

JUN 14 2021

**BEFORE THE VIRGINIA BOARD OF MEDICINE**

**IN RE:        MUKESH P. PATEL, M.D.**  
**License Number:    0101-035881**  
**Case Number:        202160**

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**CONSENT ORDER**

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**JURISDICTION AND PROCEDURAL HISTORY**

The Virginia Board of Medicine ("Board") and Mukesh P. Patel, M.D., as evidenced by their signatures hereto, in lieu of proceeding to an informal conference, enter into the following Consent Order affecting Dr. Patel's license to practice medicine in the Commonwealth of Virginia.

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

1.     Mukesh P. Patel, M.D., was issued License Number 0101-035881 to practice medicine on August 8, 1983, which is scheduled to expire on February 28, 2022.

2.     Dr. Patel violated Virginia Code §§ 54.1-2915(A)(3), (11), and (18) and 54.1-3408.01 and 18 VAC 85-20-29(A)(1) of the Regulations Governing Regulations Governing the Practice of Medicine, Osteopathic Medicine, Podiatry, and Chiropractic in that, while he was out of the country between December 28, 2019 and February 9, 2020, he failed to ensure appropriate care was available for patients at the multilevel addiction treatment facility ("Facility") where he is medical director. Specifically:

a.     In Dr. Patel's absence, treatment decisions at the facility were made by two physician assistants who had not received waivers from the Substance Abuse and Mental Health Services Administration ("SAMHSA") and were not authorized to prescribe buprenorphine for addiction treatment.

b.     In an interview with a Senior Investigator for the Virginia Department of Health Professions ("Investigator") on July 31, 2020, Physician A, who was providing primary coverage in Dr. Patel's absence, said that there were a few occasions when he went to the Facility to sign paperwork, and he was available if either of the physician assistants responsible for patient care needed assistance.

c. In an interview with the Investigator on August 6, 2020, Physician B, who was also providing coverage in Dr. Patel's absence did not remember being contacted by either physician assistant at the Facility, and assumed he was not needed to answer any questions, but he was available, if needed.

d. During Dr. Patel's absence, the Prescription Monitoring Program Report showed that prescriptions for controlled substances were authorized in his name, to include 52 prescriptions for buprenorphine (C-III) and six (6) for gabapentin (C-VI).

3. Dr. Patel violated Virginia Code § 54.1-2915(A)(3), (11), (13), (16), (17), and (18) and 18 VAC 85-21-130(C) of the Regulations Governing Prescribing of Opioids and Buprenorphine in that between December 28, 2019 and February 9, 2020, he failed to ensure appropriate care was available to patients receiving buprenorphine for addiction treatment while he was out of the country. Specifically:

a. Physician A, who was providing primary coverage in Dr. Patel's absence, had not received a waiver from SAMHSA, and was not authorized to prescribe buprenorphine for addiction treatment. Physician B, who was providing secondary coverage, had received such a waiver. b.

Neither physician assistant responsible for patient care in Dr. Patel's absence had received a waiver from SAMHSA to prescribe buprenorphine for addiction treatment.

c. The "protocols," or "standing orders" that Dr. Patel relied upon to delegate the administration of buprenorphine for addiction treatment in his absence were unclear. For example:

i. No criteria were provided to determine whether the "Moderate" or "Severe" protocol was indicated in a given situation.

ii. The protocols stated that if a patient's oxygen saturation was less than 90%, buprenorphine should not be given and the patient should be placed on oxygen via a nasal cannula and monitored. The protocol failed to indicate when, or if, another attempt to administer buprenorphine should be made.

iii. Orders 2 and 3 of the "Severe Protocol" both state that buprenorphine should be given every eight hours for three doses. It is unclear whether that dosing schedule should be maintained for six doses, or whether there should be an intervening reduction in the frequency of administration.

iv. Order 4 of the "Severe Protocol" is self-contradictory, as it indicates the frequency of administration should be maintained for "two (4) doses."

4. Dr. Patel indicated that he has provided services at the Facility since 1986, and has worked with one of the physician assistants since 2007.

5. Both physician assistants working at the facility received waivers from SAMHSA to prescribe buprenorphine for addiction treatment on November 6, 2020, and are each authorized to treat a maximum of 100 patients at one time.

6. Dr. Patel informed the Board that the Facility had additional resources available in case of unexpected situations, and that the Facility typically did not receive patients who have never used, or tolerated, buprenorphine previously. Further, the Facility is a "subacute" detoxification facility and does not typically encounter patients in complicated, acute withdrawal.

7. Dr. Patel advised the Board that the "protocols" and "standing orders" used at the Facility are being updated.

8. Dr. Patel provided the Board with information that he has read and will comply with the laws and regulations regarding the practice and collaboration with physician assistants and practice agreements, including the Board's Emergency Regulations Governing the Practice of Physician Assistants (18 VAC 85-50-10 *et seq.*)

### **CONSENT**

Mukesh P. Patel, M.D., by affixing his signature to this Consent Order, agrees to the following:

1. I have been advised to seek advice of counsel prior to signing this document, and am represented by John T. Jessee, Esquire, and Sarah C. Jessee, Esquire;
2. I am fully aware that without my consent, no legal action can be taken against me or my license except pursuant to the Virginia Administrative Process Act, Virginia Code § 2.2-4000 *et seq.*;
3. I acknowledge that I have the following rights, among others: the right to an informal fact-finding conference before the Board; and the right to representation by counsel;
4. I waive my right to an informal conference;
5. I neither admit nor deny the Findings of Fact and Conclusions of Law contained herein and waive my right to contest such Findings of Fact and Conclusions of Law and any sanction imposed hereunder in any future judicial or administrative proceeding in which the Board is a party;
6. I consent to the entry of the following Order affecting my license to practice medicine in the Commonwealth of Virginia.

### **ORDER**

Based on the foregoing Findings of Fact and Conclusions of Law, the Virginia Board of Medicine hereby ORDERS as follows:

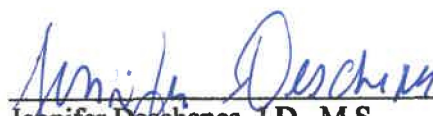
1. Mukesh P. Patel, M.D., is REPRIMANDED.
2. Dr. Patel is assessed a MONETARY PENALTY of \$1,500.00. This penalty shall be paid to the Board by certified check or money order made payable to the Treasurer of Virginia within sixty ( 60 ) days from the date of entry of this Order. Failure to pay the full monetary penalty by the due date may cause the matter to be sent for collection and constitutes grounds for an administrative proceeding and further discipline.
3. Any violation of the foregoing terms and conditions of this Order or any statute or regulation governing the practice of medicine shall constitute grounds for further disciplinary action.



4. Upon receipt of evidence that Dr. Patel has complied with the foregoing terms of this Order, the Executive Director is authorized to close this matter, or refer it to a special conference committee for review.

Pursuant to Virginia Code §§ 2.2-4023 and 54.1-2400.2, the signed original of this Order shall remain in the custody of the Department of Health Professions as a public record, and shall be made available for public inspection and copying upon request.

FOR THE BOARD

  
Jennifer Deschenes, J.D., M.S.  
Executive Director  
Virginia Board of Medicine


ENTERED: 6/21/2021

SEEN AND AGREED TO:

  
Mukesh P. Patel, M.D.

COMMONWEALTH OF VIRGINIA  
COUNTY/CITY OF Salem City TO WIT:

Subscribed and sworn to before me, a notary public in and for the Commonwealth of Virginia at large, on this 3 day of June, 2021.

  
Notary Public

My commission expires:

10-31-2022

Registration No.:

307565