

**State of New Hampshire
Board of Medicine
Concord, New Hampshire**

In the Matter of:

**Ashok J. Bharucha, M.D.
License No. 10320
(Adjudicatory Proceeding)**

Docket No.: 20-MED-0008

**ORDER OF EMERGENCY LICENSE SUSPENSION
AND NOTICE OF HEARING**

1. RSA 329:18-b, RSA 541-A:30, III, and New Hampshire Board of Medicine Administrative Rule (“Med”) 409.01 authorize the New Hampshire Board of Medicine (“Board”) to suspend a license to practice medicine for no more than one hundred twenty (120) days pending completion of an adjudicatory proceeding, in cases involving imminent danger to life or health. In such cases, the Board must commence a hearing not later than ten (10) days after the date of the emergency order. If the Board does not commence the hearing within ten (10) days, the suspension order shall be automatically vacated. *See*, RSA 541-A:30, III. The Board may not continue such a hearing without the consent of the licensee to the continuation of the emergency suspension. *See*, RSA 329:18-b and Med 409.01. Postponement of the proceeding is prohibited unless the licensee agrees to continue the suspension pending issuance of the Board’s final decision. *See*, RSA 329:18-b and Med 409.01.

2. Ashok J. Bharucha, M.D. (“Respondent”) holds a license to practice medicine in the State of New Hampshire. He holds license number 10320. Respondent’s license was first issued on July 1, 1998, but lapsed between June 30, 2001 and November 6, 2014. His license was active at the time of the events at issue. Respondent practices in the area of psychiatry. He is a geriatric psychiatrist at Generations Geriatric Mental Health in Manchester, New Hampshire for between

eight (8) and twelve (12) weeks per year. He also operates a solo practice in State College, Pennsylvania.

3. The Board has received information indicating that the continued practice of medicine by Respondent poses an imminent threat to life, safety, and/or health, which warrants the temporary suspension of Respondent's license to practice medicine pending a hearing on whether disciplinary sanctions should be imposed. Following media reports about the arrest of Respondent in Pennsylvania, a Report of Preliminary Investigation was provided to the Board.

4. In support of this *Order of Emergency License Suspension and Notice of Hearing*, the Board alleges the following facts:

- A. On June 16, 2020, a male ("the victim") arrived in the lobby of the State College, Pennsylvania police station to report a sexual assault.
- B. The victim reported that he was a patient of Respondent and had met with him for an appointment earlier that day in Respondent's office.
- C. During the appointment, Respondent moved close to where the victim was seated on a couch and placed his hand on the victim's shoulder and later the small of his back.
- D. The victim reported that Respondent then placed his hand under his clothing, into his pants, and touched his penis.
- E. The victim said that he froze and then Respondent "unbuckled" the victim's pants and pulled them down. He reported that Respondent then put his lips on the victim's exposed penis.
- F. Following that, Respondent moved the victim's hand to the victim's penis.

G. The victim reported that he did not consent to any of the physical contact that occurred.

5. Based upon the above information, the Board finds that the case involves imminent danger to life, safety, and/or health. Further, the Board believes there is a reasonable basis for immediately suspending Respondent's license on a temporary basis and commencing an adjudicatory proceeding pursuant to RSA 329:18-b, 541-A:30, III, and Med 409.01.

6. The purpose of this proceeding will be to determine whether Respondent has engaged in professional misconduct contrary to RSA 329:17, VI and RSA 329:18-b, which warrants the continued imposition of a temporary license suspension.

7. While RSA 329:18-a requires that the Board furnish Respondent at least fifteen (15) days' notice of allegations of professional misconduct and the date, time and place of an adjudicatory hearing, RSA 541-A:30, III and Med 409.01 require the Board to commence an adjudicatory hearing within ten (10) days after the date of an immediate, temporary license suspension order.

8. The Board intends to complete this adjudicative proceeding within the one hundred twenty (120) day time period provided by RSA 329:18-b and Med 409.01. Accordingly, neither the date of the initial evidentiary hearing nor the date for concluding this proceeding shall be postponed or extended unless Respondent agrees to continue the suspension period pending issuance of the Board's final decision in this matter. *See* RSA 329:18-b, RSA 541-A:30, III, and Med 409.01.

THEREFORE, IT IS ORDERED that Respondent's New Hampshire license to practice medicine is immediately suspended until further order of the Board; and,

IT IS FURTHER ORDERED that an adjudicatory proceeding be commenced for the purpose of resolving the issue articulated above pursuant to RSA 329:17, RSA 329:18-a, RSA 329:18-b, RSA 541-A:30, III, and Med 409.01. To the extent that this order or the Board's rules do not address an issue of procedure, the Board shall apply the New Hampshire Department of Justice Rules, Part 800; and,

IT IS FURTHER ORDERED that Ashok J. Bharucha, M.D. shall appear before the Board on July 21, 2020 at 1:00 P.M., electronically via real-time, two-way video conferencing through the Office of Professional Licensure and Certification ("OPLC") ZOOM account, to participate in an adjudicatory hearing and, if deemed appropriate, be subject to sanctions pursuant to RSA 329:17, VII. Connection information for the Zoom meeting will be posted on the Board's website at <https://www.oplc.nh.gov/medicine/board-meetings.htm> within 3 days of the hearing; and

IT IS FURTHER ORDERED that if Respondent elects to be represented by counsel, at Respondent's own expense, said counsel shall file a notice of appearance at the earliest date possible; and,

IT IS FURTHER ORDERED that Respondent's failure to appear electronically via real-time, two-way video conferencing on the date and time specified above may result in the hearing being held *in absentia*, or the imposition of disciplinary sanctions without further notice or an opportunity to be heard, or both; and

IT IS FURTHER ORDERED that John F. Brown of the N.H. Department of Justice, 33 Capitol Street, Concord, N.H., 03301 is appointed to act as Hearing Counsel in this matter with all the authority within the scope of RSA Chapter 329 to represent the public interest. Hearing Counsel shall have the status of a party to this proceeding; and,

IT IS FURTHER ORDERED that Gilbert Fanciullo, M.D., President, or any other person whom the Board may designate, shall act as presiding officer in this proceeding; and,

IT IS FURTHER ORDERED that any proposed exhibits, motions or other documents intended to become part of the record in this proceeding, be filed by the proponent with the Board, in the form of an original and eleven (11) copies, and with an additional copy mailed to any party to the proceeding, and to Laura Lombardi, Counsel to the Board, N.H. Department of Justice, 33 Capitol Street, Concord, New Hampshire 03301. All responses or objections to such motions or other documents are to be filed in similar fashion within ten (10) days of receipt of such motion or other document unless otherwise ordered by the Board; and,

IT IS FURTHER ORDERED that a witness and exhibit list and any proposed exhibits, pre-marked for identification only, shall be filed with the Board no later than three (3) days before the date of the hearing. Respondent shall pre-mark his exhibits with capital letters, and Hearing Counsel shall pre-mark his exhibits with Arabic numerals; and,

IT IS FURTHER ORDERED that unless good cause exists, all motions shall be filed at least three (3) days before the date of any hearing, conference, event or deadline which would be affected by the requested relief, except any motion seeking to postpone a hearing or conference, which shall be filed at least five (5) days before the hearing or conference in question; and,

IT IS FURTHER ORDERED that the entirety of all oral proceedings be recorded verbatim by the Board. Upon the request of any party made at least five (5) days prior to the proceeding or conference or upon the Board's own initiative, a shorthand court reporter shall be provided at the hearing or conference and such record shall be transcribed by the Board if the requesting party or agency shall pay all reasonable costs for such transcription; and,

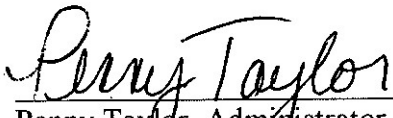
IT IS FURTHER ORDERED that all documents shall be filed with the Board by mailing or delivering them to Penny Taylor, Administrator, N.H. Board of Medicine, 121 South Fruit Street, Concord, New Hampshire 03301; and

IT IS FURTHER ORDERED that routine procedural inquiries may be made by contacting Penny Taylor, Administrator, N.H. Board of Medicine, at Penny.Taylor@opl.nh.gov, but that all other communications with the Board shall be in writing and filed as provided above. *Ex parte* communications are forbidden by statute and the Board's regulations; and,

IT IS FURTHER ORDERED that a copy of this *Order of Emergency License Suspension and Notice of Hearing* shall be served upon Respondent by certified mail, addressed to the last address he has provided to the Board in his latest renewal application as well as Respondent's attorney. *See* RSA 329:18 and RSA 329:16 (f). A copy shall also be delivered to Hearing Counsel.

BY ORDER OF THE BOARD*

Dated: July 10, 2020



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

/* Board Members(s) Not Participating:

Emily Baker, M.D., Susan Finerty, P.A. and Donald LeBrun, Public Member.