NEW YORK STATE OF OPPORTUNITY. | Department of Health

Public

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Commissioner

SALLY DRESLIN, M.S., R.N.
Executive Deputy Commissioner

May 11, 2015

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Nishant R. Nadpara, M.D.
[redacted]

Re: License No. 249614

Dear Dr. Nadpara:

Enclosed is a copy of the New York State Board for Professional Medical Conduct (BPMC) Order No. 15-118. This order and any penalty provided therein goes into effect May 18, 2015.

If the penalty imposed by this Order is a surrender, revocation or suspension, you are required to deliver your license and registration within five (5) days of receipt of this Order to: c/o Physician Monitoring Unit, NYS DOH - OPMC, Riverview Center, Suite 355, 150 Broadway, Albany, NY 12204-2719.

If your license is framed, please remove it from the frame and only send the parchment paper on which your name is printed. Our office is unable to store framed licenses.

If the document(s) are lost, misplaced or destroyed, you are required to submit to this office an affidavit to that effect. Please complete and sign the affidavit before a notary public and return it to the Office of Professional Medical Conduct.

Please direct any questions to: NYS DOH - OPMC, Riverview Center, Suite 355, 150 Broadway, Albany, NY 12204-2719, telephone # (518)402-0855.

Sincerely,

[redacted]

Katherine A. Hawkins, M.D., J.D.
Executive Secretary
Board for Professional Medical Conduct

cc: Timothy S. Brennan, Esq.
Phelan, Phelan & Danek, LLP
302 Washington Avenue Extension, Suite 3
Albany, NY 12203

Enclosure

BPMC No. 15-118

STATE OF NEW YORK : DEPARTMENT OF HEALTH
STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

IN THE MATTER **SURRENDER**

OF **ORDER**

NISHANT R. NADPARA, M.D.

Upon the application of (Respondent) **NISHANT R. NADPARA** M.D. to Surrender his license as a physician in the State of New York, which is made a part of this Surrender Order, it is

ORDERED, that the Surrender, and its terms, are adopted and it is further

ORDERED, that Respondent's name be stricken from the roster of physicians in the State of New York; it is further

ORDERED, that this Order shall be effective upon issuance by the Board, either

- by mailing of a copy of this Surrender Order, either by first class mail to Respondent at the address in the attached Surrender of License application
- or by certified mail to Respondent's attorney, OR
- upon facsimile transmission to Respondent or Respondent's attorney,

Whichever is first.

SO ORDERED.

[redacted]

DATE: 5/8/2015

CARMELA TORRELLI
Vice-Chair
State Board for Professional Medical Conduct

NEW YORK STATE DEPARTMENT OF HEALTH
STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

IN THE MATTER OF NISHANT R. NADPARA, M.D.	SURRENDER OF LICENSE AND ORDER

NISHANT R. NADPARA, M.D., represents that all of the following statements are true:

That on or about July 21, 2008, I was licensed to practice as a physician in the State of New York, and issued License No. 249614 by the New York State Education Department.

My current address is [redacted]

I understand that the New York State Board for Professional Medical Conduct (Board) has charged me with one or more specifications of professional misconduct, as set forth in a Statement of Charges, marked as Exhibit "A", which is attached to and part of this Surrender of License.

I am applying to the State Board for Professional Medical Conduct for permission to surrender my license as a physician in the State of New York on the grounds that I agree not to contest the sixth specification as it applies to paragraphs C and C.2 (c), and C and C.2 (d), in full satisfaction of the charges against me.

I ask the Board to accept my Surrender of License, and I agree to be bound by all of the terms set forth in attached Exhibit "B".

I understand that, if the Board does not accept my Surrender of License, none of its terms shall bind me or constitute an admission of any of the acts of misconduct alleged; this application shall not be used against me in any way and shall be kept in strict confidence; and the Board's denial shall be without prejudice to the pending disciplinary proceeding and the Board's final determination pursuant to the Public Health Law.

I agree that, if the Board accepts my Surrender of License, the Chair of the Board shall issue a Surrender Order in accordance with its terms. I agree that this Order shall take effect upon its issuance by the Board, either by mailing of a copy of the Surrender Order by first class mail to me at the address in this Surrender of License, or to my attorney by certified mail, or upon facsimile transmission to me or my attorney, whichever is first. The Surrender Order, this agreement, and all attached exhibits shall be public documents, with only patient identities, if any, redacted. As public documents, they may be posted on the Department's website(s). OPMC shall report this action to the National Practitioner Data Bank, the Federation of State Medical Boards, and any other entities that the Director of OPMC shall deem appropriate.

I ask the Board to accept this Surrender of License, which I submit of my own free will and not under duress, compulsion or restraint. In consideration of the value to me of the Board's acceptance of this Surrender of License, allowing me to resolve this matter without the various risks and burdens of a hearing on the merits, I knowingly waive my right to contest the Surrender Order for which I apply, whether administratively or judicially, and I agree to be bound by the Surrender Order.

I understand and agree that the attorney for the Department, the Director of the Office of Professional Medical Conduct and the Chair of the State Board for Professional Medical Conduct each retain complete discretion either to enter into the proposed agreement and Order, based upon my application, or to decline to do so. I further understand and agree that no prior or separate written or oral communication can limit that discretion.

DATE 05.05.2015

[redacted]

NISHANT R. NADPARA, M.D.
RESPONDENT

The undersigned agree to Respondent's attached Surrender of License and Order and to its proposed penalty, terms and conditions.

DATE: 5/5/15

[redacted]
TIMOTHY S. BRENNAN, ESQ.
Attorney for Respondent

DATE: 5-6-15

[redacted]
LEE A. DAVIS
Associate Counsel
Bureau of Professional Medical Conduct

DATE: 5/8/15

[redacted]
KEITH W. SERVIS
Director
Office of Professional Medical Conduct

EXHIBIT "A"

NEW YORK STATE DEPARTMENT OF HEALTH
STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

IN THE MATTER

OF

NISHANT R. NADPARA, M.D.

STATEMENT

OF

CHARGES

NISHANT R. NADPARA, M.D., the Respondent, was authorized to practice medicine in New York State on or about July 21, 2008, by the issuance of license number 249614 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. Respondent provided medical care to Patient A (Patients are identified in Appendix "A") for follow up chronic back pain on or about May 27, 2008 at St. Elizabeth's Medical Center Family Practice Clinic in Utica, New York. Respondent deviated from the standard of care and/or engaged in inappropriate behavior toward Patient A, in that:

1. Respondent inappropriately touched Patient A while she was seated on the edge of the examination table.
2. Respondent stated to Patient A, "I bet it has been a long time since you had sex," or words to such effect.
3. Respondent, on more than one occasion, and with no legitimate medical purpose inappropriately rubbed Patient A's foot against himself while assisting her in straight leg raises as she was lying on the examination table.

4. Respondent, with no legitimate medical purpose, inappropriately touched Patient A as he stood behind her while she was bent over at the waist, at his direction.
5. Respondent failed to maintain a medical record which accurately reflected his evaluation and/or treatment of Patient A.

B. Respondent provided medical care to Patient B from on or about June 7, 2011 through on or about May 10, 2012 at Crystal Run Healthcare in Middletown, New York. Respondent deviated from the standard of care and/or engaged in inappropriate behavior toward Patient B, in that:

1. Between on or about June7, 2011 and on or about May 10, 2012 Respondent engaged in the following behavior:
   a. Respondent, on more than one occasion initiated inappropriate conversation toward Patient B.
   b. Respondent, on more than one occasion suggested to Patient B that he and Patient B could give each other massages to relieve stress, or words to that effect.
2. On or about April 5, 2012, Respondent, with no legitimate medical purpose, hugged Patient B while in the examination room.
3. On or about May 10, 2012, as Patient B presented to Respondent for hip pain, Respondent engaged in the following conduct:
   a. Respondent, with no legitimate medical purpose, inappropriately touched Patient B's leg while she was on the examination table.
   b. Respondent said to Patient B, "Just one kiss," or words to that effect.
   c. Respondent hugged Patient B.
   d. Respondent kissed Patient B
4. Respondent failed to maintain a medical record which accurately reflected his evaluation and/or treatment of Patient B.

C. Respondent provided medical care to Patient C from on or about August 4, 2011 through on or about March 30, 2012 at Crystal Run Healthcare in Middletown, New York. Respondent deviated from the standard of care and/or engaged in inappropriate behavior toward Patient C, in that:

1. Respondent, on or about January 11, 2012 engaged in the following behavior:

   a. Respondent, with no legitimate medical purpose, came very close to Patient C and touched and/or stroked Patient C's hair.

   b. Respondent, with no legitimate medical purpose, inappropriately touched Patient C's leg as she sat on the examination table.

   c. Respondent, with no legitimate medical purpose, hugged Patient C.

   d. Respondent, with no legitimate medical purpose, kissed Patient C.

2. Respondent, between on or about January 11, 2012 and March 30, 2012, engaged in the following behavior:

   a. Respondent accessed Patient C's cell phone number from her medical record for the purpose of contacting Patient C personally and/or not for a legitimate medical purpose.

   b. On or about January 14, 2012, Respondent called Patient C's cell phone from his cell phone.

   c. Respondent, at various times sent text messages from his cell phone to Patient C's cell phone that were inappropriate and/or of a personal nature.

   d. Respondent, on one or more occasions stated things to Patient C that were inappropriate and/or of a personal nature during his examination of Patient C.

3. On or about March 30, 2012, as Patient C presented to Respondent for follow up for shortness of breath, Respondent engaged in the following behavior:

   a. Respondent kissed Patient C while she was seated on the examination table.

   b. Respondent touched Patient C in an inappropriate manner with no legitimate medical purpose.

4. Respondent failed to maintain a medical record which accurately reflected his evaluation and/or treatment of Patient C.

SPECIFICATION OF CHARGES

FIRST THROUGH THIRD SPECIFICATIONS

HARRASSING, ABUSING OR INTIMIDATING A PATIENT

Respondent is charged with professional misconduct as defined in N.Y. Educ. Law § 6530(31) by reason of his willfully harassing, abusing or intimidating a patient either physically or verbally, in that Petitioner charges:

1. The facts in Paragraph A and A.1, and/or A and A.2, and/or A and A.3, and/or A and A.4.

2. The facts in Paragraph B and B.1 (a), and/or B and B.1 (b) and/or B and B.2, and/or B and B.3 (a), and/or B and B.3 (b), and/or B and B.3 (c), and/or B and B.3 (d).

3. The facts in Paragraph C and C.1(a), and/or C and C.1(b), and/or C and C.1(c), and/or C and C.1(d), C and C.2(a), and/or C and C.2(b), and/or C and C.2(c), and/or C and C.2(d), C and C.3(a), and/or C and C.3(b).

FOURTH THROUGH SIXTH SPECIFICATIONS

MORAL UNFITNESS

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(20) by engaging in conduct in the practice of the profession of medicine that evidences moral unfitness to practice as alleged in the facts of the following:

4. The facts in Paragraph A and A.1, and/or A and A.2, and/or A and A.3, and/or A and A.4.

5. The facts in Paragraph B and B.1 (a), and/or B and B.1 (b) and/or B and B.2, and/or B and B.3 (a), and/or B and B.3 (b), and/or B and B.3 (c), and/or B and B.3 (d).

6. The facts in Paragraph C and C.1(a), and/or C and C.1(b), and/or C and C.1(c), and/or C and C.1(d), C and C.2(a), and/or C and C.2(b), and/or C and C.2(c), and/or C and C.2(d), C and C.3(a), and/or C and C.3(b).

SEVENTH THROUGH NINTH SPECIFICATIONS

FAILURE TO MAINTAIN RECORDS

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(32) by failing to maintain a record for each patient which accurately reflects the evaluation and treatment of the patient, as alleged in the facts of:

7. A and A.5.

8. B and B.4. And/or

9. C and C.4.

DATE: May 6, 2015
Albany, New York

[redacted]

MICHAEL A. HISER
Deputy Counsel
Bureau of Professional Medical Conduct

EXHIBIT "B"

Requirements for Closing a Medical Practice Following a Revocation, Surrender, Limitation or Suspension of a Medical License

1. Licensee shall immediately cease and desist from engaging in the practice of medicine in New York State, or under Licensee's New York license, in accordance with the terms of the Order. In addition, Licensee shall refrain from providing an opinion as to professional practice or its application and from representing that Licensee is eligible to practice medicine.

2. Within 5 days of the Order's effective date, Licensee shall deliver Licensee's original license to practice medicine in New York State and current biennial registration to the Office of Professional Medical Conduct (OPMC) at Riverview Center, 150 Broadway, Suite 355, Albany, New York 12204-2719.

3. Within 15 days of the Order's effective date, Licensee shall notify all patients of the cessation or limitation of Licensee's medical practice, and shall refer all patients to another licensed practicing physician for continued care, as appropriate. Licensee shall notify, in writing, each health care plan with which the Licensee contracts or is employed, and each hospital where Licensee has privileges, that Licensee has ceased medical practice. Within 45 days of the Order's effective date, Licensee shall provide OPMC with written documentation that all patients and hospitals have been notified of the cessation of Licensee's medical practice.

4. Licensee shall make arrangements for the transfer and maintenance of all patient medical records. Within 30 days of the Order's effective date, Licensee shall notify OPMC of these arrangements, including the name, address, and telephone number of an appropriate and acceptable contact person who shall have access to these records. Original records shall be retained for at least 6 years after the last date of service rendered to a patient or, in the case of a minor, for at least 6 years after the last date of service or 3 years after the patient reaches the age of majority, whichever time period is longer. Records shall be maintained in a safe and secure place that is reasonably accessible to former patients. The arrangements shall include provisions to ensure that the information in the record is kept confidential and is available only to authorized persons. When a patient or a patient's representative requests a copy of the patient's medical record, or requests that the original medical record be sent to another health care provider, a copy of the record shall be promptly provided or forwarded at a reasonable cost to the patient (not to exceed 75 cents per page.) Radiographic, sonographic and similar materials shall be provided at cost. A qualified person shall not be denied access to patient information solely because of an inability to pay.

5. In the event that Licensee holds a Drug Enforcement Administration (DEA) certificate for New York State, Licensee shall, within 15 days of the Order's effective date, advise the DEA, in writing, of the licensure action and shall surrender Licensee's DEA controlled substance privileges for New York State to the DEA. Licensee shall promptly surrender any unused DEA #222 U.S. Official Order Forms Schedules 1 and 2 for New York State to the DEA. All submissions to the DEA shall be addressed to Diversion Program Manager, New York Field Division, U.S. Drug Enforcement Administration, 99 Tenth Avenue, New York, NY 10011.

6. Within 15 days of the Order's effective date, Licensee shall return any unused New York State official prescription forms to the Bureau of Narcotic Enforcement of the New York State Department of Health. If no other licensee is providing services at Licensee's practice location, Licensee shall properly dispose of all medications.

7. Within 15 days of the Order's effective date, Licensee shall remove from the public domain any representation that Licensee is eligible to practice medicine, including all related signs, advertisements, professional listings (whether in telephone directories, internet or otherwise), professional stationery or billings. Licensee shall not share, occupy, or use office space in which another licensee provides health care services.

8. Licensee shall not charge, receive or share any fee or distribution of dividends for professional services rendered by Licensee or others while Licensee is barred from engaging in the practice of medicine. Licensee may be compensated for the reasonable value of services lawfully rendered, and disbursements incurred on a patient's behalf, prior to the Order's effective date.

9. If Licensee is a shareholder in any professional service corporation organized to engage in the practice of medicine, Licensee shall divest all financial interest in the professional services corporation, in accordance with New York Business Corporation Law. Such divestiture shall occur within 90 days. If Licensee is the sole shareholder in a professional services corporation, the corporation must be dissolved or sold within 90 days of the Order's effective date.

10. Failure to comply with the above directives may result in a civil penalty or criminal penalties as may be authorized by governing law. Under N.Y. Educ. Law § 6512, it is a Class E Felony, punishable by imprisonment for up to 4 years, to practice the profession of medicine when a professional license has been suspended, revoked or annulled. Such punishment is in addition to the penalties for professional misconduct set forth in N.Y. Pub. Health Law § 230-a, which include fines of up to $10,000 for each specification of charges

of which the Licensee is found guilty, and may include revocation of a suspended license.