

BEFORE THE
NORTH CAROLINA MEDICAL BOARD

In re:)
)
Ashutosh Virmani, M.D.,) CONSENT ORDER
)
Respondent.)

This matter is before the North Carolina Medical Board ("Board") regarding information provided to the Board concerning Ashutosh Virmani, M.D. ("Dr. Virmani"). Dr. Virmani makes the following admissions, and the Board makes the following findings and conclusions:

STATUTORY AUTHORITY

The Board is a body duly organized under the laws of North Carolina and is the proper party to bring this proceeding under the authority granted to it in Article 1 of Chapter 90 of the North Carolina General Statutes and the rules and regulations promulgated thereto.

FINDINGS OF FACT

Dr. Virmani was first issued a license to practice medicine by the Board on or about December 2, 1989, license number 38567.

At all times relevant hereto, Dr. Virmani practiced medicine as an obstetrician-gynecologist at a multi-facility clinic in Charlotte and Raleigh, North Carolina.

On May 24, 2021, the Board issued a Notice of Charges and Allegations, the details of which are contained therein.

The Board's evidence would tend to show that Dr. Virmani, on occasion, made comments to patients and staff which were unprofessional in nature. The comments led to staff and patient representatives making complaints to administrative staff at Dr. Virmani's practice. In turn, the administrative staff would counsel Dr. Virmani on the need to maintain professionalism with regard to his interactions with patients and staff. After being counseled, Dr. Virmani's behavior would improve but subsequent complaints were made.

The Board's evidence would further tend to show that Dr. Virmani administered a paracervical block for surgical procedures on a case by case basis taking into account the patient's medical history. The Board would present evidence that the standard of care would be to administer a paracervical block in all procedural cases unless compelling medical reasons indicated otherwise. Should a patient not receive a paracervical block then the reasons for not administering the paracervical block would need to be documented in the patient chart along with the patient's consent.

The clinic at which Dr. Virmani practiced utilized a preprinted surgical note indicating that lidocaine was administered as a paracervical block in all cases. The Board's evidence would tend to show that although Dr. Virmani admitted to

administering the paracervical block on a case by case basis, meaning some patients did not receive a paracervical block, an audit of Dr. Virmani's charts revealed that the preprinted sentence regarding lidocaine was left unchanged.

The Board's evidence would tend to show that for Patients A through F, Dr. Virmani provided care which departed from standards of acceptable and prevailing medical practice. These departures were based on an outside external expert review. The specific departures are outlined in the Board's Notice of Charges, though it is noted that Dr. Virmani did, in fact, review and sign the medical history in Patient B's record. The gravamen of many of the departures relate to documentation, selection of medication, and monitoring of the sedating and respiratory effects of the medications administered during a procedure. Other departures include not documenting the type of suction used for an evacuation (manual versus electric), not documenting dose and routes of medication administration, and relying on a poor quality ultrasound for a surgical procedure.

Dr. Virmani provided Board staff with opinions from several other physician experts, retained by Dr. Virmani, which opined that Dr. Virmani's care of these patients, and corresponding documentation of that care, was reasonable and within the standard of care.

On February 13, 2021, Dr. Virmani separated from his practice and has not practiced medicine in North Carolina since that time.

CONCLUSIONS OF LAW

Although Dr. Virmani does not admit to the findings in this Consent Order, Dr. Virmani does admit that the Board has sufficient evidence to make these findings and that it may conclude, and the Board does in fact conclude, that the conduct, as described above, constitutes unprofessional conduct, within the meaning of N.C. Gen. Stat. § 90-14(a)(6) which is grounds under that section of the North Carolina General Statutes for the Board to annul, suspend, revoke, condition, or limit Dr. Virmani's license to practice medicine or to deny any application he may make in the future.

Although Dr. Virmani does not admit to the findings in this Consent Order, Dr. Virmani does admit that the Board has sufficient evidence to make these findings and that it may conclude, and the Board does in fact conclude, that Dr. Virmani's care of Patients A through F, departed from, or failed to conform to the standards of acceptable and prevailing medical practice within the meaning of N.C. Gen. Stat. § 90-14(a)(6), which is grounds under that section of the North Carolina General Statutes for the Board to annul, suspend, revoke, condition, or limit Dr. Virmani's license to practice medicine or to deny any application he may make in the future.

PROCEDURAL STIPULATIONS

Dr. Virmani acknowledges and agrees that the Board has jurisdiction over him and over the subject matter of this case.

Dr. Virmani knowingly waives his right to any hearing and to any judicial review or appeal in this case.

Dr. Virmani, with the advice of counsel, acknowledges that he has read and understands this Consent Order and enters into it voluntarily.

Dr. Virmani desires to resolve this matter without the need for more formal proceedings.

The Board has determined that it is in the public interest to resolve this case as set forth below.

Upon execution by Dr. Virmani and the Board, this Consent Order shall resolve all issues between Dr. Virmani and the Board that have been raised in the Board's Notice of Charges or otherwise were known by the Board prior to the date of this Consent Order concerning any and all care provided by Dr. Virmani.

ORDER

NOW, THEREFORE, with Dr. Virmani's consent, it is ORDERED that:

1. Dr. Virmani's North Carolina license to practice medicine is hereby SUSPENDED for a period of TWO (2) YEARS, retroactive to February 13, 2021. The SUSPENSION is STAYED, except for a period of THIRTY (30) DAYS of which Dr. Virmani shall serve

an active suspension beginning on the effective date of this Consent Order. After the period of active suspension, the STAYED SUSPENSION shall be subject to the following terms and conditions:

a. Shall take and successfully pass the Professional Boundaries and Ethics Course ("ProBE") within SIX (6) MONTHS of the date of this Consent Order. Evidence of successful completion of the ProBE course required by this Consent Order shall be submitted to the Board's Compliance Coordinator at North Carolina Medical Board, P.O. Box 20007, Raleigh, NC 27619-0007 or compliance@ncmedboard.org within THIRTY (30) DAYS of completing the course.

b. Within TEN (10) DAYS of the date of this Consent Order, Dr. Virmani shall arrange for an evaluation by the North Carolina Professionals Health Program ("NCPHP") with such evaluation taking place within THIRTY (30) DAYS of this Consent Order. Dr. Virmani shall sign all necessary releases for the NCPHP to report its findings to the Board. Furthermore, Dr. Virmani shall follow all recommendations made by the NCPHP.

c. Dr. Virmani shall complete TEN (10) Category I HOURS of Continuing Medical Education on the topic of proper medical documentation with such course to be approved in advance by the Board's Office of Medical Director ("OMD"). Dr. Virmani shall submit evidence of completion of the continuing medical

education courses required by this Consent Order to the Board's Compliance Coordinator at North Carolina Medical Board, P.O. Box 20007, Raleigh, NC 27619-0007 or compliance@ncmedboard.org within THIRTY (30) DAYS of completing the course.

d. Dr. Virmani shall complete Continuing Medical Education on the topic of Office Based Anesthesia for Abortion Providers as provided by the National Abortion Federation or a course that is substantially equivalent with such course to be approved in advance by the Board's OMD. Dr. Virmani shall submit evidence of completion of the continuing medical education courses required by this Consent Order to the Board's Compliance Coordinator within THIRTY (30) DAYS of completing the course.

e. Dr. Virmani shall comply with the Board's position statement, as set forth in Guidelines for Avoiding Misunderstandings During Patient Encounters and Physical Examinations, with the following modification (*italicized*):

Regardless of the patient's gender, a third-party chaperone, possibly a staff member, *must* be readily available at all times during a physical examination, and *that* third party be present when the licensee performs an examination of the breasts, genitalia, or rectum. It is the licensee's responsibility to have a staff member available at any point during the examination.

The name of the third-party shall be clearly documented in each patient chart and legible.

f. The Board shall conduct a follow up chart review of patient charts within SIX (6) MONTHS upon resumption of clinical practice in North Carolina. Dr. Virmani shall notify the Board's Compliance Coordinator within FIVE (5) BUSINESS DAYS of resuming practice in North Carolina.

2. Dr. Virmani shall obey all laws. Likewise, he shall obey all rules and regulations involving the practice of medicine.

3. Dr. Virmani shall meet with the Board or members of the Board for an investigative interview at such times as requested by the Board.

4. Upon request, Dr. Virmani shall provide the Board with any information the Board deems necessary to verify compliance with the terms and conditions of this Consent Order.

5. If Dr. Virmani fails to comply with any of the terms of this Consent Order, that failure shall constitute unprofessional conduct within the meaning of N.C. Gen. Stat. § 90-14(a)(6) and shall be grounds, after any required notice and hearing, for the Board to annul, suspend or revoke his license to practice medicine and to deny any application he might make in the future or then have pending for a license to practice medicine.

6. This Consent Order shall take effect immediately upon its execution by both Dr. Virmani and the Board, and it shall

continue in effect until specifically ordered otherwise by the Board.

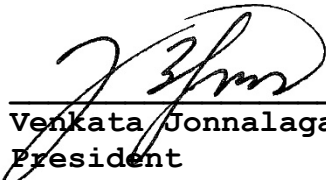
7. Dr. Virmani hereby waives any requirement under any law or rule that this Consent Order be served on him.

8. Upon execution by Dr. Virmani and the Board, this Consent Order shall become a public record within the meaning of Chapter 132 of the North Carolina General Statutes and shall be subject to public inspection and dissemination pursuant to the provisions thereof. Additionally, it will be reported to persons, entities, agencies and clearinghouses as required and permitted by law including, but not limited to, the Federation of State Medical Boards and the National Practitioner Data Bank.

By Order of the North Carolina Medical Board this the 14th day of October, 2021.

NORTH CAROLINA MEDICAL BOARD

By:



Venkata Jonnalagadda, M.D.
President

Consented to this the 14th day of October, 2021.

Ashutosh Virmani
Ashutosh Virmani, M.D.

State of North Carolina

County of Wake

I, Carren D Mackiewicz, do hereby certify that Ashutosh Virmani, M.D. personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal this the 14th day of October, 2021.

Carren D Mackiewicz
Notary Public

My Commission Expires: 01.06.2025

