BEFORE THE
NORTH CAROLINA MEDICAL BOARD

In re:	)	
	)	**NOTICE OF CHARGES**
Ashutosh Virmani, M.D.,	)	**AND ALLEGATIONS;**
	)	**NOTICE OF HEARING**
Respondent.	)	

The North Carolina Medical Board ("Board") hereby prefers the following charges and allegations:

1. 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.

2. Respondent, Ashutosh Virmani, M.D. ("Dr. Virmani"), is a physician licensed by the Board on or about December 2, 1989, license number 38567.

3. During the times relevant herein, Dr. Virmani practiced in Charlotte and Raleigh, North Carolina.

4. Dr. Virmani provided healthcare exclusively to female patients at the Preferred Women's Health Center ("PWHC") facilities in Charlotte and Raleigh.

5. Over time, Dr. Virmani made inappropriate comments to, and engaged in inappropriate behavior with, some of the patients he treated at PWHC.

6. The inappropriate comments and behavior was observed by both current and former employees of PWHC. In addition, Dr. Virmani, himself, alluded to his inappropriate comments and approach to how he practiced medicine, in statements he made to a Board investigator.

7. Furthermore, Dr. Virmani made inappropriate generalized assumptions about the ability of some patients to tolerate medical procedures.

8. For example, PWHC employees reported Dr. Virmani failed to administer lidocaine, an anesthetic, to some of his African-American patients. One co-worker stated that when she confronted Dr. Virmani about his not utilizing lidocaine for African-American patients, Dr. Virmani replied, "[i]t is not my fault that black women have juicy loose vaginas. They are built to have ten kids."

9. In the past, Dr. Virmani has made other remarks of an inappropriate nature reflecting a possible racial animus. In a videotaped exchange with a protestor, Dr. Virmani made an inappropriate racial statement for which he later apologized.

10. Although Dr. Virmani denied failing to use lidocaine for some patients based on their race, Dr. Virmani did admit that at times he could not determine by looking at his own medical records whether lidocaine was administered. In addition, Dr. Virmani stated that the administration of lidocaine for certain abortion procedures was a clinical decision made on a case-by-case basis.

During his explanation of when it was appropriate to not to use lidocaine, Dr. Virmani drew a picture of a uterus and cervix to explain that patients with a childbearing history may not need lidocaine due to the expanded size of their cervix. At this point, Dr. Virmani – without urging or solicitation – described how a cervix may be "loosie goosey." The use of this term approximated the former employee's statement that Dr. Virmani described some patients' vaginas as "loose," and therefore the patient didn't require an anesthetic because the patient would be able to tolerate any pain or discomfort caused by the procedure.

11. Dr. Virmani made improper remarks to his female patients. In one instance, Dr. Virmani sought to administer a medication to a patient rectally. When the patient expressed apprehension, Dr. Virmani told the patient "it is just like Saturday night."

12. Staff members observed Dr. Virmani lifting the gowns of patients for whom he considered attractive up to their shoulders so as to expose the patients' breasts. There was no medical indication for Dr. Virmani to lift the patients' gowns above their breasts. In an attempt to put an end to this practice, staff created a tenting mechanism so that when patients were on the examination table it would be difficult for Dr. Virmani to lift the patients' gowns above their waist.

13. Patients A through F underwent abortion procedures performed by Dr. Virmani at PWHC. For each patient, Dr. Virmani departed from standards of acceptable and prevailing medical practice.

14. For Patient A, Dr. Virmani departed from standards of acceptable and prevailing medical practice by:

- **Failing to maintain intravenous access for sedation medication until discharge.**
- **Failing to maintain appropriate alarms with pulse oximetry.**
- **Failing to document verbal responsiveness of Patient A during the procedure.**
- **Administering sedation medication by means of an intramuscular method with no ability to titrate nor reverse the medication.**
- **Failing to document Patient A's vital signs and alertness at the start, during, or at the conclusion of the procedure.**
- **Failing to document the level of sedation achieved.**
- **The selection of nalbuphine for sedation as nalbuphine can cause serious, life-threatening, or fatal respiratory depression, especially when used concomitantly with other opioids or central nervous system depressants.**

- **Failing to monitor for respiratory depression, especially during initiation of nalbuphine or following a dose increase.**
- **Not selecting the right anesthetic for moderate sedation, such as midazolam and fentanyl both of which can be titrated and easily reversed with naloxone and flumazenil.**
- **Failing to document a legible respiratory exam.**
- **Failing to document oxygen saturation levels during the procedure.**

15. For Patient B, Dr. Virmani departed from standards of acceptable and prevailing medical practice by:

- **Not documenting whether manual or electric suction was used to evacuate the uterus.**
- **Not confirming the procedure had been completed.**
- **Failing to select an appropriate anxiolytic prior to the procedure.**
- **Failing to document Patient B's form of transportation after discharge.**
- **Failing to document that he had reviewed Patient B's medical history.**

16. For Patient C, Dr. Virmani departed from standards of acceptable and prevailing medical practice by:

- **Failing to monitor alertness during an in-clinic procedure after the administration of anxiolytic. Patient C was taking anxiolytics on an as needed basis and it was not noted in the record when her last self-administration of any anxiolytic was.**
- **Failing to document the level of sedation desired by Patient C and the level of sedation achieved during the procedure.**

17. For Patient D, Dr. Virmani departed from standards of acceptable and prevailing medical practice by:

- **Failing to confirm Patient D had passed the pregnancy.**
- **Failing to evacuate the uterus surgically after learning Patient D had failed to pass her pregnancy several weeks earlier.**
- **Attempting to complete the abortion non-surgically after the first attempt failed and documenting the treatment provided on the second attempt as "cyto x 2"; this documentation does not make clear what medication was provided and at what dose.**

18. For Patient E, Dr. Virmani departed from standards of acceptable and prevailing medical practice by:

- **Failing to recognize that Patient E was not a suitable patient to have the procedure performed in an office**

setting because of the overall clinical policy and protocol to use substandard analgesia, anesthesia, and anxiolytics.

- **Failing to use an appropriate anesthetic for the procedure.**
- **Failing to use misoprostol appropriately for cervical preparation by not administering the medication sublingually or buccally at least three hours before attempting the procedure.**
- **Failing to document the dose and route of administration for misoprostol and failing to provide accurate information regarding the cervical dilation process, e.g., not referring to French gauge scale units of measurement for a Pratt cervical dilator.**

19. For Patient F, Dr. Virmani departed from acceptable and prevailing standards of medical practice by:

- **Failing to confirm Patient F had an intrauterine pregnancy; confirmation was not possible because of the exceptionally poor quality of the ultrasound.**
- **Failing to recognize that Patient F was not a good candidate for a surgical abortion as a result of the poor quality of the ultrasound because, in such a case, the surgeon would not have known what he was treating.**
- **Performing a surgical abortion when there is no visible fetal pole or yolk sac seen in Patient F's gestational sac.**

Patient F was diagnosed to be seven weeks pregnant. At seven weeks a yolk sac or fetal pole should be visible.

- **Failing to determine whether Patient F had an ongoing pregnancy or had experienced an earlier miscarriage. For either diagnosis, vacuum aspiration is a proper treatment, which was performed, however, the surgeon should nonetheless know whether the patient had a continuing pregnancy.**

20. Dr. Virmani's conduct, as described above, constitutes unprofessional conduct, including, but not limited to, a departure from, or the failure to conform to the ethics of the medical profession, or the committing of any act contrary to honesty, justice, or good morals, 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.

21. Dr. Virmani's conduct, as described above, constitutes immoral or dishonorable conduct, within the meaning of N.C. Gen. Stat. § 90-14(a)(1) 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.

22. Dr. Virmani's care of Patients A through F, as described above, constitutes unprofessional conduct, including, but not limited to, a departure from, or the failure 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.

NOTICE TO DR. VIRMANI

Pursuant to N.C. Gen. Stat. § 90-14.2, it is hereby ordered that a hearing on the foregoing Notice of Charges and Allegations will be held before the Board, or a panel thereof, on October 14, 2021, at 8:00 a.m. or as soon thereafter, at the offices of the Board at 3127 Smoketree Court, Raleigh, North Carolina, to continue until completed. The hearing will be held pursuant to N.C. Gen. Stat. § 150B-40, 41, and 42, and N.C. Gen. Stat. § 90-14.2, 14.3, 14.5, 14.6 and 14.7 as well as 21 NCAC 32N .0110 and 21 NCAC 32N .0111. You may appear personally and through counsel, may cross-examine witnesses and present evidence on your own behalf.

You may, if you desire, file written answers to these charges preferred against you within thirty (30) days after the service of this notice.

Unless otherwise permitted by the Presiding Officer, all exhibits shall be provided to the Board electronically.

All preliminary motions, including motions for continuances, shall be received at the office of the Board no later than fourteen (14) days prior to the date of the hearing.

Pursuant to N.C. Gen. Stat. § 150B-40(c)(5) and 21 NCAC 32N .0110(c), it is further ordered that the parties shall arrange a pre-hearing conference. A pre-hearing stipulation, if agreed to by the parties, shall be submitted to the undersigned prior to the pre-hearing conference. The pre-hearing conference shall occur no later than seven (7) days prior to the hearing date.

The identities of Patient A through F are being withheld from public disclosure pursuant to N.C. Gen. Stat. § 90-8. However, this information will be provided to you upon your request.

The right to be present during the hearing of this case, including any such right conferred or implied by N.C. Gen. Stat. § 150B-40(d) or N.C. Gen. Stat. § 90-14.2(b), shall be deemed waived by a party or his counsel by voluntary absence from the Board's office at a time when it is known that proceedings, including deliberations, are being conducted, or are about to be conducted. In such event, the proceedings, including additional proceedings after the Board has retired to deliberate, may go forward without waiting for the arrival or return of counsel or a party.

This the 24th day of May, 2021.

NORTH CAROLINA MEDICAL BOARD

By: _____

Venkata Jonnalagadda, M.D.
President

CERTIFICATE OF SERVICE

I, the undersigned attorney for the North Carolina Medical Board, hereby certify that I have served a copy of the foregoing NOTICE OF CHARGES AND ALLEGATIONS; NOTICE OF HEARING on counsel for Dr. Virmani by electronic mail to the following:

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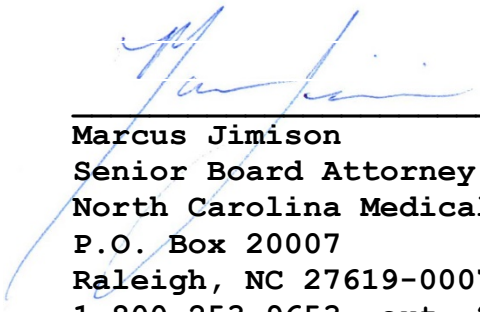
This the 24th day of May, 2021.



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