

FILED

April 5, 2004

**NEW JERSEY STATE BOARD
OF MEDICAL EXAMINERS**

EFFECTIVE

March 24, 2004

**NEW JERSEY STATE BOARD
OF MEDICAL EXAMINERS**

IN THE MATTER OF THE
SUSPENSION OR REVOCATION OF
THE LICENSE OF

LALITKUMAR H. MEHTA, M.D.

License No. MA 51042

TO PRACTICE MEDICINE AND
SURGERY IN THE STATE OF
NEW JERSEY

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

Administrative Action

ORDER OF TEMPORARY
SUSPENSION OF LICENSURE

This matter was opened to the New Jersey State Board of Medical Examiners (the "Board") on February 25, 2004, upon the concurrent filing of an Administrative Verified Complaint with Exhibits, an Order to Show Cause, the Certification of Counsel and a letter brief seeking the emergent temporary suspension of the license of respondent Lalitkumar H. Mehta, M.D., to practice medicine and surgery in the State of New Jersey.

Within the two count Verified Complaint, the Attorney General alleges that respondent violated the Board's statutes and regulations by his offensive and sexual touching, hugging and kissing of two (2) female patients during the course of purported medical examinations.¹ Specifically the Attorney General alleges in Count I that during the course of providing medical services on

¹ We have granted the Attorney General's motion to protect the identity of each of the patients named in the Complaint. Said patients shall be referred to by initials only.

February 27, 2003 respondent repeatedly and for inappropriately prolonged periods of time placed his hands upon his 32 year old female patient's breasts including cupping, squeezing and grabbing of patient M.M's breasts. Further he placed his hands on her buttocks, inserted his fingers in her labia and vagina and then kissed her on her cheek while squeezing both breasts. Additionally, while he kissed her on the mouth he inserted *his* tongue in her mouth and his finger in her vagina.

The Verified Complaint alleges in Count II that during a medical evaluation of J.N. on April 23, 2003 respondent inserted his fingers in a 30 year old female patient's labia and vagina repeatedly and for a long period of time, placed his hands on her buttocks and anus, and repeatedly commented on the "cleanliness" of her vagina and "what a good girl" she was. Further that he hugged her three times and kissed her on the mouth while grabbing her and mumbling "one more time."

On or about March 1, 2004 respondent filed an Answer to the Verified Complaint wherein he generally denied all material allegations of sexual misconduct and admitted that he was indicted on February 18, 2004 by the Grand Jury in Hudson County which charged him with two (2) counts of fourth (4th) degree criminal sexual contact in violation of N.J.S.A. 2C:14-3(b) regarding the two female patients who are the subjects of the allegations in this matter.

The matter was set down for hearing upon the application for temporary licensure suspension on March 10, 2004. Deputy Attorney General Alexandra Garcia appeared for complainant Attorney General of New Jersey and Zulima V. Farber, Esq., appeared for respondent. On that date the Board determined on its own motion to delegate to a Committee of Board members the authority vested in the Board by N.J.S.A. 45:1-22 to hear the application brought by the Attorney General for the temporary suspension of the license of Lalitkumar H. Mehta, M.D. Further, if the Committee should find cause to do so, to order that a temporary suspension of licensure be entered or that other authorized actions or limitations be imposed. The Board ruled that *any* Order of the Committee shall be effective immediately upon pronouncement, and shall have the full force and effect of an Order of the full Board. The Board further directed that following the hearing, the Committee shall prepare a written Order to the full Board detailing findings made by the Committee, which Order shall be presented to the full Board for consideration. Following review of said Order and the record before the hearing Committee, the full Board shall then adopt, modify or reject the Order of the Hearing Committee. Respondent consented to the hearing before a Board Committee and waived any right to object to the proceedings as outlined herein and agreed that the full Board would consider the matter on the papers at the April 14, 2004 Board meeting.

Complainant's application was supported by certifications from the two women, each of whom explicitly recounted within their certifications the sexual misconduct of respondent. Complainant further relied upon the certification of M.B. the husband of J.N. He attests that his wife reported to him when he came home from work the evening of the occurrence, respondent's sexually abusive examination and untoward behavior. Additionally, the State relied on a certification from Joyce Booth, Esq., the attorney representing both patients in a civil law suit, stating that the two patients named in the complaint herein are to the best of her knowledge independent and do not know each other. Further, that each retained her separately after they had made their complaints to the police and the Board. Additionally, the State provided a notarized letter by J.N. wherein she swears she does not know and has never met M.M., nor is she aware of the details of the allegations M.M. made against respondent. The record also included Joint exhibits consisting of the medical records of the victims which corroborate that the women had office visits on the dates of the alleged conduct.

Respondent did not testify before the Board, but argues through counsel that the proofs are insufficient to meet the State's heavy burden of palpably demonstrating that respondent's continued practice constitutes a clear and imminent danger to the public health, safety and welfare. He suggests that the Board deny at this

junction the relief the Attorney General is seeking and instead place restrictions on respondent's practice that would ensure the public's safety.

Respondent further relies on his good reputation in New Jersey, including medical practice since 1984 with no prior complaints. He also asserts that the indictment against him charging him with criminal sexual contact against M.M. and J.N. is based solely on the allegations of the two patients and at this point there has been no conviction. He argues that the certified statements have not been the subject of cross-examination or scrutiny and given his denial of the material allegations and lack of other evidence the Board should impose a less drastic means of ensuring patient safety. We also relies on the certifications of his medical technician, Vanessa Ramirez and his secretary Yandy Feliciano that it is respondent' general practice to leave the examining door unlocked whenever he is examining a patient. He further asserts that although M.M. claims she was deeply disturbed by 'the February 27, 2003 events she waited until May 13, 2003 to complain to the Enforcement Bureau and until June 1, 2003 to file a police report. Respondent: questions M.M.'s credibility as she states in her certification that on the date of the occurrence she had a regularly scheduled office visit when the log book for that date lists her as a "walk in" patient.

Respondent questions the credibility of J.N.'s certification. He argues that she left respondent's office, paid her medical bill in full and made no mention of the alleged assault until her complaint that evening. Respondent argues that J.N.'s consent to the dismissal of the matter in the Union City Municipal Court in order to file a Civil Complaint demonstrates a motive to seek money. Finally he asserts that the State should have developed this case further in the almost one year period of time between the sworn statements and the indictments.

Upon review and consideration of the evidence before us, we conclude that the threshold showing necessary to support the temporary suspension of respondent's license has been made. N.J.S.A. 45:1-22 provides that a Board may temporarily suspend the license of a practitioner upon a verified application palpably demonstrating a clear and imminent danger to the public health, safety and welfare. We find the evidence before us at this juncture, most graphically the sworn statements from the two women who were victimized by respondent convincingly demonstrates that a clear and imminent danger to the public health, safety and welfare exists. Both women paint a picture of strikingly similar conduct, the locked examination room door, the forced kissing, the digital vaginal insertion, the grabbing and touching of breasts and buttocks all within the context of a purported medical examination. We believe there is sufficient detail and consistency to deem the

statements regarding conduct which took place in the span of little more than two months to be credible. At this point there has been an un rebutted showing that the patients did not know one another, and were unaware of the details of the allegations made by the other. We further considered that both women were ongoing patients of respondent and had been examined by him before. Each knew what a proper examination was and that what had occurred on the dates of the reported incident was different. We find based on the record before us at this preliminary hearing, that the conduct described by the patients, including for example a locked examination door, squeezing and grabbing of breasts, kissing on the mouth, and in one case with insertion of a tongue and while inserting a finger in the patient's vagina. were simply not part of a legitimate medical examination.

We reject respondent's argument that the statements are not credible because they were not made immediately. Indeed, in the case of J.N., her husband's certification details that she told her husband of the occurrence immediately when he came home that night and that they reported it that very evening to the authorities. In the case of M.M. we do not find at this juncture that the fact that she waited a period of time to complain impugns her credibility. We are aware that victims of sexual misconduct may need time to assimilate their feelings and to find courage to report.

We reject respondent's contention that the sworn statements of his employees contradict the victims statements. On the contrary, the employees have no independent recollection of the examinations of J.N. or M.M. and do not certify that they were present in the exam rooms or aware of whether the exam door was locked on the dates of the incidents alleged herein. His employees merely certify that it is respondent's general practice to leave the examination room doors unlocked.

Finally, we reject respondent's argument that the Board should allow him to practice subject to conditions which would protect his patients. We find that no monitoring or treatment program we could craft would adequately protect his patients from respondent's sexualized examinations.² The physician's lack of control demonstrated on this record and the very poor judgment respondent used causes us to believe that nothing short of a suspension will provide the protection patients expect and deserve. Respondent's predatory conduct runs afoul of the ethical obligation of all who are licensed to practice medicine to do no harm. Accordingly we herein order that respondent's license to practice

² We do not deem the two week transition period ordered herein which requires respondent to have a female monitor present for all physician/patient encounters, as adequate safeguard beyond that time period. It is put in place as a short term measure only as a convenience to current patients in order to effectuate an orderly transfer of their care.

medicine and surgery in the State of New Jersey shall be temporarily suspended pending the conclusion of plenary proceedings.

WHEREFORE, it is on this day of 2004

ORDERED effective immediately upon its announcement on the public record on March 10, 2004,

1. The license of respondent Lalitkumar H. Mehta, M.D., to practice medicine and surgery in the State of New Jersey is hereby temporarily suspended, pending the completion of Board review of plenary proceedings in this matter before the Office of Administrative Law.

2. The temporary suspension is to become effective two (2) weeks from the March 10, 2004 oral announcement: of this Order on the record - that is, on March 24, 2004.

3. In order to permit an orderly transfer of patient care, on March 10, 2004 the Committee orally ordered that during the two (2) week transition period the following protections were to be put in place:


a. Respondent was to see no new patients nor was he to accept any new patients into his practice.

b. A female monitor was to be present at all times during any physician/patient encounter. The monitor was required to be a health care

professional licensed by the New Jersey Division of Consumer Affairs. The monitor, who could be an employee of respondent, was required to sign the medical record to serve as an attestation that she/he was in the room with the patient at all times during any physician/patient encounter.

4. Respondent shall comply with the directives applicable to disciplined licensees.

STATE BOARD OF MEDICAL EXAMINERS

By: 
 David M. Wallace, M.D.,
 President/Committee Chair

EVIDENCE LIST

- 3-1 Medical Record maintained by Respondent for M.M.
- J-2 Medical Record maintained by Respondent for J.N.
- J-3 Court Action-Dismissal without prejudice State v. LALITKUMAR H. MEHTA, M.D., Union City, New Jersey dated 2/17/04
- P-1 Sworn Statement of M.M. dated March 13, 2003
- P-2 Union City Police Department Investigation Report dated June 1, 2003
- P-3 Sworn Statement of J.N. dated March 23, 2003
- P-4 Sworn Statement of M.3. (husband of J.N.) dated 5/23/03
- P-5 Union City Police Department Investigation Report dated April 23, 2003
- P-6 Certification of Joyce Booth, Esq., dated March 9, 2002
- P-7 Certification of Alexandra Garcia, DAG dated March 9, 2004
- P-8 Certified Letter from J.N. dated March 4, 2004
- D-1 Page from patient log book retained by Respondent dated Thursday, February 27, 2003
- D-2 Transcript of Dismissal, Union City Municipal Court, State of New Jersey v. Lalitkumar H. Mehta, M.D., dated July 10, 2003
- D-3 Certification of Vanessa Ramirez dated March 8, 2004
- D-4 Certification of Yany Feliciano dated March 8, 2004

**DIRECTIVES APPLICABLE TO ANY MEDICAL BOARD LICENSEE
WHO IS DISCIPLINED OR WHOSE SURRENDER OF LICENSURE
HAS BEEN ACCEPTED**

APPROVED BY THE BOARD ON MAY 10, 2000

All licensees who are the subject of a disciplinary order of the Board are required to provide the information required on the addendum to these directives. The information provided will be maintained separately and will not be part of the public document filed with the Board. Failure to provide the information required may result in further disciplinary action for failing to cooperate with the Board, as required by N.J.A.C. 13:45C-1 et seq. Paragraphs 1 through 4 below shall apply when a license is suspended or revoked or permanently surrendered, with or without prejudice. Paragraph 5 applies to licensees who are the subject of an order which, while permitting continued practice, contains a probation or monitoring requirement.

1. Document Return and Agency Notification

The licensee shall promptly forward to the Board office at Post Office Box 183, 140 East Front Street, 2nd floor., Trenton, New Jersey 08625-0183, the original license, current biennial registration and, if applicable, the original CDS registration. In addition, if the licensee holds a Drug Enforcement Agency (DEA) registration, he or she shall promptly advise the DEA of the licensure action. (With respect to suspensions of a finite term, at the conclusion of the term, the licensee may contact the Board office for the return of the documents previously surrendered to the Board. In addition, at the conclusion of the term, the licensee should contact the DEA to advise of the resumption of practice and to ascertain the impact of that change upon his/her DEA registration.)

2. Practice Cessation

The licensee shall cease and desist from engaging in the practice of medicine in this State. This prohibition not only bars a licensee from rendering professional services, but also from providing an opinion as to professional practice or its application, or representing him/herself as being eligible to practice. (Although the licensee need not affirmatively advise patients or others of the revocation, suspension or surrender, the licensee must truthfully disclose his/her licensure status in response to inquiry.) The disciplined licensee is also prohibited from occupying, sharing or using office space in which another licensee provides health care services. The disciplined licensee may contract for, accept payment from another licensee for or rent at fair market value office premises and/or equipment. In no case may the disciplined licensee authorize, allow or condone the use of his/her provider number by any health care practice or any other licensee or health care provider. (In situations where the licensee has been suspended for less than one year, the licensee may accept payment from another professional who is using his/her office during the period that the licensee is suspended, for the payment of salaries for office staff employed at the time of the Board action.)

A licensee whose license has been revoked, suspended for one (1) year or more or permanently surrendered must remove signs and take affirmative action to stop advertisements by which his/her eligibility to practice is represented. The licensee must also take steps to remove his/her name from professional listings, telephone directories, professional stationery, or billings. If the licensee's name is utilized in a group practice title, it shall be deleted. Prescription pads bearing the licensee's name shall be destroyed. A destruction report form obtained from the Office of Drug Control (973-504-6558) must be filed. If no other licensee is providing services at the location, all medications must be removed and returned to the manufacturer, if possible, destroyed or safeguarded. (In situations where a license has been suspended for less than one year, prescription pads and medications need not be destroyed but must be secured in a locked place for safekeeping.)

3. Practice Income Prohibitions/Divestiture of Equity Interest in Professional Service Corporations and Limited Liability Companies

A licensee shall not charge, receive or share in any fee for professional services rendered by him/herself or others while barred from engaging in the professional practice. The licensee may be compensated for the reasonable value of services lawfully rendered and disbursements incurred on a patient's behalf prior to the effective date of the Board action.

A licensee who is a shareholder in a professional service corporation organized to engage in the professional practice, whose license is revoked, surrendered or suspended for a term of one (1) year or more shall be deemed to be disqualified from the practice within the meaning of the Professional Service Corporation Act. (N.J.S.A. 14A:17-11). A disqualified licensee shall divest him/herself of all financial interest in the professional service corporation pursuant to N.J.S.A. 14A:17-13(c). A licensee who is a member of a limited liability company organized pursuant to N.J.S.A. 42:1-44, shall divest him/herself of all financial interest. Such divestiture shall occur within 90 days following the entry of the Order rendering the licensee disqualified to participate in the applicable form of ownership. Upon divestiture, a licensee shall forward to the Board a copy of documentation forwarded to the Secretary of State, Commercial Reporting Division, demonstrating that the interest has been terminated. If the licensee is the sole shareholder in a professional service corporation, the corporation must be dissolved within 90 days of the licensee's disqualification.

4. Medical Records

If, as a result of the Board's action, a practice is closed or transferred to another location, the licensee shall ensure that during the three (3) month period following the effective date of the disciplinary order, a message will be delivered to patients calling the former office premises, advising where records may be obtained. The message should inform patients of the names and telephone numbers of the licensee (or his/her attorney) assuming custody of the records. The same information shall also be disseminated by means of a notice to be published at least once per month for three (3) months in a newspaper of

general circulation in the geographic vicinity in which the practice was conducted. At the end of the three month period, the licensee shall file with the Board the name and telephone number of the contact person who will have access to medical records of former patients. Any change in that individual or his/her telephone number shall be promptly reported to the Board. When a patient or his/her representative requests a copy of his/her medical record or asks that record be forwarded to another health care provider, the licensee shall promptly provide the record without charge to the patient.

5. Probation/Monitoring Conditions

With respect to any licensee who is the subject of any Order imposing a probation or monitoring requirement or a stay of an active suspension, in whole or in part, which is conditioned upon compliance with a probation or monitoring requirement, the licensee shall fully cooperate with the Board and its designated representatives, including the Enforcement Bureau of the Division of Consumer Affairs, in ongoing monitoring of the licensee's status and practice. Such monitoring shall be at the expense of the disciplined practitioner.

(a) Monitoring of practice conditions may include, but is not limited to, inspection of the professional premises and equipment, and inspection and copying of patient records (confidentiality of patient identity shall be protected by the Board) to verify compliance with the Board Order and accepted standards of practice.

(b) Monitoring of status conditions for an impaired practitioner may include, but is not limited to, practitioner cooperation in providing releases permitting unrestricted access to records and other information to the extent permitted by law from any treatment facility, other treating practitioner, support group or other individual/facility involved in the education, treatment, monitoring or oversight of the practitioner, or maintained by a rehabilitation program for impaired practitioners. If bodily substance monitoring has been ordered, the practitioner shall fully cooperate by responding to a demand for breath, blood, urine or other sample in a timely manner and providing the designated sample.

NJ License #

ADDENDUM

Any licensee who is the subject of an order of the Board suspending, revoking or otherwise conditioning the license, shall provide the following information at the time that the order is signed, if it is entered by consent, or immediately after service of a fully executed order entered after a hearing. The information required here is necessary for the Board to fulfill its reporting obligations:

Social Security Number¹: _____

List the Name and Address of any and all Health Care Facilities with which you are affiliated:

List the Names and Address of any and all Health Maintenance Organizations with which you are affiliated:

Provide the names and addresses of every person with whom you are associated in your professional practice: (You may attach a blank sheet of stationery bearing this information).

¹ Pursuant to 45 CFR Subtitle A Section 61.7 and 45 CFR Subtitle A Section 60.8, the Board is required to obtain your Social Security Number and/or federal taxpayer identification number in order to discharge its responsibility to report adverse actions to the National Practitioner Data Bank and the HIP Data Bank.

**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.