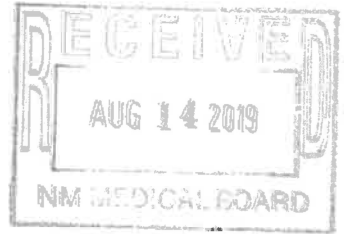


**BEFORE THE NEW MEXICO MEDICAL BOARD**



**IN THE MATTER OF** )  
**SUJAN THYAGARAJ, M.D.,** )  
License No. MD2010-0267, )  
**Respondent.** )  
\_\_\_\_\_ )

**Case No. 2016-014**  
**(Inv. No. 2016-D-035)**

**DECISION AND ORDER REVOKING LICENSE**

This matter came before the New Mexico Medical Board (“Board”) at its August 8, 2019, meeting for decision and order following the June 28, 2019, submission of Hearing Officer Frank Weissbarth’s Report. Before taking action, the Board familiarized itself with and gave full consideration to the record, including the transcript of the hearing and the exhibits admitted during Respondent’s evidentiary hearing, the Parties’ proposed findings of fact and conclusions of law, the Hearing Officer’s Report, and Parties’ responses to the Hearing Officer’s Report. After adopting the findings of fact and conclusions of law, the Board voted unanimously to revoke Respondent’s license to practice medicine in New Mexico.

**I. FINDINGS OF FACT**

**A. Procedural History**

1. On March 25, 2016, the New Mexico Medical Board (“Board”) initiated this administrative proceeding by issuing and serving a Notice of Contemplated Action (“NCA”) and Notice of Summary Suspension (“NSS”) on Respondent. The NCA alleged –

a. On or about February 22, 2016, during an office visit with a female patient, C.S., Respondent placed his genitals in C.S.’s mouth and placed C.S.’s hands on his genitals.

b. After C.S. reported the incident to police, law enforcement officers executed a search warrant at the office where the sexual contact allegedly occurred and found evidence corroborating C.S.'s allegations.

c. On or about February 23, 2016, when law enforcement officers attempted to serve a warrant for Respondent's DNA, they learned Respondent had fled the country.

d. On February 24, 2016, a criminal complaint was filed charging Respondent with one count of criminal sexual penetration, in violation of NMSA 1978, Section 30-9-11.

e. Respondent did not respond to a March 2, 2016, request from the Board's investigative staff to provide a written response to the allegations.

2. On April 13, 2016, Attorney Michael L. Stout entered his appearance on behalf of Respondent and requested a hearing on the NCA.

3. On April 21, 2016, the Parties filed a joint motion to continue the suspension of Respondent's license and to stay this Board proceeding pending resolution of the criminal case.

4. On May 17, 2016, the Board approved a Stipulation and Order continuing the suspension of Respondent's license and staying this administrative proceeding pending resolution of the criminal case. In the Stipulation and Order, Respondent waived his right to a hearing on the NSS and NCA within the time frames set out in the Uniform Licensing Act.

5. On May 21, 2018, the State of New Mexico filed a *Nolle Prosequi*, dismissing Respondent's criminal charge without prejudice. Because the dismissal was without prejudice, the State could re-file the charge at a later date.

6. On July 20, 2018, Attorney Dan Cron entered his appearance on Respondent's behalf. On the same date, Attorney Cron wrote a letter to the Board advising that the criminal charge against Respondent had been dismissed without prejudice and that patient C.S. had filed a

civil suit against Respondent. He asked the Board to continue the stay pending resolution of the civil case.

7. On July 26, 2018, the Prosecution filed a motion to lift the stay of proceedings. Respondent filed a response to the motion and the Prosecution filed a reply in support of the motion. On August 9, 2018, Respondent filed a consent to lift stay with the Board, and on August 14, 2018, the Board entered an order granting the motion to lift the stay.

8. On August 30, 2018, the Board issued an Amended NSS and NCA, adding the additional allegation that Respondent had not actively and continuously practiced medicine for more than two years and asserting Respondent's failure to actively and continuously practice medicine for more than two years constituted actionable conduct under 16.10.3.11 NMAC.

9. On September 13, 2018, the Prosecution filed a request for a setting on the Amended NCA.

10. On September 20, 2018, Respondent, through his attorney, filed a request for a hearing on the Amended NCA.

11. On October 5, 2018, the Board issued and served a notice of hearing setting the evidentiary hearing for November 28, 2018, in the Chaves County Courthouse in Roswell, New Mexico, before Hearing Officer Frank Weissbarth.

12. Thereafter the Parties engaged in discovery and made certain disclosures of evidence and witnesses. They continued to do so until the evidentiary hearing on May 31, 2019.

13. On October 19, 2018, Respondent filed a witness list. The list did not identify Respondent as a potential witness.

14. On November 13, 2018, Dan Cron withdrew as Respondent's counsel.

15. On November 15, 2018, the firm of Freedman, Boyd, Hollander, Goldberg, Urias & Ward, P.A. (Molly Schmidt-Nowara), entered its appearance on Respondent's behalf. On the same date, Respondent filed a motion to vacate the hearing set for November 28, 2018. The motion recited that Respondent had previously waived time limits, that his new attorney had a conflicting appointment on November 28, 2019, and that she needed additional time to get up to speed on the case.

16. On November 19, 2018, the Hearing Officer entered an order granting the motion to vacate.

17. Also, on November 19, 2018, after the Hearing Officer advised the Parties of a possible conflict in his continued service, Respondent filed a written waiver of an objection to the Hearing Officer's continued involvement.

18. On January 15, 2019, the Board issued a notice of hearing setting the hearing in this matter for April 29 and 30, 2019.

19. On February 25, 2016, the Firm of Freedman, Boyd, Hollander, Goldberg, Urias & Ward, P.A. filed a notice of withdrawal as Respondent's counsel.

20. On March 21, 2019, Gomez Law Offices, LLC (E. Michael Gomez) entered its appearance on Respondent's behalf.

21. On March 21, 2019, Respondent filed a witness list, stating only that he would or might call "[a]ny witness listed by the prosecution in this matter." Respondent was not identified as a potential witness.

22. On April 1, 2019, Respondent filed a second motion to vacate, seeking to vacate the hearing set for April 29 and 30, 2019. In the motion, Respondent's counsel represented that

he needed additional time to gather evidence and prepare for the hearing. At the same time, Respondent filed a request seeking an expedited hearing on the motion.

23. On April 1, 2019, the Hearing Officer held a telephonic hearing on the motion. On April 3, 2019, the Hearing Officer entered an order granting the motion, and continuing the hearing to May 30 and 31, 2019, dates on which both counsel said they would be available. The order further provided that if Respondent sought to appear by electronic means, rather than in person, he would need to file a motion seeking leave to do so by no later than April 22, 2019.

24. On April 5, 2019, Respondent affirmed by letter addressed to the Board his waiver of the time limits established under the Uniform Licensing Act, as first expressed on April 21, 2016. In his letter, Respondent stated, he “does not intend to invoke or argue issues related” to those time limits.

25. On April 23, 2019, Respondent filed a motion to appear at the evidentiary hearing on the Amended NCA and NSS via electronic means. In support of his motion, Respondent stated he had “returned to his country of origin and no longer possesses a valid work-visa nor does he currently have the ability to return to the U.S. via other alternative means (e.g., passport etc.)[,],” explaining “he is unable and precluded from appearing in person due to any and all ‘circumstances beyond [his] control[,],’” as defined by the Board in a policy it adopted on September 27, 2018. His motion recited that his circumstances were “in no way an indication of his interest or lack of interest in maintaining his license to practice medicine in the State of New Mexico” and were “in no way due to inconvenience, scheduling conflict or other like basis.”

26. On May 3, 2019, the Prosecution filed a response in opposition to the motion, and on May 15, 2019, Respondent filed a reply in support of the motion.

27. On May 15, 2019, the Hearing Officer conducted a telephonic hearing on the motion. At the hearing, Respondent's counsel provided no evidence that Respondent, who is in India, had ever made any attempt to secure a visa or otherwise obtain permission to enter the United States to attend the hearing.

28. On May 16, 2019 the Hearing Officer entered an order denying the motion. The order cited the Board's September 27, 2018, policy and stated Respondent had failed to show he could not appear due to circumstances beyond his control. The order concluded Respondent had not met his burden of showing that circumstances beyond his control precluded him from appearing at the hearing in person, based on findings that Respondent (a) had presented no evidence showing he was unable to obtain a visa to enter the United States, (b) had been on notice since mid-January 2019 that the Board would be holding an evidentiary hearing in his case, and (c) had produced no evidence Respondent did not have adequate time to apply for and obtain a visa or had made any effort to obtain a visa. The order did not preclude Respondent's counsel from appearing at the hearing on Respondent's behalf or from calling witnesses and/or introducing evidence on Respondent's behalf.

29. On May 24, 2019, the Prosecution filed a motion seeking leave to have Jennifer Otto, M.S., a DNA expert witness, testify telephonically at the hearing. On May 28, 2019, the Hearing Officer granted the motion.

30. At 10:42 a.m. on May 29, 2016, Respondent's attorney sent an email to the Board, the Prosecution and the Hearing Officer stating in pertinent part –

I wanted to let everyone know that my trial which is underway got off to a slower than usual start due to issues that include technical difficulties. As it stand[s] we only anticipate getting through opening statements before lunch followed by 5 witnesses (direct and cross) starting after lunch. The judge and attorneys acknowledged it may very well go into tomorrow as a circumstances [sic] beyond my control. Please advise if we need to reschedule!

31. At 12:30 p.m. on May 29, 2019, the Hearing Officer held a telephonic hearing at which Respondent's counsel advised he was in a criminal jury trial and the trial likely would continue through part of May 30, 2019. After the Parties represented the hearing could be completed in one day, the Hearing Officer orally ordered the hearing would take place beginning at 9:00 a.m. on May 31, 2019, and if the Prosecution incurred any additional costs related to witnesses who might have been subpoenaed to appear on May 30, 2019, those costs would be borne by Respondent.

32. The evidentiary hearing took place on May 31, 2019, in the Chaves County Courthouse in Roswell, New Mexico.

33. Respondent did not appear for the hearing.

34. The Prosecution called three witnesses: former Roswell police officer Jonathon Gokey, Jennifer Otto, M.S. (who appeared telephonically), and the Board's senior investigator Amanda Chavez.

35. The Prosecution did not call C.S. as a witness.

36. All witnesses were sworn in before testifying with the exception of Jennifer Otto. Without objection from Respondent, Ms. Otto provided a written affirmation post-hearing that the testimony she had given was the truth, the whole truth and nothing but the truth.

37. Respondent's counsel was present at the hearing. He did not call any witnesses, but he made an opening statement and closing argument, cross-examined the Prosecution's witnesses and offered documentary evidence on Respondent's behalf.

38. The Hearing Officer offered the Parties the opportunity to file proposed findings of fact and conclusions of law, assigning a deadline for submissions of June 21, 2019. Both Parties availed themselves of the opportunity to do so and filed timely submissions.

**B. Evidence regarding Respondent's Practice of Medicine**

39. Respondent was first licensed as a physician in New Mexico in 2010 and holds license number MD2010-0267. Prior to being licensed as a physician, Respondent held a New Mexico resident license with the UNM Department of Psychiatry, license number RS2007-0440.

40. Respondent's license to practice medicine in New Mexico has been on inactive status since February 29, 2016. Respondent placed his license on inactive status after the Board initiated its investigation.

41. At the time of Respondent's hearing, Respondent was not practicing medicine in New Mexico or any other state.

42. The California Medical Board suspended Respondent's license on April 25, 2016, and revoked his license following an order of default effective September 23, 2016. The California Medical Board based its action on the action taken by another state.

43. On March 3, 2017, the Texas Medical Board placed a condition on Respondent's medical license requiring Respondent to appear before it prior to practicing under the terms of an agreed order with Respondent. The order resulted in the Texas Board dismissing a complaint against Respondent it had initiated after it learned about the New Mexico complaint.

44. The Board's investigators had no evidence, and Respondent came forward with no evidence, that Respondent had practiced medicine in the United States since 2016, when he placed his license on inactive status on February 29, 2016, and the Board summarily suspended his license on March 25, 2016.

45. A preponderance of the evidence presented at the hearing establishes Respondent has not practiced medicine in the United States for more than two (2) years.

46. Respondent produced a letter from Holy Cross Hospital in India stating he has



continuously practiced medicine as a full-time psychiatrist in India since April 18, 2016.

**C. Evidence of Sexual Contact between Respondent and Patient C.S.**

47. On February 22, 2016, C.S. had an appointment with Respondent at his office. C.S. was a patient of Respondent.

48. The record contains no evidence suggesting C.S. was Respondent's spouse.

49. During the course of that appointment, Respondent issued C.S. three prescriptions. Copies of the prescriptions in C.S.'s medical records are unclear, but it appears one of them was for twenty-eight, ten-milligram doses of oxycodone; Respondent made note in C.S.'s medical records that he had given her a two-week supply of an opiate. A note in C.S.'s medical records indicates Respondent believed C.S. was demonstrating drug-seeking behavior.

50. About an hour after her appointment with Respondent, C.S. went to the Roswell Police Department where she first met with a patrol officer, Officer Jonathan Daniel, to report she had been sexually assaulted. She reported to Officer Daniel that Respondent had forced her to touch his penis with her hand and to perform fellatio on him.

51. Detective Jonathan Gokey was the lead detective assigned to investigate C.S.'s allegations. From 2009 to 2016, including at the time of the interview, Detective Gokey was a certified law enforcement officer. Detective Gokey reviewed his reports in advance of his testimony and also had an independent memory of the case.

52. Detective Gokey had special training in investigating sex crimes and crimes against children. He also received special training involving dealing with those with mental illness.

53. The standard followed by law enforcement officers investigating crimes involving sexual assault and those with mental illness is to focus on the individual details of the case, not

taking into consideration the victim's past, or their prior contacts with law enforcement, including prior arrests or investigations. The standard requires the investigating officer to believe the victim, avoid pre-conceived notions of what may or may not have occurred, and let the investigation reveal the facts and the truth.

54. In C.S.'s case, Detective Gokey followed that standard by (a) taking C.S.'s statement, (b) speaking with Respondent without first forming an opinion about who was more likely to be credible or have a better statement, and (c) conducting a search of Respondent's office and other locations to locate evidence corroborating one or the other's story.

55. For law enforcement, the vulnerability of victims with mental illness and their ability to be manipulated is a large concern.

56. Officer Daniel took C.S. to an interview room to meet with Detective Gokey immediately after she filed her initial report. C.S. asked Detective Gokey to keep the door to the interview room where they met open because she felt "uneasy." Detective Gokey did not find C.S.'s request unusual; he was aware from his training and experience that female victims of sexual assault and other trauma might be uncomfortable being alone in a closed room, particularly with a male investigator.

57. From a law enforcement perspective, having the door to an interview room closed is preferable because it can help assure privacy, noise control and anonymity, and it can prevent victims, witnesses and suspects seeing each other being interviewed. For those reasons, the door would typically be closed; it would only be left open on the basis of certain, but not all, requests.

58. C.S. told Detective Gokey that during her appointment with Respondent earlier in the day Respondent had moved closer to her, removed his penis from his pants, took control of her hand and placed it on his penis. She reported she pulled away two or three times, but each

time, Respondent tried to put her hand back on his penis.

59. After that, Respondent placed his hand on the back of C.S.'s head and forced her to take his penis into her mouth. C.S. told Detective Gokey she did not take any actions to communicate to Respondent that she consented to the sexual contact.

60. C.S. stated Respondent kept his penis in her mouth for about a minute, and after removing it took control of her hand, put it back on his penis, and assisted her in performing an act that would be consistent with masturbation until he ejaculated into a February issue of Good Housekeeping magazine. C.S. told Detective Gokey she tried to keep the magazine, but Respondent refused to let her have it.

61. C.S. appeared "upset" during her interview with Detective Gokey; she was very clear about everything that had happened and had a good understanding of what occurred.

62. C.S. left the Roswell Police Department after her interview by Detective Gokey was completed. Detective Gokey did not recall seeing C.S. again. In connection with his meeting with C.S., Detective Gokey learned from other law enforcement officers that C.S. had a history of being involved in the criminal justice system, but he was not certain whether it was on the basis of her being the victim or a suspect.

63. C.S.'s criminal history documents show C.S. has been both a witness to criminal conduct and the perpetrator of criminal conduct of a type evidencing dishonesty, i.e. shoplifting, and has made allegations of crimes against her person that could not be substantiated.

64. At one point, an attorney with the district attorney's office expressed concern the case might be difficult to try because of how C.S. might appear and her credibility in court. Detective Gokey observed C.S. appeared to have some type of mental disability or diminished capacity of some sort, and believed that could affect her believability in court.

65. The fact that a person is a suspect one day and the victim of a crime the next day does not diminish the fact that they are a victim, simply because they were once a suspect.

66. On February 22, 2016, following his interview of C.S., Detective Gokey, Detective Jeff Prince and Detective Scott Stevenson (a crime scene detective) went to Respondent's office, located at 1700 North Union in Roswell, where they met with Respondent and asked him about C.S.'s allegations.

67. Respondent confirmed to Detective Gokey that C.S. had been to the office earlier that day, but denied any sexual conduct had occurred that day or on any other occasion. Respondent told Detective Gokey C.S. was upset because Respondent initially declined to give her a prescription for an opiate, and after giving her a two-week prescription for the opiate she requested she was still upset because she wanted more.

68. Detective Gokey never took action to confirm if Respondent had given C.S. a prescription for opiates. He testified he could have had a warrant issued for the prescription information but did not do so.

69. Detective Gokey's report indicates Respondent said he had repeatedly told C.S. he could not write opioid prescriptions for her, and she needed to see her primary care physician to obtain opioid medications. C.S.'s medical records and C.S.'s prescription monitoring program (PMP) report contradict Respondent's statement that he could not write opioid prescriptions for C.S.; they show Respondent wrote C.S. multiple prescriptions for opioids and other controlled substances beginning the end of 2014 and continuing through February 2016.

70. After initially agreeing to allow the officers to search his office, Respondent withdrew his consent. The officers secured the office, pending issuance of a search warrant for Respondent's office, which they obtained and executed later that day.

71. When officers met with Respondent on February 22, 2016, Respondent did not give them any indication he would be leaving New Mexico or moving.

72. Detectives Gokey, Prince and Stevenson executed the search warrant the evening of February 22, 2016. Respondent was not present when the officers returned to execute the warrant.

73. During execution of the warrant, Detective Gokey located a February issue of Good Housekeeping magazine in the lower right-hand drawer of the desk in Respondent's office. Several pages in the middle of the magazine were stuck together and had what appeared to be a fluid stain on them. The magazine and drawer in which it was found were photographed. The magazine was seized and booked into evidence by Detective Stevenson.

74. On February 24, 2016, Detective Gokey obtained a warrant for Respondent's arrest and made contact with the U.S. Marshals Office.

75. Also on February 24, 2016, Detective Gokey filed a criminal complaint in Chaves County Magistrate Court charging Respondent with criminal sexual penetration.

76. On February 25, 2016, Detective Gokey obtained and sought to execute a search warrant for Respondent's person for the purpose of obtaining a DNA standard. Detective Gokey was unable to execute that warrant because he was unable to locate Respondent at his office or at his residence; Respondent's son was not in school. Detective Gokey was told by Dr. Babak Mirin, with whom Respondent practiced, that Respondent had left the country. Later, Detective Gokey learned Respondent had left Roswell on February 23, 2016, and boarded a plane for India that day.

77. Because of his inability to locate Respondent, Detective Gokey sought and obtained a search warrant for Respondent's home, located at 26 North Sky Loop in Roswell, to

obtain evidence that might be used as a secondary DNA source, as well as evidence obtainable from electronic devices that might have been used to locate and book travel arrangements, credit card information, materials that might detail plans for out-of-country travel, and where Respondent might travel or live in India. The North Sky Loop address is the same address the Board has on file for Respondent.

78. Detective Gokey obtained the search warrant for Respondent's residence on February 25, 2016, and he and other officers executed it that day. When officers arrived at Respondent's residence to execute the warrant, the residence had the appearance of being "mainly cleaned out," "disheveled" and "appear[ing] as if somebody left in a hurry." Although large items like furniture were present, most personal belongings, clothing, personal computers, easily moveable and valuable items were missing.

79. Officers seized from the residence several toothbrushes, razors, hair clippers and photographs. The items were booked into evidence by Detective Stevenson.

80. Detective Gokey testified documentation should exist showing a chain of custody for the items seized from Respondent's office and residence which showed the persons who seized the items and all who came into contact with the items from the time of seizure to their booking into the evidence room at the Roswell Police Department and thereafter.

81. Detective Gokey did not know who had booked the items into the evidence room and he could not state who might have come into contact with the items before they were booked into the evidence room.

82. The warrant for Respondent's arrest was never served. The warrant was canceled on May 21, 2018, the same day the district attorney's office dismissed, without prejudice, the criminal charge against Respondent.

83. Nothing C.S. reported to Officer Daniel and Detective Gokey was later found to be untrue. Certain things C.S. told Detective Gokey were confirmed: (a) C.S. visited Respondent on February 22, 2016; (b) the February issue of Good Housekeeping magazine was located in Respondent's office; and (c) there were semen stains on the magazine.

84. Based on the evidence of the DNA results, which are described below, Detective Gokey concluded Respondent's statement that there had been no sexual contact between Respondent and C.S. was a false statement.

85. The February issue of the Good Housekeeping magazine seized from Respondent's office and several of the personal care items seized from Respondent's residence were sent to the New Mexico Department of Public Safety Forensic Laboratory in Santa Fe for analysis.

86. Jennifer Otto, M.S., a forensic scientist, who had served in the Biology and DNA Section of the Laboratory for more than eleven years and had been recognized as an expert by courts in New Mexico and other states, testified she analyzed the items sent to the Laboratory by the Roswell Police Department in Respondent's case.

87. Ms. Otto performed analysis on the February issue of Good Housekeeping magazine seized from Respondent's office. She located two pages on which she could identify the presence of semen and obtained an unknown male DNA profile from the sperm cells found on both pages. The male was unknown, but the DNA was sufficient for identification.

88. Ms. Otto detailed her findings in a written report dated November 21, 2018.

89. Subsequently, Ms. Otto performed analysis on three razors and three toothbrushes seized from Respondent's residence. The purpose of the analysis was to determine if they could be used as a possible secondary source of Respondent's DNA for purposes of comparison to the

DNA profile from the magazine. From one of the razors, Ms. Otto was able to identify a major DNA profile she could compare to the DNA profile from the magazine. Ms. Otto detailed those findings in a second written report dated March 6, 2019.

90. From her analysis, Ms. Otto concluded and was able to offer her opinion that the major DNA profile from the razor was the same male DNA profile she obtained from the semen stains in the magazine, i.e., the male DNA profiles originated from the same DNA donor, the same person. However, because she did not have a known DNA standard with which to compare the DNA, she could not identify who that person was. A written affidavit prepared pre-hearing by Ms. Otto explaining the analysis she performed and her opinion about the results was also admitted into evidence.

91. If Ms. Otto had a DNA standard from Respondent, she would have been able to determine whether or not he was the donor of the DNA she found on the Good Housekeeping magazine.

92. The match between the DNA found in the semen on the February issue of Good Housekeeping magazine seized by police from Respondent's office and the male DNA found on a razor seized at Respondent's home is strong circumstantial evidence corroborating C.S.'s allegation that Respondent engaged in sexual contact with her in his office on February 22, 2016.

93. Respondent's precipitous flight to India immediately after being informed of C.S.'s allegations by the police and being asked to provide a DNA sample is circumstantial evidence that tends to corroborate C.S.'s allegation that Respondent engaged in sexual contact with her in his office on February 22, 2016.

94. Respondent introduced the following exhibits in evidence:

a. Exhibit A is the *Nolle Prosequi* dismissing the criminal charge against



Respondent without prejudice.

b. Exhibit B is a letter from Holy Cross Hospital in India saying Respondent has been employed there full-time as a psychiatrist since April 18, 2016.

c. Exhibit C appears to be material from the website of Holy Cross Hospital in India indicating Respondent works there.

d. Exhibit D is a testimonial letter from Ann Anderson Consulting that has no bearing on the allegations in the Amended NCA.

e. Exhibit E is a testimonial letter from Randolph Baca, M.D., in which he acknowledges he does not know anything about the allegations in the Amended NCA.

f. Exhibit F is a July 15, 2014, letter from Congressman Steve Pearce in support of Respondent's application for permanent residence in the United States.

g. Exhibit G is a July 17, 2014, letter from Fifth Judicial District Judge James M. Hudson in support of Respondent's application for permanent residence in the United States.

h. Exhibit H is an August 18, 2014, letter from the chief of security at the Chaves County Detention Center in support of Respondent's application for permanent residence in the United States.

i. Exhibit I is a July 30, 2014, letter from Helen Silverblatt, M.D., in support of Respondent's application for permanent residence in the United States.

j. Exhibit J is a July 28, 2014, letter from Babak Mirin, M.D., in support of Respondent's application for permanent residence in the United States.

k. Exhibit K is another 2014, letter from Ann Anderson Consulting in support of Respondent's application for permanent residence in the United States.

l. Exhibit L is an August 14, 2014, letter from Robert Gervais, M.D., in support of

Respondent's application for permanent residence in the United States.

m. Exhibit M is an August 12, 2014, letter from Embrace, Inc. in support of Respondent's application for permanent residence in the United States.

n. Exhibit N is a May 7, 2019, testimonial letter from Mark Luley, D.O., in which he states he cannot comment on the veracity of the allegations against Respondent.

o. Exhibit O is May 7, 2019, letter of support from Babak Mirin, M.D.

p. Exhibit P is a May 16, 2019, testimonial letter from Helene Silverblatt, M.D.

q. Exhibit Q is a May 12, 2019, reference letter from Pamela Arenella, M.D.

r. Exhibit R appears to be New Mexico Corrections Department regulations dealing with telepsychiatry.

s. Exhibit S is an August 23, 2014, Roswell Daily Record online article about Respondent and his work in the community.

t. Exhibit T is a civil complaint for damages filed by C.S. on May 11, 2018, against Respondent and his employer.

u. Exhibits V-1, V-5 through V-7, and V-11 through V-13 are police and other documents reflecting C.S.'s involvement in the criminal justice system.

v. Exhibits W, X and Y are court documents showing C.S. has been committed to the New Mexico Behavioral Health Institute on at least two occasions.

95. The Hearing Officer gives Exhibits D-S very little weight, both because they have no bearing on the central issue in this case, whether Respondent engaged in sexual contact with patient C.S. on February 22, 2016, and because many of them predate the allegations giving rise to the Board's proceeding.

96. The Hearing Office gives little weight to the various documents submitted by both

the Prosecution and the Respondent tending to show C.S. was mentally ill because it is not surprising that a patient of a psychiatrist might suffer from mental illness.

97. Respondent's Exhibits T, V and W reflect adversely on C.S.'s credibility and her competence, and in the absence of physical or DNA evidence, these exhibits coupled with the fact that C.S. did not testify might lead to a conclusion that the Prosecution failed to meet its burden of proof. However, physical evidence, in the form of the semen-stained February Good Housekeeping Magazine and the DNA evidence, corroborate C.S.'s version of events and outweigh any adverse inferences that can be drawn from these Exhibits or C.S.'s failure to testify.

#### **D. Conclusion**

98. A preponderance of the evidence presented at the hearing, including but not limited to C.S.'s report to the Roswell Police Department, the corroborating physical evidence consisting of the semen-stained February Good Housekeeping magazine found in Respondent's office, Jennifer Otto's expert testimony concerning the male DNA match between the semen on the magazine found in Respondent's office and the male DNA found on the razor seized from Respondent's residence, along with the evidence Respondent fled to India immediately after being informed of C.S.'s allegations and being asked to provide a DNA sample, establishes Respondent engaged in sexual contact with patient C.S. during the course of an office visit on February 22, 2016.

99. A preponderance of the evidence presented at the hearing establishes Respondent has not practiced medicine in the United States since February 22, 2016.

100. A preponderance of the evidence at the hearing establishes Respondent has practiced medicine in India since April 18, 2016.

## II. CONCLUSIONS OF LAW

A. At all times relevant to this proceeding, the Board has had jurisdiction over Respondent and the subject matter.

B. In its proceedings, the Board accorded Respondent all the due process to which he is entitled.

C. A preponderance of the evidence establishes Respondent engaged in sexual contact with a patient during the course of the patient's visit to Respondent's office on February 22, 2016. The evidence includes but is not limited to (1) the patient's same-day report of the incident to the Roswell Police Department, (2) law enforcement's recovery of physical evidence from Respondent's office corroborating the patient's police report, (3) medical records for the patient and Respondent's statement to law enforcement confirming the patient was a patient who had been at Respondent's office and had received a prescription for opioid painkillers the day the patient alleged the incident occurred, and (4) expert testimony establishing a match between the male DNA recovered from the semen-stained Good Housekeeping magazine identified by the patient and seized by police and a razor seized from Respondent's residence. Respondent's unannounced and hurried departure to India immediately after being informed of the patient's allegations and being asked to provide a DNA sample provide evidence of Respondent's consciousness of guilt.

D. A preponderance of the evidence establishes Respondent has not practiced medicine in the United States since he fled from the United States immediately after the February 22, 2016, incident.

E. Respondent's conduct, as established by a preponderance of the evidence, constitutes "unprofessional and dishonorable conduct," as defined in Section 61-6-15(D) of the

Medical Practice Act, and the Board's Rules, which are codified at Title 16, Chapter 10 of the New Mexico Administrative Code (NMAC). For example –

1. “conduct likely to deceive, defraud or harm the public[,]” *see* Section 61-6-15(D)(18),
2. “sexual contact with a patient . . . other than the spouse of the licensee[,]” *see* Section 61-6-15(D)(28),
3. “conduct unbecoming in a person licensed to practice or detrimental to the best interests of the public[,]” *see* Section 61-1-15(D)(29), and
4. “interaction with . . . patients . . . that interferes with patient care or could reasonably be expected to adversely impact the quality of care rendered to patient[,]” *see* Section 61-6-15(D)(36).

F. Respondent's conduct, as established by a preponderance of the evidence, violates provisions of the Code of Medical Ethics of the American Medical Association (2014-2015 Ed.), as adopted by the Board at 16.10.8.9 NMAC, including Opinion 8.14 (“Sexual contact that occurs concurrent with the patient-physician relationship constitutes sexual misconduct. Sexual . . . interactions between physicians and patients detract from the goals of the physician-patient relationship, may exploit the vulnerability of the patient, may obscure the physician's objective judgment concerning the patient's healthcare, and ultimately may be detrimental to the patient's well-being.”)

G. Respondent failure to practice medicine in the United States for more than two years, i.e., since February 22, 2016, does not establish to the Board's satisfaction that Respondent is competent to practice. *See* NMSA 1978, § 61-6-15(C); 16.10.3.11 NMAC.

H. The Board has no grounds for excusing Respondent from reimbursing the Board

the costs it incurred in its proceedings against Respondent. See NMSA 1978, § 61-1-4(G) (“Licensees shall bear all costs of disciplinary proceedings unless they are excused by the [B]oard from paying all or part of the fees or if they prevail at the hearing and an action specified in Section 61-1-3 [of the ULA] is not taken by the [B]oard.”).

### **III. DECISION AND ORDER**

Having made the findings of fact and conclusions of law contained herein, the New Mexico Medical Board REVOKES Respondent’s license to practice medicine in New Mexico and ORDERS Respondent to reimburse the Board the expenses it incurred in its proceedings.

### **IV. NOTICE OF RIGHT TO APPEAL**

In accordance with Section 61-1-17 of the Uniform Licensing Act (ULA) and NMSA 1978, Section 39-3-1.1, Respondent may seek judicial review of this Decision and Order by initiating an action in the First Judicial District Court within thirty days following entry of this Decision and Order.


NEW MEXICO MEDICAL BOARD

  
\_\_\_\_\_  
Steven M. Jenkusky, M.D., Chairman

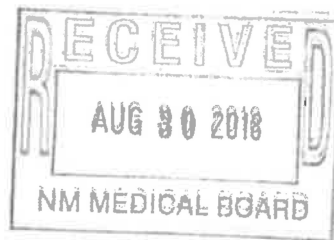
### **Certificate of Service**

I certify I provided a copy of this notice and the disclosed materials to Michael Gomez, Respondent’s counsel, by email addressed to *michael@gomezlawoffices.com*, and to the Prosecutor, Yvonne Chicoine, at *yvonnem.chicoine@state.nm.us*.

8/15/19  
Date \_\_\_\_\_

  
\_\_\_\_\_  
Samantha Luckie-Breen  
Administrative Assistant

**BEFORE THE NEW MEXICO MEDICAL BOARD**



**IN THE MATTER OF** )  
**SUJAN THYAGARAJ, M.D.** )  
License No. MD2010-0267 )  
  
                  **Respondent.** )  
\_\_\_\_\_ )

**Case No. 2016-014**  
**(Inv. No. 2016-D-035)**

Via first-class certified mail and email ([dan@cronlawfirm.com](mailto:dan@cronlawfirm.com))

TO: Sujan Thyagaraj, M.D.  
c/o Dan Cron, Esq.  
Dan Cron Law Firm  
425 Sandoval Street  
Santa Fe, NM 87501

**AMENDED**  
**NOTICE OF CONTEMPLATED ACTION**

YOU ARE HEREBY NOTIFIED that pursuant to provisions of NMSA 1978, Section 61-1-4 of the Uniform Licensing Act (ULA), the New Mexico Medical Board (“Board”) has before it sufficient evidence that, if not rebutted or explained, will justify the Board imposing sanctions that could include restricting, suspending, or revoking your license to practice medicine in the State of New Mexico.

1. You are subject to action by the Board pursuant to the ULA and NMSA 1978, Chapter 61, Article 6 of the Medical Practice Act (MPA).
2. This Notice of Contemplated Action (NCA) is based on the following allegations:
  - a. On or about February 22, 2016, during a visit with a female patient (hereinafter referred to as “Patient”), you placed your genitals in Patient’s mouth and placed Patient’s hands on your genitals.
  - b. After Patient reported the incident to police, law enforcement agents executing a search warrant at the office where your conduct toward Patient was alleged to have occurred

found evidence corroborating Patient's allegations.

c. When law enforcement agents attempted to serve a warrant for your DNA on or about February 23, 2016, they learned that you had fled the country.

d. On February 24, 2016, a criminal complaint was filed against you in Chavez County Magistrate Court (Case No. M-7-FR-2016-00074) alleging one (1) count of violating NMSA 1978, Section 30-9-11 (criminal sexual penetration). (The State subsequently dismissed the charges without prejudice.)

e. On March 2, 2016, the Board's investigative staff emailed you a copy of a Board Complaint based on the above information, together with a letter asking you to provide a written response to the allegations. As of this date, you have not responded to the allegations as requested by the Board's investigators, and you have not formally notified the Board of the actions taken by the law enforcement agency which filed criminal charges against you.

f. You have not actively and continuously practiced medicine for more than two years.

3. The allegations set forth in paragraphs 2(a) through 2(f) above, if proven, would constitute violations of provisions of the MPA and Board Rules, including, but not limited to, the following:

a. NMSA 1978, Section 6-6-15(D)(18) ("conduct likely to deceive, defraud or harm the public"),

b. NMSA 1978, Section 6-6-15(D)(21) ("failure to report to the board any adverse action taken against the licensee by . . . (e) a governmental agency; (f) a law enforcement agency"),

c. NMSA 1978, Section 6-6-15(D)(23) ("failure to furnish the board, its



investigators or representatives with information requested by the board”),

d. NMSA 1978, Section 6-6-15(D)(28) (“sexual contact with a patient ... other than the spouse of the licensee”),

e. NMSA 1978, Section 6-6-15(D)(29) (“conduct unbecoming in a person licensed to practice or detrimental to the best interests of the public”),

f. NMSA 1978, Section 6-6-15(D)(36) (“interaction with ... patients ... that interferes with patient care or could reasonably be expected to adversely impact the quality of care rendered to a patient”),

g. Rule 16.10.3.11 NMAC (failure to actively and continuously practice medicine for more than two years), and/or

h. Provisions of the Code of Medical Ethics of the American Medical Association (2014-2015 Ed.) as adopted by the Board at Rule 16.10.8.9 NMAC.

4. Take notice that pursuant to NMSA 1978, Section 61-1-4 you may secure a hearing before the Board by depositing in the mail within twenty (20) days after service of this notice a certified return receipt requested letter addressed to the Board and containing a request for a hearing. If you do not request a hearing within twenty (20) days after service of this notice as described above, the Board will take the contemplated action, i.e., imposing sanctions that could include the revocation or suspension of your license to practice medicine in the State of New Mexico, and there will be no judicial review of its decision.

5. Pursuant to NMSA 1978, Section 61-1-8 you have the right to be represented by counsel or by a licensed member of your profession or both, and to present all relevant evidence by means of witnesses, books, papers, documents and other evidence; to examine all opposing witnesses who may appear on any matter relevant to the issues and have subpoenas *duces tecum*

issued as of right prior to the commencement of the hearing, to compel the attendance of witnesses and the production of relevant books, papers, documents and other evidence upon making a written request therefore to the Board. The issuance of such subpoenas after commencement of the hearing rests with the discretion of the Board or Hearing Officer.

6. The issuance of this NCA is not a disciplinary event reportable to any data bank but is a public document open to public inspection.

7. In the event that the Board takes a final action against you as specified in NMSA 1978, Section 61-1-3, you shall bear all costs of disciplinary proceedings pursuant to NMSA 1978, Section 61-1-4(G) unless excused by the Board from doing so.

NEW MEXICO MEDICAL BOARD



Sondra Frank, Esq., Executive Director

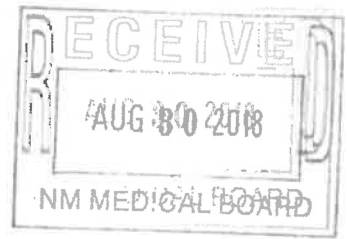
8.30.18

Date

Please direct any questions you or your attorney may have to –

Yvonne Chicoine, Chief Legal Counsel  
New Mexico Medical Board  
2055 South Pacheco Street, Building 400  
Santa Fe, New Mexico 87505  
ph: 505/476-7223  
email: [YvonneM.Chicoine@state.nm.us](mailto:YvonneM.Chicoine@state.nm.us)

**BEFORE THE NEW MEXICO MEDICAL BOARD**



**IN THE MATTER OF** )  
**SUJAN THYAGARAJ, M.D.** )  
License No. MD2010-0267 )  
 )  
**Respondent.** )  
\_\_\_\_\_ )

**Case No. 2016-014**  
**(Inv. No. 2016-D-035)**

Via first-class certified mail and email ([dan@cronlawfirm.com](mailto:dan@cronlawfirm.com))

**TO: Sujan Thyagaraj, M.D.**  
**c/o Dan Cron, Esq.**  
**Dan Cron Law Firm**  
**425 Sandoval Street**  
**Santa Fe, NM 87501**

**AMENDED**  
**NOTICE OF SUMMARY SUSPENSION**

YOU ARE HEREBY NOTIFIED THAT YOUR LICENSE TO PRACTICE MEDICINE IS SUMMARILY SUSPENDED pursuant to NMSA 1978, Section 61-6-15.1 of the Medical Practice Act (MPA) and NMSA 1978, Section 61-1-4 of the Uniform Licensing Act (ULA). The New Mexico Medical Board (“Board”) possesses evidence indicating that you pose a clear and immediate danger to the public health and safety if you continue to practice medicine. Such evidence, if not rebutted at a later hearing, will justify the Board in imposing further suspension or revocation of your license to practice medicine in the State of New Mexico and/or other disciplinary action taken against you by the Board. This summary suspension is based on evidence that shows:

- a. On or about February 22, 2016, during a visit with a female patient (hereinafter referred to as “Patient”), you placed your genitals in Patient’s mouth and placed Patient’s hands on your genitals.
- b. After Patient reported the incident to police, law enforcement agents executing a search warrant at the office where your conduct toward Patient was alleged to have occurred

found evidence corroborating Patient's allegations.

c. When law enforcement agents attempted to serve a warrant for your DNA on or about February 23, 201, they learned that you had fled the country.

d. On February 24, 2016, a criminal complaint was filed against you in Chavez County Magistrate Court (Case No. M-7-FR-2016-00074) alleging one (1) count of violating NMSA 1978, Section 30-9-11 (criminal sexual penetration). (The State subsequently dismissed the charges without prejudice.)

e. On March 2, 2016, the Board's investigative staff emailed you a copy of a Board Complaint based on the above information, together with a letter asking you to provide a written response to the allegations. As of this date, you have not responded to the allegations as requested by the Board's investigators, and you have not formally notified the Board of the actions taken by the law enforcement agency which filed criminal charges against you.

f. You have not actively and continuously practiced medicine for more than two years.

In consideration of the aforementioned evidence in the Board's possession, the Board FINDS AND CONCLUDES that you pose a clear and immediate danger to the public health and safety if you continue to practice medicine in the State of New Mexico.

THEREFORE, IT IS HEREBY ORDERED that your New Mexico license to practice as a physician in the State of New Mexico is hereby SUMMARILY SUSPENDED until further Order of the Board.

Pursuant to Board Rule 16.10.5.16 NMAC, you are entitled to a hearing on the merits of this summary suspension order within fifteen (15) days of a request for such a hearing. Your hearing request shall be in writing, addressed to the Board, delivered by certified mail, return receipt requested. You are not required to comply with this summary action until service of this

action has been made personally or by certified mail, return receipt requested, at your last known address as shown in the Board's records, or you have actual knowledge of this order, whichever comes first.

Pursuant to NMSA 1978, Section 61-1-8 you have the right to be represented at a hearing on this summary suspension order by counsel or by a licensed member of your profession or both, and to present all relevant evidence by means of witnesses, books, papers, documents and other evidence; to examine all opposing witnesses who may appear on any matter relevant to the issues and have subpoenas *duces tecum* issued as of right prior to the commencement of the hearing, to compel the attendance of witnesses and the production of relevant books, papers, documents and other evidence upon making a written request therefore to the Board. The issuance of such subpoenas after commencement of the hearing rests with the discretion of the Board or Hearing Officer.

The issuance of this Summary Suspension is a disciplinary event and will be reported to the National Practitioner Data Bank and is a public document, open to public inspection.

NEW MEXICO MEDICAL BOARD



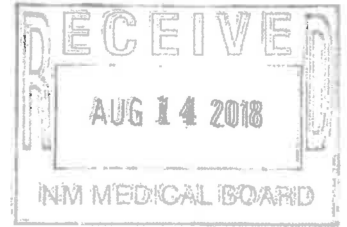
Sondra Frank, Esq., Executive Director

8.30.18  
Date

Please direct any questions you or your attorney may have to –

Yvonne Chicoine, Chief Legal Counsel  
New Mexico Medical Board  
2055 South Pacheco Street, Building 400  
Santa Fe, New Mexico 87505  
ph: 505/476-7223  
email: [YvonneM.Chicoine@state.nm.us](mailto:YvonneM.Chicoine@state.nm.us)

**BEFORE THE NEW MEXICO MEDICAL BOARD**



**IN THE MATTER OF** )  
**SUJAN THYAGARAJ, M.D.** )  
 )  
License No. MD2010-0267 )  
 )  
**Respondent.** )  
\_\_\_\_\_ )

**Case No. 2016-014**

**ORDER GRANTING PROSECUTION’S MOTION TO LIFT STAY**

THIS MATTER, having come before the New Mexico Medical Board (“Board”) on August 9, 2018, for consideration of the Prosecution’s motion to lift the stay of proceedings entered by the Board on May 17, 2016, and


THE BOARD, after considering the arguments presented by the Parties, including Respondent’s decision not to oppose lifting of the stay

HAVING FOUND good cause shown,

GRANTS the Prosecution’s motion and ORDERS the May 17, 2016, stay of proceedings lifted.

NEW MEXICO MEDICAL BOARD

8/14/18  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Steven M. Jenkusky, Chairman

**Certificate of Service**

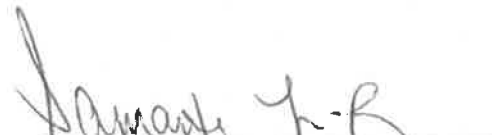
I hereby certify that on August 14, 2018, I

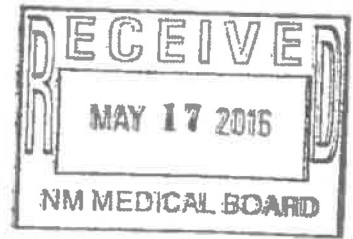
-- hand-delivered a copy of this Order to Yvonne Chicoine, the Board's Prosecutor, and

-- and provided a copy to Dan Cron, Respondent's counsel, by first-class mail sent to --

Dan Cron Law Firm  
425 Sandoval Street  
Santa Fe, NM 87501

8/14/18  
Date

  
Samantha Luckie-Breen  
Administrative Assistant



**BEFORE THE NEW MEXICO MEDICAL BOARD**

**IN THE MATTER OF  
SUJAN THYAGARAJ, M.D.**

**License No. MD2010-0267**

**Respondent.**

**Case No. 2016-014**

**STIPULATION AND ORDER FOR CONTINUED SUSPENSION OF LICENSE AND  
FOR STAY OF ADMINISTRATIVE PROCEEDINGS PENDING RESOLUTION OF  
CRIMINAL PROCEEDINGS**

By mutual agreement and understanding between the New Mexico Medical Board ("Board") and the above-named respondent, Sujan Thyagaraj, M.D. ("Respondent") represented by Michael Stout, Esq., the parties agree to the following stipulations of fact and law, and to the entry of this Stipulation and Order for Continued Suspension of License and for Stay of Administrative Proceedings Pending Resolution of Criminal Proceedings ("Stipulation and Order").

**FINDINGS OF FACT**

1. Respondent is subject to the jurisdiction of the Board pursuant to the Medical Practice Act, NMSA 1978, Chapter 61, Article 6 ("MPA"), the Uniform Licensing Act, NMSA 1978, Chapter 61, Article 1 ("ULA"), and certain Board-promulgated rules and regulations, Title 16, Chapter 10, NMAC.
2. On February 24, 2016, a criminal complaint was filed against Respondent in Chavez County Magistrate Court Case No. M-7-FR-2016-00074 alleging one (1) count of violating Section 30-9-11, NMSA 1978 (Criminal Sexual Penetration) (the "criminal charge"). This criminal charge arises from alleged conduct of Respondent that is directly associated with the practice of medicine.
3. On March 25, 2016, the Board issued a Notice of Contemplated Action ("NCA") against Respondent alleging various violations of the MPA and applicable regulations based on the criminal





charges; on the same day, the Board issued a Notice of Summary Suspension ("NSS") against Respondent based on the criminal charges alleging that he poses a clear and immediate danger to the public health and safety if he continues to practice medicine.

4. Respondent confirms receiving actual notice of the NSS and NCA.
5. Respondent does not admit any wrongdoing and Respondent, through his attorney Michael Stout, has submitted a timely request for a hearing on the NCA.
6. At this time, the Board and Respondent have determined that due to similarities between the criminal charge and the allegations set forth in the NSS and the NCA against Respondent, it would promote administrative efficiency, reduce costs, and be in the best interests of the public if proceedings on the merits of the NSS and the NCA were stayed pending resolution of the criminal charge in state court (not including appeals, if any, taken by Respondent).
7. Respondent agrees to waive his right to a hearing on the NSS within the timeframe described at Section 61-6-15.1, NMSA 1978, and to the continued suspension of his license to practice medicine until further order of the Board.
8. Respondent agrees to waive his right to a hearing on the NCA within the timeframe described at Section 61-1-4, NMSA 1978.
9. Respondent agrees that any hearing on the NSS may be consolidated with a hearing on the NCA.
10. Pending resolution of the criminal charge, Respondent agrees that the statute of limitations described at Section 61-1-3.1, NMSA 1978, or any other applicable statutes of limitations or similar defenses, shall be tolled with regard to any claims the Board has brought or may bring against

Respondent that may be learned of by the Board after the date this Stipulation and Order becomes effective.

11. Respondent expressly consents to the amendment of the NCA to include additional and separate grounds for licensure action against him by the Board based on any conviction associated with the pending criminal charge.
12. Respondent knows and understands the applicable statutory and regulatory provisions setting forth the authority and power of the Board. Respondent further understands that this Stipulated Order results in a limited waiver of his rights under the ULA and the MPA as described herein.
13. Respondent knows and understands his right to consult with an attorney, and Respondent's signature below signifies that Respondent has either consulted with an attorney or Respondent waives his right to counsel.
14. By signing below, Respondent confirms that Respondent understands this document is a public document that is reportable to the National Practitioner's Data Bank, Federation of State Medical Boards and the American Medical Association.
15. This Stipulation and Order may be executed in counterparts and via facsimile, all of which shall have full force and effect.
16. Respondent agrees that this Stipulation and Order contains the entire agreement between the parties with respect to its subject matter, and this Stipulation and Order shall not be enlarged, modified, or altered except by a written order of the Board.

#### CONCLUSIONS OF LAW

Based on the foregoing stipulated findings of fact, the Board enters the following conclusions

of law:

17. Respondent is subject to the jurisdiction of the Board.
18. The Board has authority to enter this Stipulation and Order pursuant to 16.10.5.15 NMAC.
19. The terms set forth in this Stipulation and Order, including those for the continued suspension of Respondent's license to practice medicine until further order of the Board, are in the best interest of the public, and on that basis, all proceedings on the merits of the NSS and the NCA should be stayed pending resolution of the criminal charge against Respondent.

#### **ORDER**

Consistent with the foregoing stipulated findings of fact and conclusions of law, IT IS HEREBY ORDERED:

- A. All evidentiary proceedings on the merits of the NSS and the NCA that are presently scheduled (if any) are hereby vacated, and all such further proceedings shall be stayed pending resolution of the criminal charge against Respondent.
- B. During the stay arising from this Stipulation and Order, and until further order of the Board, the NSS shall remain in full force and effect such that Respondent may not practice medicine in the State of New Mexico.
- C. Within one (1) month of the resolution of the criminal charge, Respondent shall provide written notice to the Board and its Administrative Prosecutor via Certified U.S. Mail of the specifics of such resolution, providing certified copy of any dismissal, judgment, or final order of the court. The binding-over of the case now pending in the magistrate court to a state district court is not a "resolution" of the criminal charge for purposes of this Stipulation and Order.

- D. Upon receipt of the notice described in the preceding paragraph, the Board shall appoint a new hearing officer and the Board's prosecutor and Respondent shall confer with the hearing officer as soon as practicable to schedule a consolidated hearing on both the NSS and the NCA.
- E. The NCA shall be amended at the prosecution's discretion to include any conviction arising from the criminal charge or related charges.
- F. This Stipulation and Order shall be reported to the National Practitioner's Data Bank, Federation of State Medical Boards and the American Medical Association.

RESPONDENT

Date: 4/16/2016

*[Signature]*  
 Sujan Thyagaraj, M.D.

The foregoing was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_ 2016 by Sujan Thyagaraj, M.D. in the County of \_\_\_\_\_, State of \_\_\_\_\_

Commission expires: \_\_\_\_\_

NOTARY PUBLIC

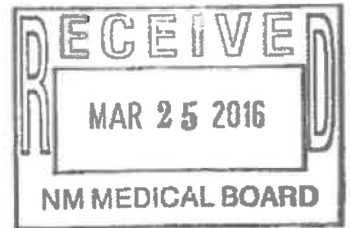
[SEAL]

The foregoing Stipulation and Order is approved and made immediately effective on this 17<sup>th</sup> day of May 2016.

NEW MEXICO MEDICAL BOARD

By *Albert Rourbon*  
 Albert Rourbon, PA-C, Vice-Chairman

**BEFORE THE NEW MEXICO MEDICAL BOARD**



**IN THE MATTER OF** )  
**SUJAN THYAGARAJ, M.D.** )  
 )  
**License No. MD2010-0267** )  
 )  
**Respondent.** )  
\_\_\_\_\_ )

No. 2016-014

TO: **Sujan Thyagaraj, M.D.**  
**405 West Country Club Road**  
**Roswell, New Mexico 88201**

**Sujan Thyagaraj, M.D.**  
**26 North Sky Loop**  
**Roswell, New Mexico 88201**

**NOTICE OF SUMMARY SUSPENSION**

YOU ARE HEREBY NOTIFIED THAT YOUR LICENSE TO PRACTICE MEDICINE IS SUMMARILY SUSPENDED pursuant to NMSA 1978, Section 61-6-15.1 of the Medical Practice Act and NMSA 1978, Section 61-1-4 of the Uniform Licensing Act. The New Mexico Medical Board (“Board”) possesses evidence indicating that you pose a clear and immediate danger to the public health and safety if you continue to practice medicine. Such evidence, if not rebutted at a later hearing, will justify the Board in imposing further suspension or revocation of your license to practice medicine in the State of New Mexico and/or other disciplinary action taken against you by the Board. This summary suspension is based on evidence that shows:

A. On or about February 22, 2016, during a visit with a female patient (hereinafter referred to as “Patient”), you sexually assaulted Patient by placing your genitals in Patient’s mouth, and by placing Patient’s hands on your genitals.

B. After Patient reported the incident to police, law enforcement agents executing a search warrant at the office where the sexual assault on Patient was alleged to have occurred found evidence corroborating Patient’s allegations.

C. When law enforcement agents attempted to serve a warrant for your DNA on or about February 23, 2016 they learned that you'd fled the country.

D. On February 24, 2016, a criminal complaint was filed against you in Chavez County Magistrate Court Case No. M-7-FR-2016-00074 alleging one (1) count of violating Section 30-9-11, NMSA 1978 (Criminal Sexual Penetration).

E. On March 2, 2016, the Board's investigative staff emailed you a copy of a Board Complaint based on the above information, together with a letter asking you to provide a written response to the allegations. As of this date, you have not responded to the allegations as requested by the Board's investigators, and you have not formally notified the Board of the actions taken by the law enforcement agency which filed criminal charges against you.

In consideration of the aforementioned evidence in the Board's possession, the Board FINDS AND CONCLUDES that you pose a clear and immediate danger to the public health and safety if you continue to practice medicine in the State of New Mexico.

THEREFORE, IT IS HEREBY ORDERED that your New Mexico license to practice as a physician in the State of New Mexico is hereby SUMMARILY SUSPENDED until further Order of the Board.

Pursuant to Board Rule 16.10.5.16 NMAC, you are entitled to a hearing on the merits of this summary suspension order within fifteen (15) days of a request for such a hearing. Your hearing request shall be in writing, addressed to the Board, delivered by certified mail, return receipt requested. You are not required to comply with this summary action until service of this action has been made personally or by certified mail, return receipt requested, at your last known address as shown in the Board's records, or

you have actual knowledge of this order, whichever comes first.

Pursuant to NMSA, 1978, Section 61-1-8 you have the right to be represented at a hearing on this summary suspension order by counsel or by a licensed member of your profession or both, and to present all relevant evidence by means of witnesses, books, papers, documents and other evidence; to examine all opposing witnesses who may appear on any matter relevant to the issues and have subpoenas duces tecum issued as of right prior to the commencement of the hearing, to compel the attendance of witnesses and the production of relevant books, papers, documents and other evidence upon making a written request therefore to the Board. The issuance of such subpoenas after commencement of the hearing rests with the discretion of the Board or Hearing Officer.

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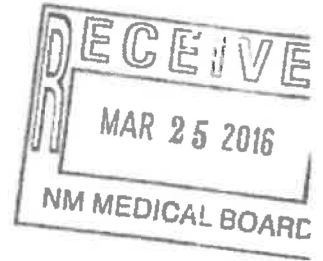
Dated this 25<sup>th</sup> day of March, 2016.

NEW MEXICO MEDICAL BOARD



Sondra Frank, Executive Director  
New Mexico Medical Board  
2055 South Pacheco Street, Building 400  
Santa Fe, New Mexico 87505  
Tel: 505-476-7220

**BEFORE THE NEW MEXICO MEDICAL BOARD**



**IN THE MATTER OF** )  
**SUJAN THYAGARAJ, M.D.** )  
 )  
**License No. MD2010-0267** )  
 )  
**Respondent.** )  
\_\_\_\_\_ )

No. 2016- 014

TO: **Sujan Thyagaraj, M.D.**  
**405 West Country Club Road**  
**Roswell, New Mexico 88201**

**Sujan Thyagaraj, M.D.**  
**26 North Sky Loop**  
**Roswell, New Mexico 88201**

**NOTICE OF CONTEMPLATED ACTION**

YOU ARE HEREBY NOTIFIED that pursuant to provisions of NMSA 1978, Section 61-1-4 of the Uniform Licensing Act (“ULA”), the New Mexico Medical Board (“Board”) has before it sufficient evidence that, if not rebutted or explained, will justify the Medical Board imposing sanctions that could include restricting, suspending, or revoking your license to practice medicine in the State of New Mexico.

1. You are subject to action by the Board pursuant to the ULA and NMSA 1978, Chapter 61, Article 6 of the Medical Practice Act (“MPA”).

2. This Notice of Contemplated Action (“NCA”) is based on the following allegations:

A. On or about February 22, 2016, during a visit with a female patient (hereinafter referred to as “Patient”), you sexually assaulted Patient by placing your genitals in Patient’s mouth, and by placing Patient’s hands on your genitals.

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3. The allegations set forth in paragraphs 2(A) through 2(E) above, if proven, would constitute violations of provisions of the MPA and Board Rules, including the following:

A. NMSA 1978, Section 6-6-15(D)(18), conduct likely to deceive, defraud or harm the public;

B. NMSA 1978, Section 6-6-15(D)(21)(f), failure to report to the board any adverse action taken against you by a law enforcement agency;

C. NMSA 1978, Section 6-6-15(D)(23), failure to furnish the board, its investigators or representatives with information requested by the board;

D. NMSA 1978, Section 6-6-15(D)(28), sexual contact with a patient... other than the spouse of the licensee;

E. NMSA 1978, Section 6-6-15(D)(29), conduct unbecoming in a person licensed to practice or detrimental to the best interests of the public;

F. NMSA 1978, Section 6-6-15(D)(36), interactions with... patients... that interferes with patient care or could reasonably be expected to adversely impact the quality of care rendered to a patient; and/or

G. Provisions of the Code of Medical Ethics of the American Medical Association (2014-2015 Ed.) as adopted by the Board at Rule 16.10.8.9 NMAC.

4. Take notice that pursuant to NMSA 1978, Section 61-1-4 you may secure a hearing before the Board by depositing in the mail within twenty (20) days after service of this notice a certified return receipt requested letter addressed to the Board and containing a request for a hearing. If you do not request a hearing within twenty (20) days after service of this notice as described above, the Board will take the contemplated action, i.e., imposing sanctions that could include the revocation or suspension of your license to practice medicine in the State of New Mexico, and there will be no judicial review of their decision.

5. Pursuant to NMSA 1978, Section 61-1-8 you have the right to be represented by counsel or by a licensed member of your profession or both, and to present all relevant evidence by means of witnesses, books, papers, documents and other evidence; to examine all opposing witnesses who may appear on any matter relevant to the issues and have subpoenas duces tecum issued as of right prior to the commencement of the hearing, to compel the attendance of witnesses and the production of relevant books, papers, documents and other evidence upon making a written request therefore to the Board. The issuance of such subpoenas after commencement of the hearing rests with the discretion of the Board or Hearing Officer.

6. The issuance of this NCA is not a disciplinary event reportable to any data bank

but is a public document open to public inspection.

7. In the event that the Board takes a final action against you as specified in NMSA 1978, Section 61-1-3, you shall bear all costs of disciplinary proceedings pursuant to NMSA 1978, Section 61-1-4(G) unless excused by the Board.

Dated this 25<sup>th</sup> day of March, 2016.

**NEW MEXICO MEDICAL BOARD**

A handwritten signature in black ink, appearing to read "Sondra Frank", is written over a horizontal line.

**Sondra Frank, Executive Director  
New Mexico Medical Board  
2055 South Pacheco Street, Building 400  
Santa Fe, New Mexico 87505  
Tel: 505-476-7220**

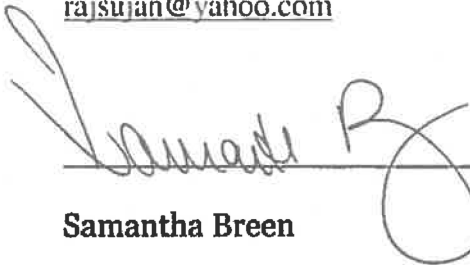
**CERTIFICATE OF SERVICE**

I hereby certify that a true copy of the Notice of Summary Suspension and Notice of Contemplated Action was sent to the Respondent below via Certified Return Receipt USPS and e-mail on March 25, 2016.

Sujan Thyagaraj, MD  
405 West Country Club Road  
Roswell, NM 88201

Sujan Thyagaraj, MD  
26 North Sky Loop  
Roswell, NM 88201

[rajsujan@yahoo.com](mailto:rajsujan@yahoo.com)

  
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**Samantha Breen**