

BEFORE THE NEW MEXICO MEDICAL BOARD

IN THE MATTER OF)
SUJAN THYAGARAJ, M.D.)
)
License No. MD2010-0267)
)
Respondent.)
_____)

Case No. 2016-014

STIPULATION AND ORDER FOR CONTINUED SUSPENSION OF LICENSE AND FOR STAY OF ADMINISTRATIVE PROCEEDINGS PENDING RESOLUTION OF CRIMINAL PROCEEDINGS

By mutual agreement and understanding between the New Mexico Medical Board ("Board") and the above-named respondent, Sujan Thyagaraj, M.D. ("Respondent") represented by Michael Stout, Esq., the parties agree to the following stipulations of fact and law, and to the entry of this Stipulation and Order for Continued Suspension of License and for Stay of Administrative Proceedings Pending Resolution of Criminal Proceedings ("Stipulation and Order").

FINDINGS OF FACT

1. Respondent is subject to the jurisdiction of the Board pursuant to the Medical Practice Act, NMSA 1978, Chapter 61, Article 6 ("MPA"), the Uniform Licensing Act, NMSA 1978, Chapter 61, Article 1 ("ULA"), and certain Board-promulgated rules and regulations, Title 16, Chapter 10, NMAC.
2. On February 24, 2016, a criminal complaint was filed against Respondent in Chavez County Magistrate Court Case No. M-7-FR-2016-00074 alleging one (1) count of violating Section 30-9-11, NMSA 1978 (Criminal Sexual Penetration) (the "criminal charge"). This criminal charge arises from alleged conduct of Respondent that is directly associated with the practice of medicine.
3. On March 25, 2016, the Board issued a Notice of Contemplated Action ("NCA") against Respondent alleging various violations of the MPA and applicable regulations based on the criminal



charges; on the same day, the Board issued a Notice of Summary Suspension ("NSS") against Respondent based on the criminal charges alleging that he poses a clear and immediate danger to the public health and safety if he continues to practice medicine.

4. Respondent confirms receiving actual notice of the NSS and NCA.
5. Respondent does not admit any wrongdoing and Respondent, through his attorney Michael Stout, has submitted a timely request for a hearing on the NCA.
6. At this time, the Board and Respondent have determined that due to similarities between the criminal charge and the allegations set forth in the NSS and the NCA against Respondent, it would promote administrative efficiency, reduce costs, and be in the best interests of the public if proceedings on the merits of the NSS and the NCA were stayed pending resolution of the criminal charge in state court (not including appeals, if any, taken by Respondent).
7. Respondent agrees to waive his right to a hearing on the NSS within the timeframe described at Section 61-6-15.1, NMSA 1978, and to the continued suspension of his license to practice medicine until further order of the Board.
8. Respondent agrees to waive his right to a hearing on the NCA within the timeframe described at Section 61-1-4, NMSA 1978.
9. Respondent agrees that any hearing on the NSS may be consolidated with a hearing on the NCA.
10. Pending resolution of the criminal charge, Respondent agrees that the statute of limitations described at Section 61-1-3.1, NMSA 1978, or any other applicable statutes of limitations or similar defenses, shall be tolled with regard to any claims the Board has brought or may bring against

Respondent that may be learned of by the Board after the date this Stipulation and Order becomes effective.

11. Respondent expressly consents to the amendment of the NCA to include additional and separate grounds for licensure action against him by the Board based on any conviction associated with the pending criminal charge.
12. Respondent knows and understands the applicable statutory and regulatory provisions setting forth the authority and power of the Board. Respondent further understands that this Stipulated Order results in a limited waiver of his rights under the ULA and the MPA as described herein.
13. Respondent knows and understands his right to consult with an attorney, and Respondent's signature below signifies that Respondent has either consulted with an attorney or Respondent waives his right to counsel.
14. By signing below, Respondent confirms that Respondent understands this document is a public document that is reportable to the National Practitioner's Data Bank, Federation of State Medical Boards and the American Medical Association.
15. This Stipulation and Order may be executed in counterparts and via facsimile, all of which shall have full force and effect.
16. Respondent agrees that this Stipulation and Order contains the entire agreement between the parties with respect to its subject matter, and this Stipulation and Order shall not be enlarged, modified, or altered except by a written order of the Board.

CONCLUSIONS OF LAW

Based on the foregoing stipulated findings of fact, the Board enters the following conclusions

of law:

17. Respondent is subject to the jurisdiction of the Board.
18. The Board has authority to enter this Stipulation and Order pursuant to 16.10.5.15 NMAC.
19. The terms set forth in this Stipulation and Order, including those for the continued suspension of Respondent's license to practice medicine until further order of the Board, are in the best interest of the public, and on that basis, all proceedings on the merits of the NSS and the NCA should be stayed pending resolution of the criminal charge against Respondent.

ORDER

Consistent with the foregoing stipulated findings of fact and conclusions of law, IT IS HEREBY ORDERED:

- A. All evidentiary proceedings on the merits of the NSS and the NCA that are presently scheduled (if any) are hereby vacated, and all such further proceedings shall be stayed pending resolution of the criminal charge against Respondent.
- B. During the stay arising from this Stipulation and Order, and until further order of the Board, the NSS shall remain in full force and effect such that Respondent may not practice medicine in the State of New Mexico.
- C. Within one (1) month of the resolution of the criminal charge, Respondent shall provide written notice to the Board and its Administrative Prosecutor via Certified U.S. Mail of the specifics of such resolution, providing certified copy of any dismissal, judgment, or final order of the court. The binding over of the case now pending in the magistrate court to a state district court is not a "resolution" of the criminal charge for purposes of this Stipulation and Order.

D. Upon receipt of the notice described in the preceding paragraph, the Board shall appoint a new hearing officer and the Board's prosecutor and Respondent shall confer with the hearing officer as soon as practicable to schedule a consolidated hearing on both the NSS and the NCA.

E. The NCA shall be amended at the prosecution's discretion to include any conviction arising from the criminal charge or related charges.

F. This Stipulation and Order shall be reported to the National Practitioner's Data Bank, Federation of State Medical Boards and the American Medical Association.

RESPONDENT

Date: 4/16/2016

[Signature]
Sujan Thyagaraj, M.D.

The foregoing was acknowledged before me this _____ day of _____ 2016 by Sujan Thyagaraj, M.D. in the County of _____, State of _____.

Commission expires: _____

NOTARY PUBLIC

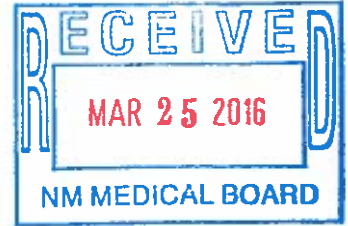
[SEAL]

The foregoing Stipulation and Order is approved and made immediately effective on this 17th day of May 2016.

NEW MEXICO MEDICAL BOARD

By: [Signature]
Albert Bourbon, FA-C, Vice-Chairman

BEFORE THE NEW MEXICO MEDICAL BOARD



IN THE MATTER OF)
SUJAN THYAGARAJ, M.D.)
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License No. MD2010-0267)
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Respondent.)
_____)

No. 2016-014

TO: Sujan Thyagaraj, M.D.
405 West Country Club Road
Roswell, New Mexico 88201

Sujan Thyagaraj, M.D.
26 North Sky Loop
Roswell, New Mexico 88201

NOTICE OF SUMMARY SUSPENSION

YOU ARE HEREBY NOTIFIED THAT YOUR LICENSE TO PRACTICE MEDICINE IS SUMMARILY SUSPENDED pursuant to NMSA 1978, Section 61-6-15.1 of the Medical Practice Act and NMSA 1978, Section 61-1-4 of the Uniform Licensing Act. The New Mexico Medical Board (“Board”) possesses evidence indicating that you pose a clear and immediate danger to the public health and safety if you continue to practice medicine. Such evidence, if not rebutted at a later hearing, will justify the Board in imposing further suspension or revocation of your license to practice medicine in the State of New Mexico and/or other disciplinary action taken against you by the Board. This summary suspension is based on evidence that shows:

A. On or about February 22, 2016, during a visit with a female patient (hereinafter referred to as “Patient”), you sexually assaulted Patient by placing your genitals in Patient’s mouth, and by placing Patient’s hands on your genitals.

B. After Patient reported the incident to police, law enforcement agents executing a search warrant at the office where the sexual assault on Patient was alleged to have occurred found evidence corroborating Patient’s allegations.

C. When law enforcement agents attempted to serve a warrant for your DNA on or about February 23, 2016 they learned that you'd fled the country.

D. On February 24, 2016, a criminal complaint was filed against you in Chavez County Magistrate Court Case No. M-7-FR-2016-00074 alleging one (1) count of violating Section 30-9-11, NMSA 1978 (Criminal Sexual Penetration).

E. On March 2, 2016, the Board's investigative staff emailed you a copy of a Board Complaint based on the above information, together with a letter asking you to provide a written response to the allegations. As of this date, you have not responded to the allegations as requested by the Board's investigators, and you have not formally notified the Board of the actions taken by the law enforcement agency which filed criminal charges against you.

In consideration of the aforementioned evidence in the Board's possession, the Board FINDS AND CONCLUDES that you pose a clear and immediate danger to the public health and safety if you continue to practice medicine in the State of New Mexico.

THEREFORE, IT IS HEREBY ORDERED that your New Mexico license to practice as a physician in the State of New Mexico is hereby SUMMARILY SUSPENDED until further Order of the Board.

Pursuant to Board Rule 16.10.5.16 NMAC, you are entitled to a hearing on the merits of this summary suspension order within fifteen (15) days of a request for such a hearing. Your hearing request shall be in writing, addressed to the Board, delivered by certified mail, return receipt requested. You are not required to comply with this summary action until service of this action has been made personally or by certified mail, return receipt requested, at your last known address as shown in the Board's records, or


you have actual knowledge of this order, whichever comes first.

Pursuant to NMSA, 1978, Section 61-1-8 you have the right to be represented at a hearing on this summary suspension order by counsel or by a licensed member of your profession or both, and to present all relevant evidence by means of witnesses, books, papers, documents and other evidence; to examine all opposing witnesses who may appear on any matter relevant to the issues and have subpoenas duces tecum issued as of right prior to the commencement of the hearing, to compel the attendance of witnesses and the production of relevant books, papers, documents and other evidence upon making a written request therefore to the Board. The issuance of such subpoenas after commencement of the hearing rests with the discretion of the Board or Hearing Officer.

The issuance of this Summary Suspension is a disciplinary event and will be reported to the National Practitioner Data Bank and is a public document, open to public inspection.

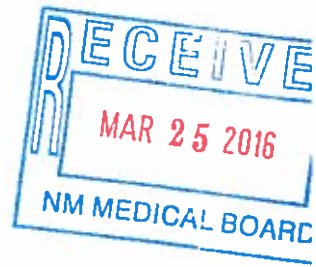
Dated this 25th day of March, 2016.

NEW MEXICO MEDICAL BOARD



Sondra Frank, Executive Director
New Mexico Medical Board
2055 South Pacheco Street, Building 400
Santa Fe, New Mexico 87505
Tel: 505-476-7220

BEFORE THE NEW MEXICO MEDICAL BOARD



IN THE MATTER OF)
SUJAN THYAGARAJ, M.D.)
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License No. MD2010-0267)
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Respondent.)
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No. 2016- 014

TO: Sujan Thyagaraj, M.D.
405 West Country Club Road
Roswell, New Mexico 88201

Sujan Thyagaraj, M.D.
26 North Sky Loop
Roswell, New Mexico 88201

NOTICE OF CONTEMPLATED ACTION

YOU ARE HEREBY NOTIFIED that pursuant to provisions of NMSA 1978, Section 61-1-4 of the Uniform Licensing Act (“ULA”), the New Mexico Medical Board (“Board”) has before it sufficient evidence that, if not rebutted or explained, will justify the Medical Board imposing sanctions that could include restricting, suspending, or revoking your license to practice medicine in the State of New Mexico.

1. You are subject to action by the Board pursuant to the ULA and NMSA 1978, Chapter 61, Article 6 of the Medical Practice Act (“MPA”).
2. This Notice of Contemplated Action (“NCA”) is based on the following allegations:

A. On or about February 22, 2016, during a visit with a female patient (hereinafter referred to as “Patient”), you sexually assaulted Patient by placing your genitals in Patient’s mouth, and by placing Patient’s hands on your genitals.

B. After Patient reported the incident to police, law enforcement agents executing a search warrant at the office where the sexual assault on Patient was alleged to have occurred found evidence corroborating Patient’s allegations.

C. When law enforcement agents attempted to serve a warrant for your DNA on or about February 23, 2016 they learned that you'd fled the country.

D. On February 24, 2016, a criminal complaint was filed against you in Chavez County Magistrate Court Case No. M-7-FR-2016-00074 alleging one (1) count of violating Section 30-9-11, NMSA 1978 (Criminal Sexual Penetration).

E. On March 2, 2016, the Board's investigative staff emailed you a copy of a Board Complaint based on the above information, together with a letter asking you to provide a written response to the allegations. As of this date, you have not responded to the allegations as requested by the Board's investigators, and you have not formally notified the Board of the actions taken by the law enforcement agency which filed criminal charges against you.

3. The allegations set forth in paragraphs 2(A) through 2(E) above, if proven, would constitute violations of provisions of the MPA and Board Rules, including the following:

A. NMSA 1978, Section 6-6-15(D)(18), conduct likely to deceive, defraud or harm the public;

B. NMSA 1978, Section 6-6-15(D)(21)(f), failure to report to the board any adverse action taken against you by a law enforcement agency;

C. NMSA 1978, Section 6-6-15(D)(23), failure to furnish the board, its investigators or representatives with information requested by the board;

D. NMSA 1978, Section 6-6-15(D)(28), sexual contact with a patient... other than the spouse of the licensee;

E. NMSA 1978, Section 6-6-15(D)(29), conduct unbecoming in a person licensed to practice or detrimental to the best interests of the public;

F. NMSA 1978, Section 6-6-15(D)(36), interactions with... patients... that interferes with patient care or could reasonably be expected to adversely impact the quality of care rendered to a patient; and/or

G. Provisions of the Code of Medical Ethics of the American Medical Association (2014-2015 Ed.) as adopted by the Board at Rule 16.10.8.9 NMAC.

4. Take notice that pursuant to NMSA 1978, Section 61-1-4 you may secure a hearing before the Board by depositing in the mail within twenty (20) days after service of this notice a certified return receipt requested letter addressed to the Board and containing a request for a hearing. If you do not request a hearing within twenty (20) days after service of this notice as described above, the Board will take the contemplated action, i.e., imposing sanctions that could include the revocation or suspension of your license to practice medicine in the State of New Mexico, and there will be no judicial review of their decision.

5. Pursuant to NMSA 1978, Section 61-1-8 you have the right to be represented by counsel or by a licensed member of your profession or both, and to present all relevant evidence by means of witnesses, books, papers, documents and other evidence; to examine all opposing witnesses who may appear on any matter relevant to the issues and have subpoenas duces tecum issued as of right prior to the commencement of the hearing, to compel the attendance of witnesses and the production of relevant books, papers, documents and other evidence upon making a written request therefore to the Board. The issuance of such subpoenas after commencement of the hearing rests with the discretion of the Board or Hearing Officer.

6. The issuance of this NCA is not a disciplinary event reportable to any data bank

but is a public document open to public inspection.

7. In the event that the Board takes a final action against you as specified in NMSA 1978, Section 61-1-3, you shall bear all costs of disciplinary proceedings pursuant to NMSA 1978, Section 61-1-4(G) unless excused by the Board.

Dated this 25th day of March, 2016.

NEW MEXICO MEDICAL BOARD



Sondra Frank, Executive Director
New Mexico Medical Board
2055 South Pacheco Street, Building 400
Santa Fe, New Mexico 87505
Tel: 505-476-7220

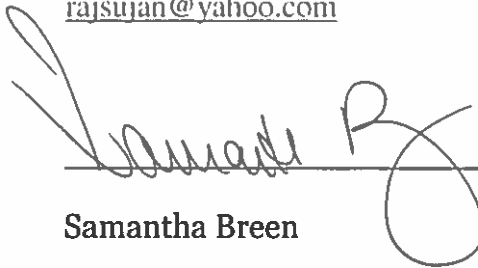
CERTIFICATE OF SERVICE

I hereby certify that a true copy of the Notice of Summary Suspension and Notice of Contemplated Action was sent to the Respondent below via Certified Return Receipt USPS and e-mail on March 25, 2016.

Sujan Thyagaraj, MD
405 West Country Club Road
Roswell, NM 88201

Sujan Thyagaraj, MD
26 North Sky Loop
Roswell, NM 88201

rajsujan@yahoo.com



Samantha Breen