conference at which they shall prepare and sign a stipulation on prehearing conference. The proposed prehearing

stipulation shall be submitted to the undersigned no later than ten (10) days prior to the hearing date. The prehearing conference shall occur no later than seven days prior to the hearing date.

The right to be present during the hearing of this case, including any such right conferred or implied by N.C. Gen. Stat. § 150B-40(d) or N.C. Gen. Stat. § 90-14.2(b), shall be deemed waived by a party or his counsel by voluntary absence from the Board's office at a time when it is known that proceedings, including deliberations, are being conducted, or are about to be conducted. In such event, the proceedings, including additional proceedings after the Board has retired to deliberate, may go forward without waiting for the arrival or return of counsel or a party.

This the 7th day of January, 2013.

NORTH CAROLINA MEDICAL BOARD

By: William A. Walker M.D.  
William A. Walker, M.D.  
President

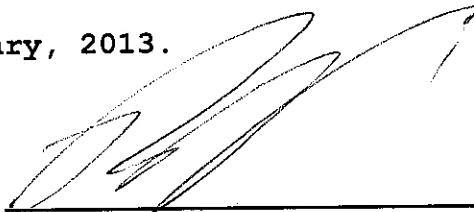
CERTIFICATE OF SERVICE

The undersigned does hereby certify that a copy of the foregoing NOTICE OF CHARGES AND ALLEGATIONS; NOTICE OF HEARING has been duly served upon RAMESH GIHWALA, M.D. through both of his counsel by United States Mail to the following addresses:

Tim Moore, Esq.  
Attorney for Dr. Gihwala  
305 East King Street  
Kings Mountain, NC 28086

Reed Fountain, Esq.  
Attorney for Dr. Gihwala  
Young, Moore & Henderson  
P.O. Box 31627  
Raleigh, NC 27622-1627

This the 7th day of January, 2013.



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Patrick F. Balestrieri  
Board Attorney  
North Carolina Medical Board  
P.O. Box 20007  
Raleigh, NC 27619-0007  
(919) 326-1109, ext. 225



BEFORE THE  
NORTH CAROLINA MEDICAL BOARD

|                       |   |                  |
|-----------------------|---|------------------|
| In Re:                | ) |                  |
|                       | ) |                  |
| Ramesh Gihwala, M.D., | ) | SCHEDULING ORDER |
|                       | ) |                  |
| Respondent.           | ) |                  |

The undersigned Presiding Officer hereby enters the following Scheduling Order. This Scheduling Order may be later amended in the discretion of the Presiding Officer based upon information provided by the parties.

1. All preliminary motions, including motions for continuances, shall be received at the office of the North Carolina Medical Board ("Board") no later than fourteen (14) days prior to the date of the hearing.

2. The parties shall arrange a pre-hearing conference at which they shall endeavor to prepare in good faith a pre-hearing stipulation. The proposed pre-hearing stipulation shall be submitted to the undersigned no later than ten (10) days prior to the hearing date. The pre-hearing conference shall occur no later than seven days prior to the hearing date.

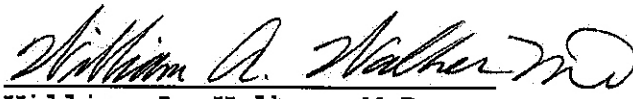
3. Unless otherwise permitted by the Presiding Officer, all exhibits shall be provided to the Board electronically. Exhibits that are stipulated into evidence, or agreed or ordered to be admitted into evidence during the pre-hearing conference,

shall be furnished to the Board along with the pre-hearing stipulation seven days prior to the hearing date.

4. Discovery shall be completed on or before May 31, 2013; however, depositions *de bene esse* may be taken outside the period of discovery.

This the 24<sup>th</sup> day of January, 2013.

NORTH CAROLINA MEDICAL BOARD

By:   
William A. Walker, M.D.  
President

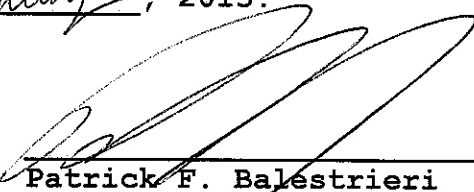
CERTIFICATE OF SERVICE

The undersigned attorney for the Board hereby certifies that on this date he served the foregoing Scheduling Order to the attorney for Respondent Ramesh Gihwala, M.D., by depositing a copy thereof in the United States mail, postage prepaid, and addressed as follows:

Tim Moore, Esq.  
305 East King Street  
Kings Mountain, NC 28086

Reed Fountain, Esq.  
Young Moore & Henderson  
PO Box 31627  
Raleigh, NC 27622-1627

This the 24<sup>th</sup> day of January, 2013.




Patrick F. Balestrieri  
Board Attorney  
North Carolina Medical Board  
P.O. Box 20007  
Raleigh, NC 27619-0007  
919.326.1109, ext. 239

BEFORE THE  
NORTH CAROLINA MEDICAL BOARD

In re: )  
 )  
Ramesh Gihwala, M.D. ) ACCEPTANCE OF SERVICE  
 )  
Respondent. )

I, Reed Fountain, hereby state that I am the  
Attorney for Respondent for the Notice of Charges and  
Allegations; Notice of Hearing dated January 7, 2013, and that I  
accept service and acknowledge receipt of same.

This the 24 day of January, 2013.

  
\_\_\_\_\_  
Tim Moore, Esq.  
305 East King Street  
Kings Mountain, NC 28086

Reed Fountain, Esq.  
Young Moore & Henderson  
PO Box 31627  
Raleigh, NC 27622-1627

BEFORE THE NORTH CAROLINA MEDICAL BOARD

IN RE: RAMESH GIHWALA, M.D.,

Respondent.

MOTION FOR CONTINUANCE

NOW COMES Ramesh Gihwala, MD and moves to continue the hearing in this matter currently scheduled for June 20, 2013 before the North Carolina Medical Board. In support of this motion, Respondent respectfully submits the following:

1. The parties have been engaged in good faith discussions to resolve this matter without the need for a full hearing.

2. The undersigned counsel and Board counsel, Patrick Balestrieri, believe they have reached a settlement that is in the interest of all parties and the general public and desire to present a proposed Consent Order to the full board for its consideration and approval.

4. The parties wish to avoid incurring additional unnecessary costs of litigation and inconvenience to witnesses while the proposed Consent Order is being considered.

WHEREFORE, Ramesh Gihwala, MD respectfully requests the Board grant this Motion to Continue and reschedule the hearing in the above captioned matter until the August 2013 Board meetings while proceeding with the consideration of the proposed Consent Order on June 20, 2013.

This the 21<sup>st</sup> day of May, 2013.

Young Moore & Henderson, P.A.

By: \_\_\_\_\_

REED N. FOUNTAIN

Attorneys for Respondent

P.O. Box 31627

Raleigh, NC 27622

(919) 782-6860

**CERTIFICATE OF SERVICE**

The undersigned attorney hereby certifies that he served the foregoing document upon the attorney(s) shown below by email delivery and depositing a copy of same in the United States mail, postage prepaid, to said attorney(s).

This the 21<sup>st</sup> day of May, 2013.

YOUNG MOORE AND HENDERSON P.A.

BY: 

REED N. FOUNTAIN

Attorneys for Defendants

3201 Glenwood Avenue - 2nd Floor

Post Office Box 31627

Raleigh, North Carolina 27622

(919) 782-6860

Served on:

Patrick Balestrieri  
NC Medical Board  
1203 Front Street  
P.O. Box 20007  
Raleigh, NC 27609

Patrick.Balestrieri@ncmedboard.org

BEFORE THE  
NORTH CAROLINA MEDICAL BOARD

In re: )  
 )  
Ramesh Gihwala, M.D., ) ORDER TO CONTINUE  
 )  
Respondent. )

This matter is before the undersigned President of the North Carolina Medical Board regarding the Hearing scheduled for June 20, 2013, in the above-captioned case. I hereby enter the following ORDER:

The Hearing scheduled for June 20, 2013, is hereby continued and shall be heard at 8:00 a.m. on August 22, 2013, or as soon thereafter as the Board or a panel thereof may hear it. All corresponding Scheduling Order dates shall reflect the new Hearing date.

This the 21<sup>st</sup> day of May, 2013.

NORTH CAROLINA MEDICAL BOARD

By: William A. Walker MD  
William A. Walker, M.D.  
President

BEFORE THE  
NORTH CAROLINA MEDICAL BOARD

|                       |   |               |
|-----------------------|---|---------------|
| In re:                | ) |               |
|                       | ) |               |
| Ramesh Gihwala, M.D., | ) | CONSENT ORDER |
|                       | ) |               |
| Respondent.           | ) |               |

This matter is before the North Carolina Medical Board ("Board") on information regarding Ramesh Gihwala, M.D. ("Dr. Gihwala"). Dr. Gihwala admits and the Board finds and concludes that:

STATUTORY AUTHORITY

The Board is a body duly organized under the laws of North Carolina and is the proper party to bring this proceeding under the authority granted it in Article 1 of Chapter 90 of the North Carolina General Statutes and the rules and regulations promulgated thereto.

FINDINGS OF FACT

On September 18, 1993, the Board issued Ramesh Gihwala, M.D. ("Dr. Gihwala") a license to practice medicine and surgery, license number 9300472.

During the times relevant herein, Dr. Gihwala practiced psychiatry in Gastonia, North Carolina.



On January 7, 2013, the Board issued a Notice of Charges and Allegations and Notice of Hearing against Dr. Gihwala that alleged the following:

a. First Claim - Medical Records and Quality of Care:

The first claim against Dr. Gihwala alleged that Dr. Gihwala failed a medical record documentation assessment and treated Patients A - F below the acceptable and prevailing standards of medical care in violation of N.C. Gen. Stat. § 90-14(a)(6).

b. Second Claim - Unprofessional Conduct and Medical Incompetence: The second claim against Dr. Gihwala related to his assessment by the North Carolina Physician's Health Program ("NCPHP") and the actions surrounding such assessment. This claim alleged that Dr. Gihwala violated N.C. Gen. Stat. § 90-14(a)(6) and N.C. Gen. Stat. § 90-14(a)(11).

c. Third Claim - Failure to Timely Respond to Board Inquiry: The third claim against Dr. Gihwala alleged that Dr. Gihwala's conduct in failing to reasonably respond to Board inquiries related to Patient G violated N.C. Gen. Stat. § 90-14(a)(14).

CONCLUSIONS OF LAW

Dr. Gihwala's conduct in relation to the first claim of failing the medical record documentation assessment, as described above and in the January 7, 2013, Notice of Charges

and Allegations and Notice of Hearing, constitutes unprofessional conduct within the meaning of N.C. Gen. Stat. § 90-14(a)(6).

Certain aspects of Dr. Gihwala's medical record documentation or treatment of Patients A - F, as described above and in the January 7, 2013, Notice of Charges and Allegations and Notice of Hearing, fell below acceptable standards of medical practice within the meaning of N.C. Gen. Stat. § 90-14(a)(6).

Dr. Gihwala's conduct in relation to the second claim and prior non-compliance with his NCPHP contract, as described above and in the January 7, 2013, Notice of Charges and Allegations and Notice of Hearing, constitutes unprofessional conduct within the meaning of N.C. Gen. Stat. § 90-14(a)(6). It is noted that Dr. Gihwala is currently in full compliance with his NCPHP contract.

Dr. Gihwala's conduct in relation to the third claim of failing to reasonably respond to Board inquiries concerning Patient G, as described above and in the January 7, 2013, Notice of Charges and Allegations and Notice of Hearing, violated N.C. Gen. Stat. § 90-14(a)(14).

### PROCEDURAL STIPULATIONS

Dr. Gihwala acknowledges and agrees that the Board has jurisdiction over him and over the subject matter of this case.

Dr. Gihwala knowingly waives his right to any hearing and to any judicial review or appeal in this case.

Dr. Gihwala acknowledges that he has read and understands this Consent Order and enters into it voluntarily.

Dr. Gihwala would like to resolve this matter without the need for more formal proceedings.

The Board has determined that it is in the public interest to resolve this case as set forth below.

### ORDER

Now, therefore, with Dr. Gihwala's consent, it is ORDERED that:

1. Dr. Gihwala is hereby reprimanded.
2. Dr. Gihwala's North Carolina medical license shall be placed on indefinite probation to include the following conditions:

- a. Dr. Gihwala shall obtain a Practice Monitor that has been approved by the Board's Medical Director. The approval of the Practice Monitor shall be in the discretion of the Board's Medical Director.

b. Dr. Gihwala and the Practice Monitor shall meet and discuss Dr. Gihwala's practice of medicine and conduct medical record reviews as directed by the Board's Medical Director.

c. Quarterly assessment reports of Dr. Gihwala shall be provided by the Practice Monitor to the Board's Medical Director, and those reports shall be based on the six core competencies (patient care, medical knowledge, professionalism, systems-based practice, practice-based learning and interpersonal and communication skills).

d. Monitoring of Dr. Gihwala's medical practice shall continue until the Board's Medical Director and Dr. Gihwala's Practice Monitor both decide it may be discontinued.

e. It is expressly understood that Dr. Gihwala has signed and agreed to this Consent Order prior to its approval by the Board. At the time of Dr. Gihwala's execution of this Consent Order, the Board's Medical Director has not approved a proposed Practice Monitor. In the event that Dr. Gihwala does not have an approved Practice Monitor in place by the time this Consent Order is approved by the Board, then Dr. Gihwala shall immediately cease practicing medicine in North Carolina until a Practice Monitor has been approved by the Board's Medical Director and is in place. If Dr. Gihwala cannot find an

approved Practice Monitor within six (6) months from the date that this Consent Order is fully executed, then Dr. Gihwala's North Carolina medical license shall automatically be suspended indefinitely by the Board.

3. Dr. Gihwala shall pay a fine of \$1,000.00. This fine shall be paid to the North Carolina Medical Board and payment shall be made within thirty (30) days from the date this Consent Order is fully executed.

4. Dr. Gihwala's NCPHP contract shall be extended and shall last continuously up to May 2017. Dr. Gihwala shall comply with all aspects of his NCPHP contract and follow all recommendations made by NCPHP.

5. Dr. Gihwala shall obey all laws. Likewise, he shall obey all rules and regulations involving the practice of medicine

6. Dr. Gihwala shall notify the Board in writing of any change in his residence and practice addresses within ten (10) days of the change.

7. Dr. Gihwala shall meet with the Board or members of the Board for interviews at such times as requested by the Board.

8. If Dr. Gihwala fails to comply with any of the terms of this Consent Order, that failure shall constitute

unprofessional conduct within the meaning of N.C. Gen. Stat. § 90-14(a)(6) and shall be grounds, after any required notice and hearing, for the Board to annul, suspend, revoke, condition or limit Dr. Gihwala's license to practice medicine and surgery and to deny any application he might make in the future or then have pending for a license.

9. This Consent Order shall take effect immediately upon its execution by both Dr. Gihwala and the Board and it shall continue in effect until specifically ordered otherwise by the Board.

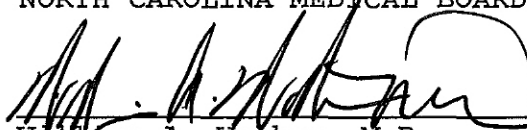
10. Dr. Gihwala hereby waives any requirement under any law or rule that this Consent Order be served on him.

11. Upon execution by Dr. Gihwala and the Board, this Consent Order shall become a public record within the meaning of Chapter 132 of the North Carolina General Statutes and shall be subject to public inspection and dissemination pursuant to the provisions thereof. Additionally, it will be reported to persons, entities, agencies and clearinghouses as required and permitted by law including, but not limited to, the National Practitioners Data Bank.

By Order of the North Carolina Medical Board this the 20<sup>th</sup>  
day of June, 2013.

NORTH CAROLINA MEDICAL BOARD


By:

A handwritten signature in black ink, appearing to read "W.A. Walker", written over a horizontal line.

William A. Walker, M.D.

President

Consented to this the 20 day of May, 2013.

  
\_\_\_\_\_  
Ramesh Gihwala, M.D.

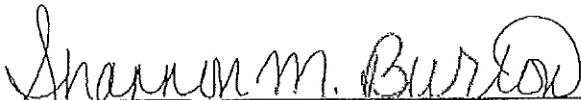
State of North Carolina

County of Mecklenburg

I, Shannon Burton, a Notary Public for the  
above named County and State, do hereby certify that Ramesh  
Gihwala, M.D., personally appeared before me this day and  
acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal

this the 20 day of May, 2013.

  
\_\_\_\_\_  
Notary Public

(SEAL)

My Commission expires: 9/9/13