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NEW JERSEY STATE BOARD
OF MEDICAL EXAMINERS

STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF MEDICAL EXAMINERS

In the matter of:

RANAJIT MITRA, M.D.
License No. 25MA06362000

ORDER OF
TEMPORARY SUSPENSION

This matter was initially opened before the New Jersey State Board of Medical Examiners on September 30, 2013, upon the filing of a Verified Administrative Complaint and an Order to Show Cause seeking, among other items, the entry of an Order temporarily suspending or otherwise limiting the license of respondent Ranajit Mitra, M.D. to practice medicine and surgery in the State of New Jersey. Dr. Mitra agreed to the entry of a Consent Order on October 9, 2013, pursuant to which his medical license was temporarily suspended, pending further Order of the Board. The Consent Order provided that Dr. Mitra was to thereafter file either a Stipulation admitting to the charges in the Complaint (which would have in turn obviated the need for any hearings other than one on the issue of penalty to be assessed) or an Answer to the Complaint. On or about December 2, 2013, Dr. Mitra elected to file an Answer to the Complaint and to contest the Attorney General's

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application for temporary suspension, and a hearing on that application was held on January 8, 2014.

Briefly summarized, the evidence before us at this stage of the proceeding palpably demonstrates that Dr. Mitra's continued practice would present clear and imminent danger to the public health, safety and welfare. Dr. Mitra entered an agreement with the Board on June 21, 2011 wherein he represented and agreed that he would discontinue treating all patients (existing and future patients) for pain management. Nine months later (on March 28, 2012), Dr. Mitra appeared before a Committee of the Board and testified that he no longer treated any patients for pain management and that he had stopped writing any prescriptions for "medications that they use in the streets" such as Roxicodone, or more broadly for any Schedule II CDS. Dr. Mitra in fact, however, continued to treat patients for pain management after June 21, 2011, and routinely wrote prescriptions for Schedule II opiates - including Roxicodone and/or Oxycodone, Endocet and/or Percocet and Methadone - without apparent medical justification, to patients whose charts included pain syndrome diagnoses.

Dr. Mitra repeatedly prescribed in amounts that far exceeded regulatory limits, to include his having prescribed, for one patient (A.A.), doses of Oxycodone that would be lethal to all but the most opiate tolerant of patients. Dr. Mitra repeatedly issued prescriptions for both oxycodone and buprenorphine (a drug

intended to treat opiate addiction) to patient D.W.1, a practice that is in direct contravention of all accepted standards for the use of buprenorphine. The record before us also demonstrates that Dr. Mitra was not deterred by "red flags" that should have alerted him to the possibility of diversion, to include negative toxicology screens, consistent requests for new prescriptions before prior supplies should have been exhausted, and his receipt of letters of concern about a patient's unusual medication utilization patterns from an insurance carrier. Dr. Mitra failed to record opiate prescriptions in his medical records for patient A.A., and his records for multiple patients are devoid of any diagnostic testing, examination findings or consultations to support recorded pain diagnoses.

Taken collectively, and coupled with the brazen lack of judgment manifest in Dr. Mitra's election to eschew the authority of this Board by continuing to treat patients for pain management - - both after expressly agreeing not to do so and after testifying that he had stopped such practices -- we conclude that no remedy short of a full temporary license suspension would be adequate at this time to protect the public interest. We set forth below, in greater detail, a summary of the procedural history of this matter, the evidence and testimony presented by both parties at the temporary suspension hearing, and the findings that we have made at this stage of the proceeding to support our action.

Procedural History

As noted above, this matter was initially commenced upon the filing of a four Count Administrative Complaint and Order to Show Cause on September 30, 2013. Count 1 of the Complaint was predicated upon respondent's prescribing of Controlled Dangerous Substances ("CDS") to ten patients. In each of the ten cases, respondent was generally accused of having indiscriminately prescribed, having grossly mismanaged care, and having maintained incomplete and/or misleading medical records. In Count 2 of the Complaint, respondent was accused of having violated the terms of a Private Letter Agreement ("PLA") that he entered with the Board in June 2011, by continuing to treat patients for pain management after he agreed to cease doing so. The Complaint additionally charged respondent with having violated the Board's Duty to Cooperate Regulations by failing to provide requested transcriptions for his partially illegible medical records (Count 3), and with lacking the requisite training and/or qualifications to engage in the practice of pain management medicine (Count 4). The Attorney General's application for temporary suspension was supported by a moving brief, certifications and exhibits, to include the June 20, 2011 PLA, medical records and prescription records for each of the ten patients identified in Count 1 of the complaint, and a written expert report dated September 19, 2013 from Elizabeth Baker, M.D.

Prior to the return date of the Order to Show Cause, the parties entered an Interim Consent Order on October 9, 2013. Therein, Dr. Mitra agreed to the temporary suspension of his medical license pending further Order of the Board, and also agreed to the suspension of his CDS privileges. While the Consent Order included a provision that would have allowed Dr. Mitra to stipulate to the facts alleged in the complaint and thereby proceed directly to a hearing limited to the issue of penalty to be assessed, respondent instead filed an Answer to the Complaint dated December 2, 2013 and thereafter a brief in opposition to the application for temporary suspension dated December 18, 2013. Respondent's brief was supported by an expert report of Jeffrey Gudin, M.D., dated December 5, 2013, certifications of four patients and letters of support from Jorge Quintana, M.D. and Lloyd Ross, Ph.D., FACAPP, P.A.

The matter was scheduled for a hearing on the Attorney General's application for temporary suspension on January 8, 2014. On that date, respondent Mitra appeared, represented by both Michael J. Keating, Esq., of Dughi, Hewit & Domalewski, and Alex J. Keosky, Esq., of Decotiis, Fitzpatrick & Cole, LLP. Deputy Attorney General Bindi Merchant appeared on behalf of complainant John Hoffman, Acting Attorney General of New Jersey. In addition to documents that were moved into evidence by both parties, three witnesses - Jeffrey Gudin, M.D., Elizabeth Baker, M.D. and Dr.

Mitra -- testified at the temporary suspension hearing. We announced our unanimous decision to continue the temporary suspension of Dr. Mitra's license following that hearing.

*Summary of Evidence and Testimony Presented at Hearing on
January 8, 2014*

At the temporary suspension hearing, each side moved into evidence (without objection) all exhibits that were submitted with their respective moving papers. Additionally, during the hearing, the Attorney General entered a copy of the transcript of Dr. Mitra's testimony before a Preliminary Evaluation Committee on March 28, 2012 and copies of twelve handwritten prescriptions for Roxicodone (dated between February 23, 2012 and April 10, 2012) which Dr. Mitra wrote for patient A.A. and patient A.A. subsequently filled.¹

While we have considered and reviewed all exhibits offered by both parties in making our decision to temporarily suspend Dr. Mitra's license, our primary focus was upon that evidence which we deemed to be particularly relevant to the limited question before us at this time - namely, whether Dr. Mitra's practice presents clear and imminent danger. We summarize below the expert reports and testimony presented by Drs. Baker and Gudin, the terms of the PLA that Dr. Mitra entered with the Board in June

¹ A full list of evidence presented by both parties is set forth in the attached Appendix.

2011, the testimony which Dr. Mitra offered concerning his compliance with the PLA and his prescriptive practices when appearing before a PEC in March 2012, and the testimony offered by Dr. Mitra before the Board at the temporary suspension hearing.

a) Expert Opinions of Drs. Baker and Gudin

This matter is unique in that the experts for both sides, in their written reports and testimony, agree that Dr. Mitra practiced pain management in a grossly negligent and indefensible manner. The Attorney General's expert, Dr. Elizabeth Baker, reviewed Dr. Mitra's treatment and prescribing records for each of the ten patients identified in Count 1 of the Complaint. In her written report dated September 19, 2013,² Dr. Baker identified numerous serious and significant issues with Dr. Mitra's practice, to include:

- the absence of any diagnostic testing, examination or consultation to support recorded diagnoses of pain syndromes, and a failure in one instance (patient V.G.) to have recorded any medical diagnosis to support the use of opiates;

- routine prescribing of opiates in quantities calculated to exceed 120 dosage units or a 30 day supply, without complying with the requirements of N.J.A.C. 13:35-7.6(c),³ to include repeated instances of supplying of up to 360 dosage units in a 30 day time period, routine prescribing of high quantities of Oxycodone over prolonged periods and, in the case of patient A.A., prescribing a total of 1800 tablets of Oxycodone over a 51 day

² Dr. Baker specifically noted that her review was preliminary, as portions of Dr. Mitra's medical records were not legible.

³ A physician may exceed the 120 dosage unit limitation, but only in circumstances where the practitioner is following a defined treatment plan designed to achieve effective pain management, which has been tailored to the needs of a patient suffering pain from cancer, intractable pain or terminal illness. See N.J.A.C. 13:35-7.6(c)(1).

period (a dosage which Dr. Baker pointed out would typically be lethal to all but the most extremely opioid tolerant individuals);

- Dr. Mitra's having made little or no attempts to monitor for inappropriate use of medications, toxic effects on patients receiving extremely high doses of opioids, compliance with prescribed dosages, diversion and addiction, to include continuous provision of prescriptions for Endocet every 3-4 days for patient W.J., despite the fact that the patient was clearly noncompliant with prescribed dosages;

- a general failure to conduct toxicology screening (a highly recommended procedure for high risk patients being administered CDS) to monitor adherence to treatment and to monitor for substance abuse, with two noted exceptions for patients V.G. and W.J. In those two cases, the failure to take any action on negative urine toxicology screens (which raised the possibility of drug diversion);

- a severe deviation from the standard of care by intermittent prescribing of traditional opiates with Suboxone to patient D.W.;

- repeated failure to prescribe anything other than short-acting pain medications;⁴

- repeated failure to document any treatment plans setting forth objectives and goals for pain management or opioid use; and

- repeated failure to offer any alternatives other than CDS for the treatment of pain.

In the aggregate, Dr. Baker opined that Dr. Mitra had been practicing pain management and that his practice thereof was grossly negligent. [Attorney General's ("AG") Ex. E]. Dr. Baker's testimony before the Board was consistent with the opinions expressed in her report.

⁴ Dr. Baker noted that prolonged use of short-acting medications is associated with a high risk of addiction, abuse and diversion and that conversion to a long-acting pain medication is generally performed when it becomes clear that medications will be needed for longer duration or chronic use.

As noted above, respondent's expert, Dr. Jeffrey Gudin, did not fundamentally disagree or quarrel with Dr. Baker's opinions or findings as they related to Dr. Mitra's practice of pain management. What both Dr. Gudin and defense counsel urged, however, is that any decision whether to temporarily suspend not be based solely on Dr. Mitra's pain management practice, but upon a more global consideration and analysis of Dr. Mitra's general practice of psychiatry.

Dr. Gudin thus agreed with the majority of Dr. Baker's comments, succinctly stating in his written report that Dr. Mitra "lacks the acumen and knowledge to practice pain management and should not do so." (Gudin Report, Respondent's Exhibit A). When testifying, Dr. Gudin candidly conceded that there was "no defending the way he prescribed to his patients." [Transcript of Temporary Suspension Hearing, hereinafter "TST," 22:1-22:2].

Dr. Gudin maintained in both his report and testimony, however, that Dr. Mitra is a "caring professional who serves as a qualified community psychiatrist," that his practice was "filled with unfortunate patients who need the care that he provides" and that the community would be better served by Dr. Mitra's continued practice of psychiatry. (Gudin Report, Respondent's Exhibit A). Dr. Gudin further opined that Dr. Mitra had "underestimated . . . the risks of utilizing opioids in patients with concomitant

psychiatric disease and would benefit from remediation, not punitive actions." (Id.)

When testifying before the Board, Dr. Gudin recounted that he sought to learn about Dr. Mitra's practice by going to Dr. Mitra's office and meeting with Dr. Mitra and his staff (TST, 16:13-17), and that he thereafter reviewed upwards of 200 charts (TST, 21:6-7). Dr. Gudin specifically declined to review charts that Dr. Mitra had pulled in advance of the scheduled meeting, but instead asked for access to all of Dr. Mitra's records and then reviewed all charts for patients with last names starting with R and S (TST 27:8-21).⁵ Dr. Gudin testified that not a single one of the charts that he reviewed contained any reference to opiate prescribing, and that those charts instead reflected and recorded Dr. Mitra's provision of general psychiatric care to patients (TST 27:22 - 28:4). When testifying, Dr. Gudin stated:

I think the message I would like the Board to leave with; Dr. Mitra's practice, 95 maybe 99 percent was general psychiatry in his underserved area; prescriptions for Lithium and Prozac and Cymbalta and Risperdal with appropriate medical management. The select few cases of this egregious opioid and Suboxone prescribing to a minority of patients with aberrant behaviors was in no way representative of his typical everyday practice."

[TST, 22:21 - 23:5].

⁵ Dr. Gudin conceded that Dr. Mitra's records were in part illegible, however he noted that Dr. Mitra was present during the record review and that he asked Dr. Mitra to read portions of records that were otherwise illegible (TST, 36:12 - 38-12).

On cross examination, Deputy Attorney General Merchant asked Dr. Gudin to focus upon the medical record for patient A.A. She then showed Dr. Gudin copies of actual prescriptions for Roxicodone which Dr. Mitra wrote for patient A.A. dated between February 23, 2012 and April 10, 2012 (the prescriptions were written for six specific dates, and in each case, Dr. Mitra wrote a prescription for 180 dosage units of Roxicodone 30 mg tablets and 180 dosage units of Roxicodone 15 mg tablets on the same date), each of which was subsequently filled, and established that not a single one of the twelve prescriptions was recorded in A.A.'s patient chart (see TST, 28:23 - 31-17).

b) Private Letter Agreement and Testimony before PEC

Dr. Mitra first appeared before a Preliminary Evaluation Committee of the Board on March 2, 2011, at which time the Board questioned him about his prescriptive practices for patients being treated for pain management. Following that appearance, Dr. Mitra entered a PLA with the Board wherein he explicitly agreed that he would:

(1) [R]efer all patients for whom you are currently providing pain management services to another physician who is specifically board certified in pain management within 60 days;

(2) [R]efrain from the practice of pain management for any new patients upon the entry and filing of this Private Letter Agreement. You are permitted to prescribe medications for psychiatric patients, including CDS prescriptions, when indicated so long as the patient is being treated by you for a psychiatric diagnosis, and not

as a patient with chronic pain syndrome. All prescriptions are to be written in accordance with accepted professional practice standards."

The letter also included a requirement that Dr. Mitra complete courses in prescribing of CDS and in record keeping. Significantly, the PLA specifically advised Dr. Mitra of the reasons why the PLA was being entered, to include a statement expressing concern "about the high volume of controlled dangerous substances prescribing as well as your record keeping," a statement that Dr. Mitra had "relied too much on your patient's requests for medication," and, most significantly, a direct statement that "you appear to lack the necessary proficiency in pain management and fail[ed] to recognize drug-seeking behavior by patients." (AG's Ex. A).⁶

Dr. Mitra completed the required course work by attending intensive courses in Controlled Substance Management (offered December 6-9, 2011) and in Medical Record Keeping (offered November 3-4, 2011) presented by Case Western Reserve University School of Medicine (see AG's Exhibit I). Notwithstanding his completion of the remedial course work, concerns continued to be identified regarding Dr. Mitra's compliance with the terms of the PLA and his prescribing practices. Dr. Mitra was then scheduled for a second

⁶ Although private at the time of entry, the PLA included a specific provision that its terms would become a matter of public record, and that the letter could be introduced as evidence, if formal disciplinary proceedings were to arise from the same or similar conduct or from a failure to comply with the letter agreement. The PLA thus has now become a matter of public record and is in evidence in this proceeding.

appearance before a Board investigative committee on March 28, 2012 (AG Ex. F). At that appearance, Dr. Mitra was asked about his compliance with the PLA, and gave repeated, unconditional assurances that he did not treat any pain management patients. [See Transcript of Testimony offered before Preliminary Evaluation Committee on 3/28/13, in evidence as Attorney General's Exhibit J, hereinafter "AG Ex. J", 11:22 - 12:3, 15:13 - 15:15, 16:2 - 16:6, 19:23 - 20:1]. While Dr. Mitra testified that he continued to treat certain "Suboxone patients," he assured the Board that any such patients were not also being prescribed opiates, testifying that prescribing opiates and Suboxone would be an absolute "no no" and "against everything."⁷

⁷ Specifically, Dr. Mitra testified:

Q. You're a Suboxone provider.

A. Yes, I am.

Q. Now, it's my understanding about Suboxone, that Suboxone is more or less a vehicle to get people off of medication; is that correct?

A. Yes. Absolutely. It's - go ahead.

Q. Do you prescribe these coincidentally with other opiates?

A. No. It's mean - that means if you do it, you cannot do that. It's a science, and not - what I'm trying to say is psychopharmacology.

Q. There are some patients in your practice who are taking only opiate medications and not taking Suboxone?

A. No. Number one, if they need opiates, if they need, it's not - I didn't start it, number one. Either I'm weaning them off so that they can get into a Suboxone treatment or non-opiate dependent treatment. Number two, if they are on opiates, they cannot take Suboxone. That's a no-no. That is no-no. That is against everything. I will discharge the patient or refer him to substance abuse immediately. And I have done that.

[AG Ex. J, 12:19 - 13:16; emphasis added].

Dr. Mitra further unconditionally assured the Committee that he did not prescribe Roxicodone, categorically stating "no Roxicodone, no - not the medications that they use in the streets. I'm strict with that, and I have not done it." (AG Ex. J; 16:9 - 16:24). While Dr. Mitra did tell the Committee that he had prescribed Percocet to a very small number of patients in order to wean those patients off from high doses of opiates, he stated that any such prescribing was done "in a very, very little amount, close monitoring, make them come, make them have testing, and monitor them." (AG Ex. J, 16:25 - 17:17). Dr. Mitra further stated that any such patients would have a formal "treatment plan", and be subject to testing and monitoring at regular intervals to include drug testing (AG Ex. J; 18:15 - 19:1). Dr. Mitra confirmed that he maintained "documentation of random drug testing on these patients" and that he had "pain contracts" with the patients (AG Ex. J; 19:2-15). When questioned more specifically about his entire practice, Dr. Mitra stated that he currently had "only three, four patients, at the most" who he was "weaning off." (AG Ex. J, 32:12 - 17). When asked how many prescriptions he had written for any narcotics in the "past five months," Dr. Mitra replied:

No Oxycontin. Percocet, maybe four or five per month, I'll say. Because I'm weaning off. Roxicodone, maybe one, if that. Currently, zero."

AG Exhibit J; 32:18-23.

Dr. Mitra also testified that he no longer prescribed Oxycodone (AG Ex. J, 39:21- 40:2) and, more globally, stated that he was not presently prescribing any schedule 2 opiates other than Percocet (with the Percocet limited to three or four patients for weaning purposes alone) (AG Ex. J; 40:11-40:15; 41:18 - 42:9).⁸

c) Dr. Mitra's testimony on January 8, 2014

When testifying at the temporary suspension hearing, Dr. Mitra stated that he does not prescribe pain medications for any patients who come solely for pain treatment, but that he will prescribe for individuals who have "overlapping of substance abuse as well as psychiatric illness." (TST, 97:9 - 98:3). Dr. Mitra testified that the prescriptions at issue were written for addicted patients who he was attempting to wean off of drugs (rather than for patients he was treating for pain management), and that he simply could not stop prescribing because, were he to do so, those patients would then go through withdrawal (TST, 102:1 - 103:7).

With specific regard to patient A.A., Dr. Mitra testified that A.A. was an immigrant who came to him without insurance or money,⁹ and claimed to need his help "because he was dependent on

⁸ It appears that there may have been a misstatement made at the Committee appearance suggesting that Percocet was a Schedule III drug rather than a Schedule II drug. We thus read Dr. Mitra's statement that he was not prescribing any Schedule II drug to any patient to be exclusive of Percocet/Endocet, given that he specifically advised the Committee that he was prescribing Percocet to three to four patients.

⁹ Notwithstanding Dr. Mitra's claims that A.A. had no money, we note that ten of the twelve Roxicodone prescriptions dated between February 12, 2012 and April

heroin and using street drugs." (TST, 111:4 - 13). Dr. Mitra had been seeing A.A. for over two years, prior to the time that he learned that A.A. wanted to go to Russia for five months (TST, 111:19 - 112:1). Dr. Mitra specifically stated that he was told that A.A. was "going to commit suicide," and only then agreed to write A.A. a five month supply of medications (TST, 112:2 - 112:21). Dr. Mitra further stated that when A.A. returned from Russia, he put him on Suboxone (TST, 112:22 - 113:3). On cross examination, Dr. Mitra was shown each of the twelve prescriptions for Roxicodone which he wrote for A.A., and conceded that each of the prescriptions included a specific pain diagnosis of intractable myalgia and neuropathy and that not a single prescription had been recorded in his notes (TST, 117:2 - 120:23).

In a closing statement, Dr. Mitra stated that he always attempted to put his patients first. He generally claimed that he had never understood the PLA to prohibit him from treating patients with psychiatric illnesses and concomitant addiction issues, and that the overwhelming majority of his practice was psychiatric only (TST, 139:7 - 22).¹⁰

10, 2012 were paid for in cash (it is not possible to determine, on the record before us, how the prescriptions marked K-2 and K-4 were paid for), at costs ranging from \$139.58 to \$360, for a total cash outlay of not less than \$2578.74 over a seven week period.

¹⁰ While we do not herein specifically summarize or address the remaining exhibits submitted by either the Attorney General or respondent, we note that respondent's additional exhibits (four patient certifications and two colleague letters, all of which are supportive of Dr. Mitra's practice of general

Basis for Temporary Suspension

We have considered the application before us, and find that it presents a more than ample predicate to support a finding of clear and imminent danger and to support continuation of the temporary suspension of Dr. Mitra's license. We do so based on two independent findings: 1) that Dr. Mitra's prescriptive practices for the ten patients identified in Count 1 of the Complaint grossly deviated from appropriate standards of care for patients being treated for pain management and being prescribed Schedule II opiates, and 2) that Dr. Mitra's failure to have complied with the terms of the PLA, and his subsequent provision of false and/or misleading testimony when appearing before a Committee of the Board on March 28, 2012, evidence an egregious lack of good judgment. While either finding alone would be sufficient to predicate a determination that Dr. Mitra's continued practice would present clear and imminent danger to public health, safety and welfare, in combination we find the two findings fully support, if not mandate, continuation of the full temporary suspension of respondent's license to practice medicine and surgery in the State of New Jersey.

There is unanimity, in the opinion of both expert witnesses as well as the collective opinion of the members of this

psychiatry, do not specifically address Dr. Mitra's prescribing of opiates for patients with pain syndrome diagnoses.

Board, that Dr. Mitra's prescribing of opiates for the ten patients identified in Count 1 of the Attorney General's complaint was indiscriminate and/or grossly negligent. As evidenced by the actual records of filled prescriptions obtained following pharmacy sweeps conducted by the Enforcement Bureau, Dr. Mitra routinely issued prescriptions for excessive if not staggering quantities of CDS to each of the ten identified patients. His patient records failed to include any treatment plans, or indeed any examination findings or testing that would demonstrate a medical need for the prescribing that was being done, or support any of the recorded diagnoses in those patients' charts.¹¹ Further, Dr. Mitra continued to prescribe in circumstances where he either knew, or should have known, that his patients were receiving pain medications from other prescribers and/or were not being compliant with prescribed dosages.¹²

¹¹ While we can appreciate Dr. Mitra's suggestion that a physical examination may not routinely be conducted or appropriate for treatment of psychiatric issues alone, we find nothing in the records before us to suggest that his prescribing of opiates for any of the ten identified patients was for any purpose other than "pain management." In those circumstances, we suggest that there was an absolute need for Dr. Mitra to have assured that physical examinations and testing confirmed the recorded pain diagnoses.

¹² The case of patient D.W.1 is particularly of concern, given that the patient chart included multiple letters sent to Dr. Mitra from Horizon BCBSNJ advising that D.W.1 had been identified through claims review "as having unusual medication utilization patterns which may indicate possible drug over-utilization and may place them at risk for drug-induced adverse events." If Dr. Mitra responded to any of the letters, he did not maintain a copy of his response in D.W.1's patient record - what is clear, however, is that Dr. Mitra prescribed both buprenorphine and oxycodone for D.W.1 both before and after having received the identified communications from Horizon.

Based on the evidence presently before us, it is apparent that Dr. Mitra facilitated each of the ten patients whose care is at issue to obtain Schedule II narcotics. While we cannot, at this stage of the proceeding, make any findings whether or not any of the identified patients in turn diverted or illegally distributed drugs which Dr. Mitra prescribed, at a minimum we can state that his practice was lax to a point that he could have been a conduit for illegal activity. Even if we assume, however, that none of the ten patients diverted any drugs prescribed by Dr. Mitra, his prescribing practices necessarily placed each of those patients at great risk of harm, or even death, based on the quantities prescribed and the absence of any medical testing or monitoring.

At this stage of the proceeding, we find insufficient cause to discount the above findings based on Dr. Mitra's claims that any prescribing of opiates was not for "pain management" purposes, but rather done in an effort to "wean" or detoxify the patients (each of whom Dr. Mitra claimed had a concomitant psychiatric diagnosis) off of drug dependencies to street drugs such as heroin or other narcotics. While we anticipate that the issue may, if appropriate, be more fully developed in plenary proceedings before the OAL, his claims are belied by the actual prescriptions that are thus far in evidence, as each of the twelve prescriptions for patient A.A. includes a handwritten diagnosis of intractable myalgia and neuropathy. Similarly, the compilation of

prescriptions issued for each patient (see AG's Exhibit D) do not appear to evidence any "weaning" process (that is, there does not appear to be any visible or marked tapering of prescribed opiates - - either in dosages or in frequency of issued prescriptions -- that one would ordinarily expect to see if any prescribing had been for the purpose of weaning patients from drug use).¹³ Similarly, Dr. Mitra's claims are also at odds with the evidence before us regarding his prescribing for patient D.W.1, as it is inconceivable that any "weaning" process would be promoted by the repeated issuance of prescriptions for both oxycodone and buprenorphine. Finally, we suggest that Dr. Mitra's "explanation," if accepted, would essentially render the terms of the PLA meaningless.

While we thus find that a finding of clear and imminent danger can be made based on the evidence presented regarding the ten patients identified in Count 1 of the Complaint, in this case that finding is necessarily buttressed by entirely independent findings focused upon Dr. Mitra's failure to comply with the terms of the agreement he voluntarily entered with this Board and his

¹³ We recognize that our ability to review and analyze Dr. Mitra's medical records, and to attempt to determine whether those records include entries that would in fact allow a reader to conclude that prescribing was being done with the goal of "weaning" patients off of drugs, is compromised by the illegibility of Dr. Mitra's handwritten chart entries. We note, however, that Dr. Mitra bears responsibility not only for the legibility of his records, but also for failing to have complied with a request from the Attorney General made in September 2013 to have transcribed his patient records. See AG Ex. G. Further, we point out that if the records in fact contained entries that would have supported Dr. Mitra's contentions, he has not to this time brought to our attention or otherwise highlighted any such entries.

lack of candor when testifying before a Board Committee. Dr. Mitra agreed in June 2011 to stop treating any patients for pain management, but the record demonstrates that he did not do so. Instead, Dr. Mitra treated each of the ten patients referenced in the filed Complaint after the PLA was entered, and wrote multiple prescriptions for Schedule II opiates for each patient.

Dr. Mitra knew, or should have known, on March 28, 2012 that he was writing prescriptions for Schedule II opiates for multiple patients, to include his writing prescriptions for Oxycodone and/or Roxicodone and prescriptions for Methadone.¹⁴ Nonetheless, when required to appear and testify before a Committee of the Board in March 2012, Dr. Mitra was not honest about his prescriptive practices. He falsely assured the Committee that he had ceased all pain management treatment, and falsely testified that he did not "currently" write any prescriptions for drugs abused in the streets such as Roxicodone, or more broadly for any Schedule II opiates. Dr. Mitra also falsely assured the Committee that he would never simultaneously prescribe Suboxone and Oxycodone to a patient. Finally, as to the very limited number - perhaps three or four - of patients being prescribed opiates as part of a "weaning" process, Dr. Mitra assured the Committee that he was

¹⁴ Available prescription records suggest that Dr. Mitra first started writing prescriptions for Methadone to patient L.S. in April 2012. In all other cases, the prescribing at issue involved both the time period between the entry of the PLA and Dr. Mitra's appearance before the PEC, and the time period after the PEC hearing.

closely monitoring those patients, and that their records would include records of drug screenings and treatment plans.

It is apparent, however, that both before and after his March 28, 2012 Committee appearance, Dr. Mitra had been writing and continued to write prescriptions for Schedule II opiates - to include prescriptions for Oxycodone, Roxicodone, and Methadone -- for those patients who are the subject of the filed Complaint, and did so, in each instance, without any treatment plans and without any monitoring. It is also apparent that, despite assuring the Committee that prescribing Suboxone and Oxycodone to a patient would violate all practice standards, Dr. Mitra had been issuing those very prescriptions to patient D.W.1 for months before he came to the Committee, and continued to do so for months after his appearance.¹⁵ Finally, even as to those patients being prescribed Endocet (Oxycodone/Acetaminophen), the available records suggest that the prescribing was being done in amounts far in excess of that which Dr. Mitra conceded when appearing before the Committee, without recorded treatment plans and without any recorded monitoring.

¹⁵ When testifying at the temporary suspension hearing about patient D.W.1, Dr. Mitra suggested that he told DW1 that he needed to either "try Suboxone or you have to go somewhere" and that after making that suggestion, the patient came back the next day "throwing up" and saying that he was "shaking," at which point Dr. Mitra gave him a "limited amount, one week supply." (TST, 122:20 - 125:19). While we trust that this issue will be more fully explored at the plenary hearing before the OAL, we point out that the "explanation" offered at the temporary suspension hearing does not appear to in any way address the long term prescribing of Suboxone and Oxycodone for D.W.1.

In sum, Dr. Mitra failed to comply with the written agreement he made with the Board, and then sought to mislead the Board about his conduct when testifying under oath before the PEC. His conduct evidences not only a flagrant and contumacious disregard for the authority of this Board, but also necessarily evinces severely flawed judgment. We find that Dr. Mitra's lack of judgment provides independent support for a conclusion that his continued practice would present clear and imminent danger to the public health, safety and welfare.

Given the seriousness and weight of the findings made, we reject the arguments made by Dr. Mitra's counsel that this Board should fashion an interim order that would allow Dr. Mitra to continue to engage in the general practice of psychiatry pending the completion of plenary proceedings. We point out that, absent requiring continuous, over-the-shoulder practice monitoring, there would be no way to trust Dr. Mitra to comply with any practice limitations we might craft. Most significantly, however, we conclude that the dangers evident in Dr. Mitra's prescriptive practices, coupled with his flawed judgment, militate against allowing him to continue any practice at this juncture of the proceedings.¹⁶

¹⁶ While we considered Dr. Gudin's testimony that he did not identify any issues involving Dr. Mitra's practice of psychiatry or prescriptive practices when conducting his chart review, we necessarily question whether or not it is reasonable to rely on Dr. Mitra's chart entries alone to draw such conclusions,

Conclusion

For the reasons detailed fully above, we conclude that the Attorney General has met her statutory burden to palpably demonstrate clear and imminent danger to the public health, safety and welfare. We do so based both on the findings we have made regarding respondent's prescribing for each of the ten patients at issue, and based on our findings focused upon the manifest dereliction of judgment evident in respondent's conduct. Taken in aggregate, we unanimously conclude that cause exists to continue the temporary suspension of respondent's license to practice, which

given that it has been established that Dr. Mitra did not record multiple opiate prescriptions issued in A.A.'s patient record. We also note that Dr. Gudin was not offered as an expert in psychiatry.

Additionally, we note that although the filed Complaint does not include allegations related to Dr. Mitra's general practice of psychiatry (that is, for patients not being prescribed opiates), Dr. Mitra's testimony regarding the circumstances which preceded his decision to issue five months of prescriptions to A.A. (for a period where it was represented to him that A.A. would be in Russia) is concerning (see TST, 111:23 - 112-21). Specifically, Dr. Mitra testified that he wrote the prescriptions only after he was told that A.A. was "going to commit suicide." While the testimony is less than clear as to who communicated that information to Dr. Mitra and/or what specific information may have been communicated, it does not appear that Dr. Mitra charted anything in A.A.'s patient record regarding the possibility that A.A. was suicidal, nor does it appear that he did anything to follow-up upon or analyze the credibility of the suicide threat. Instead, it appears that Dr. Mitra simply acceded to A.A.'s request that he be provided a five month supply of Roxicodone. If so, we suggest that Dr. Mitra may well have abrogated his fundamental responsibilities as a practicing psychiatrist to his patient.

Finally, we expressly reject any suggestion made that Dr. Mitra should be allowed to continue to practice because he practices in an underserved area. Underserved populations deserve and demand competent practitioners, who meet all requirements for continued licensure in the State. No community is served by allowing a practitioner found to present clear and imminent danger to the public to continue to practice.

has been in place since the entry of the Interim Consent Order on October 9, 2013.

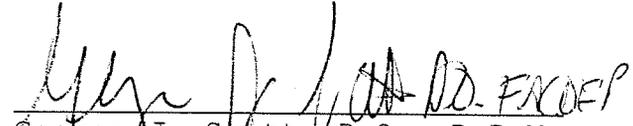
WHEREFORE it is on this 12th day of February, 2014

ORDERED (effective upon pronouncement on January 8, 2014):

The temporary suspension of Dr. Mitra's license to practice medicine and surgery in the State of New Jersey, which has been in effect since the entry of an Interim Consent Order on October 9, 2013, shall remain in full force and effect pending the issuance of a final Board Order at the conclusion of the Board's review of any recommended Initial Decision issued upon completion of plenary proceedings in this matter.

NEW JERSEY STATE BOARD
OF MEDICAL EXAMINERS

By:


George J. Scott, D.O., D.P.M.
Board President

APPENDIX

Attorney General's Exhibits:

Exhibit A: Private Letter Agreement entered between Dr. Mitra and New Jersey State Board of Medical Examiners, filed June 21, 2011.

Exhibit B: Copies of Dr. Mitra's medical records for patients A.A., A.M. C.G., D.W.1, D.W.2, J.F., L.S., S.C., V.G. and W.J.

Exhibit C: Certified patient prescription profiles for patients A.A., A.M. C.G., D.W.1, D.W.2, J.F., L.S., S.C., V.G. and W.J.

Exhibit D: Tabular analyses of the patient prescription profiles, prepared by Deputy Attorney General Merchant as a demonstrative exhibit.

Exhibit E: Expert report of Elizabeth A. Baker, M.D., dated September 19, 2013.

Exhibit F: Letter dated February 13, 2012 from William V. Roeder, Executive Director of the Board, to Michael Keating, Esq., notifying Mr. Keating of the scheduling of Dr. Mitra's appearance before a Preliminary Evaluation Committee of the Board on March 28, 2012.

Exhibit G: Letter dated September 4, 2013 from Deputy Attorney General Merchant to Michael Keating, Esq., requesting transcriptions of patient records.

Exhibit H: Curriculum vitae of Ranajit Mitra, M.D.

Exhibit I: Certificates of attendance for Dr. Mitra at Intensive Courses in Controlled Substance Management and Medical Record Keeping at the Case Western School of Medicine.

Exhibit J: Transcript of Dr. Mitra's testimony before Preliminary Evaluation Committee of the Board on March 28, 2012.

Exhibit K (K-1 through K-12): Copies of twelve prescriptions issued by Dr. Mitra to patient A.A. for Roxicodone for dates ranging between February 23, 2012 and April 10, 2012.

Respondent's Exhibits

Exhibit A: Expert Report of Jeffrey Gudin, M.D., dated December 18, 2013.

Exhibit B: Certifications of patients of Dr. Mitra identified as J.M., P.C., D.B. and L.A.

Exhibit C: Letters of Dr. Jorge Quintana and Lloyd Ross, Ph.D., FACAPP, P.A.

Exhibit D: Current Curriculum Vitae of Dr. Mitra.

**NOTICE OF REPORTING PRACTICES OF BOARD
REGARDING DISCIPLINARY ACTIONS**

Pursuant to N.J.S.A. 52:14B-3(3), all orders of the New Jersey State Board of Medical Examiners are available for public inspection. Should any inquiry be made concerning the status of a licensee, the inquirer will be informed of the existence of the order and a copy will be provided if requested. All evidentiary hearings, proceedings on motions or other applications which are conducted as public hearings and the record, including the transcript and documents marked in evidence, are available for public inspection, upon request.

Pursuant to 45 CFR Subtitle A 60.8, the Board is obligated to report to the National Practitioners Data Bank any action relating to a physician which is based on reasons relating to professional competence or professional conduct:

- (1) Which revokes or suspends (or otherwise restricts) a license,
- (2) Which censures, reprimands or places on probation,
- (3) Under which a license is surrendered.

Pursuant to 45 CFR Section 61.7, the Board is obligated to report to the Healthcare Integrity and Protection (HIP) Data Bank, any formal or official actions, such as revocation or suspension of a license (and the length of any such suspension), reprimand, censure or probation or any other loss of license or the right to apply for, or renew, a license of the provider, supplier, or practitioner, whether by operation of law, voluntary surrender, non-renewability, or otherwise, or any other negative action or finding by such Federal or State agency that is publicly available information.

Pursuant to N.J.S.A. 45:9-19.13, if the Board refuses to issue, suspends, revokes or otherwise places conditions on a license or permit, it is obligated to notify each licensed health care facility and health maintenance organization with which a licensee is affiliated and every other board licensee in this state with whom he or she is directly associated in private medical practice.

In accordance with an agreement with the Federation of State Medical Boards of the United States, a list of all disciplinary orders are provided to that organization on a monthly basis.

Within the month following entry of an order, a summary of the order will appear on the public agenda for the next monthly Board meeting and is forwarded to those members of the public requesting a copy. In addition, the same summary will appear in the minutes of that Board meeting, which are also made available to those requesting a copy.

Within the month following entry of an order, a summary of the order will appear in a Monthly Disciplinary Action Listing which is made available to those members of the public requesting a copy.

On a periodic basis the Board disseminates to its licensees a newsletter which includes a brief description of all of the orders entered by the Board.

From time to time, the Press Office of the Division of Consumer Affairs may issue releases including the summaries of the content of public orders.

Nothing herein is intended in any way to limit the Board, the Division or the Attorney General from disclosing any public document.