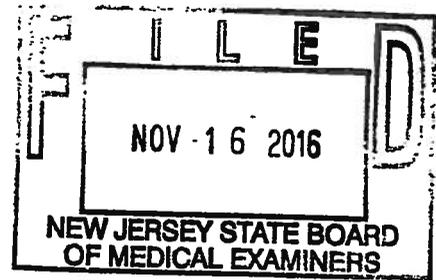


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EFFECTIVE: NOVEMBER 25, 2016

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

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

MANOJ DINKAR PATHARKAR, M.D.
LICENSE NO. 25MA07439500

TO PRACTICE MEDICINE AND SURGERY
IN THE STATE OF NEW JERSEY

Administrative Action

CONSENT ORDER

This matter was opened to the New Jersey State Board of Medical Examiners ("Board") by Rebecca Ricigliano, Acting Attorney General of New Jersey, by and through Christopher Salloum, Deputy Attorney General, appearing, upon receipt of information evidencing that the Respondent, Manoj Dinkar Patharkar, M.D., engaged in a pervasive pattern of illicit conduct relating adversely to the practice of medicine and surgery, and also indiscriminately prescribed controlled dangerous substances in reckless disregard of his patients' health, safety, and welfare. As discussed below, the

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Respondent's misconduct provides grounds for the Board to revoke his license pursuant to N.J.S.A. 45:1-21.

In December 2008, the Respondent was named a defendant in Allstate New Jersey Ins. Co. et al. v. Lajara et al., Docket No. UNN-L-4091-08 (N.J. Super. Ct. Law Div. 2008). In that case, the Plaintiffs and, later, the Department of Banking and Insurance as Plaintiff-Intervenor, alleged that the Respondent had participated in a "broad, multifaceted scheme to defraud" several insurance carriers. Following a lengthy trial, the Court found that the Respondent had violated the Insurance Fraud Prevention Act, N.J.S.A. 17:33A-1 et seq., and, on June 29, 2016, entered final judgment against the Respondent in favor of the original Plaintiffs in the amount of \$699,799 in trebled compensatory damages and in the amount of \$2,295,300 for attorneys' fees and costs. Thereafter, on September 30, 2016, the Respondent settled the charges alleged by the Plaintiff-Intervenor, Department of Banking and Insurance, and agreed to pay the Department a settlement amount of \$150,000.

On August 24, 2015, a Middlesex County Grand Jury returned a sixteen-count indictment charging the Respondent with several grave criminal offenses, including two counts of money laundering, one count of theft by deception, seven counts of filing fraudulent tax returns, three counts of failure to pay taxes, one count of tampering with public records, one count of misconduct by a

corporate official, and one count of conspiracy to commit the above-mentioned offenses.

On October 24, 2016, the Respondent pleaded guilty to twelve counts charged in the August 24, 2015 indictment, including, without limitation, one count of conspiracy to commit several criminal offenses, a crime of the first degree; one count of financial facilitation of criminal activity (money laundering), a crime of the first degree; seven counts of filing fraudulent tax returns, crimes of the third degree; and three counts of failure to pay taxes, crimes of the third degree. On that same date, the Respondent also pleaded guilty to an accusation charging him with one count of conspiracy to commit commercial bribery and breach of duty to act disinterestedly, a crime of the second degree; and one count of commercial bribery and breach of duty to act disinterestedly, a crime of the second degree.

During his plea allocution before the Honorable Michael A. Toto, J.S.C., the Respondent admitted that he participated in a conspiracy to generate income for himself that he would not report on his tax returns by creating false and fictitious employees of his medical practices, issuing paychecks to those false and fictitious employees, cashing those paychecks himself, and then using that cash, which totaled more than \$75,000, to bribe several other healthcare practitioners to refer patients to his medical practices. The serious crimes to which the Respondent pleaded

guilty subject him to a maximum period of incarceration of one hundred and ten years. The Respondent is scheduled to be sentenced on January 23, 2017.

In addition to the above criminal and civil misconduct, the Board's investigation has revealed that the Respondent indiscriminately prescribed a highly-potent sublingual spray formulation of fentanyl—an opioid approximately fifty times more powerful than heroin and one hundred times more powerful than morphine—to several non-cancer patients for whom such a drug was contraindicated. This drug, called Subsys, is so dangerous that it has been made subject to a restricted distribution regulatory regime that governs all healthcare practitioners' access to it and the only five other drugs of its kind. Because of its grave risks, Subsys may only be prescribed to treat cancer patients who are suffering from breakthrough cancer pain and who are already receiving, and are tolerant to, around-the-clock opioid therapy for their underlying persistent cancer pain. By prescribing Subsys to patients who did not have cancer, the Respondent jeopardized his patients' welfare in reckless or willful disregard of the drug's unequivocal and well-established risks, and also flouted the rules, requirements, and parameters pertaining to its appropriate use and prescribing that he, as a medical professional licensed by this Board, expressly acknowledged understanding and by which he agreed to abide.

The Respondent's conduct, as described herein, constitutes (1) the use or employment of fraud, deception, and misrepresentation; (2) gross negligence, gross malpractice, or gross incompetence which endangered the life, health, welfare, and safety of his patients; (3) professional misconduct; (4) convictions of crimes or offenses involving moral turpitude and/or relating adversely to the practice of medicine and surgery in this State; (5) violations of the provisions of several statutes and/or regulations administered by the Board, including, but not limited to, N.J.A.C. 13:35-6.17(c)(1), N.J.A.C. 13:35-7.1A, and N.J.A.C. 13:35-7.6; (6) violations of the Insurance Fraud Act; and (7) the indiscriminate prescribing of controlled dangerous substances. Such conduct, therefore, provides grounds for the Board to revoke the Respondent's license to practice medicine and surgery in this State pursuant to N.J.S.A. 45:1-21(b), (c), (e), (f), (h), (k), and (m).

The Respondent, being desirous of resolving this matter without the institution of a formal disciplinary proceeding, and it appearing that the Respondent has read the terms of the within Order and understands their meaning and effect and, on the advice of counsel, agrees to be bound by same, and the Board, finding the within disposition adequately protective of the public health, safety, and welfare, and further finding that good cause exists for the entry of this Order:

IT IS, therefore, on this 16th day of November 2016

ORDERED and AGREED that:

1. Effective November 25, 2016 ("Effective Revocation Date"), the Respondent's license to practice medicine and surgery in the State of New Jersey shall be, and hereby is, revoked.

2. The Respondent shall not submit, and the Board shall not entertain, an application seeking a license to practice medicine and surgery at any point in the future.

3. Effective immediately, and with the consent of the Director of the New Jersey Division of Consumer Affairs, the Respondent's New Jersey controlled dangerous substances registration shall be, and hereby is, permanently revoked.

4. On the Effective Revocation Date, the Respondent shall return his original New Jersey license, current biennial registration, and, effective immediately, his controlled dangerous substances registration to William Roeder, Executive Director, New Jersey State Board of Medical Examiners, Post Office Box 183, Trenton, New Jersey 08625-0183.

5. On the Effective Revocation Date, the Respondent shall immediately cease and desist from the practice of medicine and surgery in this State. This means that the Respondent shall, among other things, refrain from all patient contact and shall not issue any prescriptions for, or dispense, medications of any kind, including but not limited to Controlled Dangerous Substances.

6. On the Effective Revocation Date, the Respondent shall

not enter the premises of his former medical practices during business hours when patients may be present.

7. On the Effective Revocation Date, the Respondent shall not charge, receive or share in any fee for professional services rendered by others. Respondent shall be permitted to collect accounts receivable with respect to professional services that he rendered prior to the date of the filing of this Order.

8. On the Effective Revocation Date, the Respondent shall comply with N.J.A.C. 13:35-6.5(h), the Board regulation for practice closure. Within ten days of the filing of this Consent Order, Respondent is to notify William V. Roeder, Executive Director, State Board of Medical Examiners, 140 East Front Street, P.O. Box 183, Trenton, New Jersey 08625-0183 as to where his patient records are secured, and how patients may obtain them.

9. On the Effective Revocation Date, the Respondent shall immediately advise the Drug Enforcement Administration of this Order, and, specifically, that his license to practice medicine and surgery in the State of New Jersey has been revoked.

10. The terms of the "Directives Applicable to Any Medical Board Licensee who is Disciplined or Whose Surrender of Licensure or Cessation of Practice has been Ordered or Agreed Upon," attached hereto, are expressly incorporated herein by reference.

11. On the Effective Revocation Date, the Respondent shall divest himself from any current and future financial interest in or

benefit derived from the practice of medicine.

12. On the Effective Revocation Date, the Respondent shall be precluded from managing, overseeing, supervising or influencing the practice of medicine or the provision of health care services in the State of New Jersey.

13. The entry of this Order shall be without prejudice to any further action by this Board or other law enforcement or governmental entities resulting from Respondent's conduct not addressed by the terms of this Order.

NEW JERSEY STATE BOARD OF MEDICAL EXAMINERS

By: George J. Scott, D.P.M., D.O. FRCOFP
George Scott, D.P.M., D.O.
Board President

I have read the within Consent Order in its entirety and I agree to be bound by all of its terms. I understand the meaning and effect of this Order, and I understand that the entry of this Order carries serious legal consequences. Consent is hereby given to the Board to enter this Order.

Manoj Patnagar, M.D.

11/15/16
Date

Consent is hereby given as to the form and entry of this Order.

Matt Matthew Mandel, Esq.
Attorney for Respondent

11-15-16
Date

MSM

**DIRECTIVES APPLICABLE TO ANY MEDICAL BOARD LICENSEE
WHO IS DISCIPLINED OR WHOSE SURRENDER OF LICENSURE
OR CESSATION OF PRACTICE HAS BEEN ORDERED OR AGREED UPON**

APPROVED BY THE BOARD ON AUGUST 12, 2015

All licensees who are the subject of a disciplinary order or surrender or cessation order (herein after, "Order") of the Board shall provide the information required on the addendum to these directives. 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 licensee is suspended, revoked, has surrendered his or her license, or entered into an agreement to cease practice, with or without prejudice, whether on an interim or final basis. Paragraph 5 applies to licensees who are the subject of an order which, while permitting continued practice, contains probationary terms 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. Prior to the resumption of any prescribing of controlled dangerous substances, the licensee shall petition the Director of Consumer Affairs for a return of the CDS registration if the basis for discipline involved CDS misconduct. 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, surrender or cessation, the licensee must truthfully disclose his/her licensure status in response to inquiry.) The licensee subject to the order

is also prohibited from occupying, sharing or using office space in which another licensee provides health care services. The licensee subject to the order may contract for, accept payment from another licensee for rent at fair market value for office premises and/or equipment. In no case may the licensee subject to the order 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 subject to the order 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), subject to the order for the payment of salaries for office staff employed at the time of the Board action.

A licensee whose license has been revoked, suspended or subject to a surrender or cessation order for one (1) year or more must immediately take steps to 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 subject to the order 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.¹ 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 order.

¹This bar on the receipt of any fee for professional services is not applicable to cease and desist orders where there are no findings that would be a basis for Board action, such as those entered adjourning a hearing.

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 or who is ordered to cease practice 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 disqualified licensee who is a member of a limited liability company organized pursuant to N.J.S.A. 42:1-44, shall also divest him/herself of all financial interest. Such divestiture of the licensee's interest in the limited liability company or professional service corporation 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 Division of Revenue and Enterprise Services demonstrating that the interest has been terminated. If the licensee is the sole shareholder in a professional service corporation or sole member of the limited liability company, the corporation must be dissolved within 90 days of the licensee's disqualification unless it is lawfully transferred to another licensee and documentation of the valuation process and consideration paid is also provided to the Board.

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) immediately 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. If the licensee has a website, a notice shall be posted on the website as well.

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.

6. Payment of Civil and Criminal Penalties and Costs.

With respect to any licensee who is the subject of any order imposing a civil penalty and/or costs, the licensee shall satisfy the payment obligations within the time period ordered by the Board or be subject to collection efforts or the filing of a certificate of debt. The Board shall not consider any application for reinstatement nor shall any appearance before a committee of the Board seeking reinstatement be scheduled until such time as the Board ordered payments are satisfied in full. (The Board at its discretion may grant installment payments for not more than a 24 months period.)

As to the satisfaction of criminal penalties and civil forfeitures, the Board will consider a reinstatement application so long as the licensee is current in his or her payment plans.

NOTICE OF REPORTING PRACTICES OF BOARD
REGARDING DISCIPLINARY ORDERS/ACTIONS

All Orders filed by the New Jersey State Board of Medical Examiners are "government records" as defined under the Open Public Records Act and are available for public inspection, copying or examination. See N.J.S.A. 47:1A-1, et seq., N.J.S.A. 52:14B-3(3). Should any inquiry be made to the Board concerning the status of a licensee who has been the subject of a Board Order, the inquirer will be informed of the existence of the Order and a copy will be provided on request. Unless sealed or otherwise confidential, all documents filed in public actions taken against licensees, to include documents filed or introduced into evidence in evidentiary hearings, proceedings on motions or other applications conducted as public hearings, and the transcripts of any such proceedings, are "government records" available for public inspection, copying or examination.

Pursuant to N.J.S.A. 45:9-22, a description of any final board disciplinary action taken within the most recent ten years is included on the New Jersey Health Care Profile maintained by the Division of Consumer Affairs for all licensed physicians. Links to copies of Orders described thereon are also available on the Profile website. See <http://www.njdoctorlist.com>.

Copies of disciplinary Orders entered by the Board are additionally posted and available for inspection or download on the Board of Medical Examiners' website.

See <http://www.njconsumeraffairs.gov/bme>.

Pursuant to federal law, the Board is required to report to the National Practitioner Data Bank (the "NPDB") certain adverse licensure actions taken against licensees related to professional competence or conduct, generally including the revocation or suspension of a license; reprimand; censure; and/or probation. Additionally, any negative action or finding by the Board that, under New Jersey law, is publicly available information is reportable to the NPDB, to include, without limitation, limitations on scope of practice and final adverse actions that occur in conjunction with settlements in which no finding of liability has been made. Additional information regarding the specific actions which the Board is required to report to the National Practitioner Data Bank can be found in the NPDB Guidebook issued by the U.S. Department of Health and Human Services in April 2015. See <http://www.npdb.hrsa.gov/resources/npdbguidebook.pdf>.

Pursuant to N.J.S.A.45:9-19.13, in any case in which the Board refuses to issue, suspends, revokes or otherwise places conditions on a license or permit, the Board is required 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 entered by the Board is provided to the Federation on a monthly basis.

From time to time, the Press Office of the Division of Consumer Affairs may issue press releases including information regarding public actions taken by the Board.

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