

IN THE MATTER OF

*** BEFORE THE MARYLAND**

RAKESH K. MATHUR., M.D.

*** STATE BOARD OF**

Respondent.

*** PHYSICIANS**

License No. D39170

*** Case No. 7720-0086**

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ORDER AFTER SHOW CAUSE HEARING

On March 4, 2020, Rakesh K. Mathur, M.D., who is board-certified in anesthesiology, entered into a Consent Order with Disciplinary Panel A ("Panel A") of the Maryland State Board of Physicians (the "Board"). Conditions of the Consent Order include requirements that Dr. Mathur (1) enroll in a Board-approved program¹ (Program") within fifteen (15) days for the purpose of assessing his clinical competency and medical documentation; (2) fully and timely comply with all of the Program's rules and requirements; and (3) be subject to supervision for a minimum of one (1) year by a Panel-approved supervisor board-certified in anesthesiology.

The Consent Order also specified that a determination by the Program that Dr. Mathur was not clinically competent to practice medicine would be deemed a violation of the Consent Order. On June 28, 2021, Panel A issued a Violation of Consent Order and Notice to Show Cause, charging Dr. Mathur with failure to comply with the Program's requirements, in violation of the March 4, 2020 Consent Order. On November 3, 2021, Panel A held a show cause hearing where Dr. Mathur had the opportunity to argue why his medical license should not be subject to further discipline.

¹ The name of the clinical competency program is confidential.

FINDINGS OF FACT

Panel A finds the following facts by a preponderance of the evidence:

Background and Disciplinary History

February 7, 2012 Summary Suspension

On February 7, 2012, the Board summarily suspended Dr. Mathur's license to practice medicine after concluding that his improper and excessive prescribing and dispensing of Controlled Dangerous Substances ("CDS") constituted a substantial likelihood of risk of serious harm to the public health, safety, or welfare that imperatively required emergency action. On February 4, 2012, the Board charged Dr. Mathur with violating Health Occ. § 14-404(a): (3) is guilty of (i) immoral conduct in the practice of medicine and (ii) unprofessional conduct in the practice of medicine; (22) failure to meet the standard of quality care; (27) sells, prescribes, gives away, or administers drugs for illegal or illegitimate purposes; and (40) failure to keep adequate medical records, based on his improper CDS dispensing and prescribing. The charges followed a Board investigation and peer review of pain management patients establishing that Dr. Mathur had failed to meet the standards of quality care for ten patients and failed to keep adequate medical records for fifteen patients.

July 27, 2012 Consent Order

To resolve the disciplinary charges against him, Dr. Mathur agreed to enter into a Consent Order with the Board on July 27, 2012 that terminated the summary suspension of his license, suspended his license, permanently barred him from dispensing medication, required him to complete Board-approved courses on internal medicine, medical recordkeeping, and ethics, and

required that he pay a civil fine of \$25,000 within two years. The Consent Order also provided terms and conditions of probation should the suspension be terminated.

May 29, 2013 Order Terminating Suspension and Imposing Probation

On May 29, 2013, after Dr. Mathur completed the required courses, the Board issued an Order Terminating Suspension and Imposing Probation. The Order terminated the suspension of Dr. Mathur's license, reiterated the fine and permanent dispensing ban conditions, placed him on probation for a minimum of five years, required that he not practice pain management or prescribe CDS except in emergencies, and required that he undergo a chart and/or peer review.

March 31, 2015 Consent Order

On March 31, 2015, following Dr. Mathur's failure to pay the required fine, he entered into a second Consent Order that suspended his license until he paid the fine, required that he undergo an evaluation by the Maryland Professional Rehabilitation Program ("MPRP"), and, if necessary, enter treatment with MPRP. Dr. Mathur fulfilled the MPRP requirement and paid the fine. On April 15, 2015, the Board issued an Order Terminating Suspension. The remaining terms of Dr. Mathur's probation remained in effect.

March 4, 2020 Consent Order

On September 19, 2018, Panel A charged Dr. Mathur based on a probationary peer review that determined he had failed to meet the standard of quality medical care and keep adequate documentation for ten patients on whom he had performed Stivax² procedures. Dr. Mathur was not qualified or licensed to perform such Stivax procedures in Maryland.

² Stivax is an electro-acupuncture device for use in the practice of acupuncture by qualified practitioners of acupuncture. Dr. Mathur is not licensed to perform acupuncture in the State of Maryland.

To resolve the charges, Dr. Mathur entered into a Consent Order with Panel A on March 4, 2020. Pursuant to the Consent Order, Dr. Mathur was reprimanded and placed on probation for a minimum of two years with terms and conditions. These included requirements that Dr. Mathur: enroll in a Board-approved Program within fifteen days for the purpose of assessing his clinical competency and medical documentation; be subject to supervision³ for a minimum of one year by a Panel-approved supervisor board-certified in anesthesiology; pay a civil fine of \$5,000⁴ within one year; and be prohibited from prescribing CDS except in an emergency and for a dosage period of no longer than three days.

The Consent Order also provided that a determination by the Program that Dr. Mathur was not clinically competent to practice medicine would be deemed a violation of the Consent Order. The Consent Order further provided that, after an appropriate hearing, if the disciplinary panel determined that Dr. Mathur had failed to comply with any term or condition of the Consent Order, the disciplinary panel may impose a reprimand, probation with appropriate terms and conditions, or suspend or revoke Dr. Mathur's license to practice medicine in Maryland. Dr. Mathur signed the Consent Order, accepting and agreeing to be bound by the Consent Order and all of its terms and conditions.

Violation of March 4, 2020 Consent Order

In accordance with the Consent Order, Board staff advised Dr. Mathur by letter dated March 5, 2020, that documentation confirming his enrollment in a clinical competency and medical documentation program was due by March 20, 2020. Board staff again contacted Dr.

³ In the event that Dr. Mathur was not practicing medicine, he was required to begin supervision after the disciplinary panel had approved his proposed supervisor and upon his return to the practice of medicine.

⁴ Dr. Mathur paid the fine on April 13, 2021.

Mathur by email on May 18, and by letter on June 2, 2020, to determine if he had enrolled in the requisite program. No response was received from Dr. Mathur until June 18, 2020, in which he stated that events in his life had caused “worsening of [his medical condition].”⁵ Dr. Mathur further stated that the two clinical competency programs recommended by the Board do “not clearly evaluate Medical Competency” and that he had instead completed 80 hours of Continuing Medical Education (CMEs) in Internal Medicine and Critical Care Medicine and 100 hours of CMEs with the American Board of Regenerative Medicine⁶ and had enrolled in a medical record keeping program.

On June 22, 2020, Dr. Mathur signed up for a clinical competency assessment with a Board-approved Program. During communications with the Program between August and September 2020, Board staff were informed by Program staff that Dr. Mathur had submitted the deposit for the assessment but had not submitted necessary supplemental documentation. Board staff sent a letter to Dr. Mathur on September 10, 2020, apprising him that he was required to submit all necessary outstanding documentation to the Program by September 17, 2020. On December 15 and 16, 2020, Dr. Mathur underwent the clinical competency assessment that was designed for him by the Program to evaluate his practice of adult general medicine. On April 15, 2021, Board staff received the completed Assessment Report from the Program.

⁵ The nature of the medical condition is confidential.

⁶ On June 23, 2020, Dr. Mathur requested the Board’s permission to take an exam in Regenerative Medicine. Board staff notified Dr. Mathur that that exam was not part of the Board’s Consent Order

Program Assessment and Report

1. Medical Knowledge and Patient Care

The Report consisted of Assessment Findings and Educational Recommendations by physician consultants regarding patient care based on Dr. Mathur's performance during the Assessment process, which was personalized to ensure that it reflected Dr. Mathur's practice of general medicine. The findings demonstrated broad-based gaps and areas in which Dr. Mathur's medical knowledge was outdated and lacked depth. The Program consultants identified Dr. Mathur's extensive educational needs in internal medicine, chronic pain management, cardiology, pulmonology, infectious diseases, neurology, endocrinology, gastroenterology, mental health, urology, hematology, routine health maintenance, and geriatrics.

For example, in cardiology, Dr. Mathur was asked to provide descriptions, interpretations, and course of action for ten ECG tracings representing various cardiac conditions. His responses were considered within the context of his general medicine practice and revealed that he did not have a logical scheme to evaluate ECGs and his treatment plans were incorrect due to his incorrect interpretation. He identified only one of five tracings where infarct (tissue death) or ischemia (inadequate blood flow) was the cause of the pattern. He did not describe multiple types of cardiac abnormalities and conduction system disorders on several tracings, did not consider pericarditis in one tracing, and failed to identify atrial fibrillation⁷ on another tracing. Overall, the consulting examiners concluded that Dr. Mathur's plans were incorrect for nine tracings, he did not demonstrate adequate ability to interpret ECGs, and his performance on the written ECG interpretation exercise was poor and required remediation.

⁷ Pericarditis is swelling and inflammation of the thin tissue surrounding the heart. Atrial fibrillation is a common type of heart arrhythmia, which can cause the heart to beat too quickly, too slowly, or irregularly.

2. Clinical Judgment and Reasoning

Dr. Mathur's clinical judgment and reasoning were deemed generally inadequate in the recognition of illness acuity. The physician consultants determined that he failed to recognize the severity of illness in scenarios of urosepsis, diabetic ketoacidosis,⁸ and atrial fibrillation. He also did not recognize low-acuity presentations. Dr. Mathur's knowledge limitations appeared to impact his hypothetical patient care in situations involving coronary artery disease, hypertension, diabetes, hypothyroidism, depression, chronic renal failure, and benign prostatic hyperplasia (prostate gland enlargement). He was observed to be disorganized in his approach to the topic of transient ischemic attack,⁹ and his decision-making was concerning in other hypothetical areas of patient care. Regarding chronic pain management and opioid prescribing, Dr. Mathur's overall approach was outdated and his knowledge and performance unacceptable. The physician consultants further opined that in other instances, he did not appear to recognize his limitations of knowledge. To address his inadequacies in clinical judgment and reasoning educationally, the physician consultants determined that Dr. Mathur needed: a structured formulation of differential diagnoses and a structured approach to patient evaluations; an ability to correctly assess acuity of illness and plan appropriately; an ability to respond to emergent situations; appropriate and up-to-date management of chronic pain conditions and the prescribing of opioid medications; an application of knowledge to patient care; the use of evidence-based medical principles; and consistent recognition of knowledge limitations.

⁸ Diabetic ketoacidosis is a major complication of diabetes and can be life-threatening.

⁹ A transient ischemic attack is a mini-stroke caused by a temporary blockage of blood flow to the brain.

3. Educational Recommendations

The physician consultants recommended that Dr. Mathur participate in a structured, individualized, Educational Intervention reflective of his areas of need in inpatient and outpatient general medicine. Recommendations included: Dr. Mathur's participation in a clinical Inpatient Point-of-Care experience with initial 100% direct supervision to address his areas of demonstrated need due to the high-acuity nature of inpatient care; Dr. Mathur's participation in a clinical Outpatient Point-of-Care experience to obtain necessary support and graduated levels of independence through periods of supervision to address his immediate practice needs in clinical practice in the outpatient setting; Dr. Mathur's presentation of all patients to a Preceptor prior to office discharge to discuss patient evaluation, screening for comorbidities, prescribing and monitoring of opioids, and treatment planning; Dr. Mathur's engagement in CME courses and self-study including an Internal Medicine Review course (inpatient and outpatient), an ECG Interpretation course, and a CME course in gender and cultural competency.

4. Health Information

The Program was unable to determine if Dr. Mathur had any health conditions that could interfere with his medical practice because he did not submit the health information requested.

Show Cause Hearing – November 3, 2021

On June 28, 2021, Panel A issued a Violation of Consent Order and Notice to Show Cause based on the results of the clinical competency assessment and his failure to submit the required health information. The Panel conducted a show cause hearing on November 3, 2021, at which Dr. Mathur was represented by counsel. The State was represented by Administrative Prosecutor, Nicholas Johansson.

At the hearing, Dr Mathur acknowledged his prior disciplinary history, his written communication to the Board regarding a medical condition, and his agreement to comply with the March 4, 2020 Consent Order's conditions. He argued that his disciplinary history was not relevant to the Show Cause proceeding. He maintained that he did not realize the import of the conditions or time frames involved in the Consent Order and that he did not obtain a supervisor because no one would donate their time and he did not practice anesthesiology. Dr. Mathur asserted that he told his primary care physician to send his health information to the Program and that the Board already had details of his medical history. He argued that the Program did not do a proper job evaluating him but admitted that there were certain areas in which he was deficient and needed to get up to speed, and further admitted that the evaluation results showed he required a structured, individualized, educational intervention. He expressed unhappiness with his poor performance on the written ECG interpretation exercise but blamed the computer and the format used.

While acknowledging his deficiencies and educational needs, Dr. Mathur contended that the Panel should not give the Report findings any weight or credibility. He claimed that the Report mistakenly referred to him as "Dr. Smith" in an Appendix at the end of the Report and that this section contained his specific results and recommendations. In response to questions from panel members, Dr. Mathur stated an intent to practice critical care medicine, hospital medicine, or internal medicine, and to complete an unpaid fellowship or one-year residency program that would make him a qualified physician. He did not provide any details or verification that he was accepted into such a program. Dr. Mathur also confirmed that he was employed and had resumed medical practice and was seeing four to five patients a month.

In response, the State pointed out that Dr. Mathur failed to abide by the condition that he obtain a supervisor board-certified in anesthesiology before returning to medical practice, and that he neither disagreed with that condition nor disputed the supervisor's specialty before signing the Consent Order. The State expressed concerns about Dr. Mathur's competency and long disciplinary history with the Board for serious standard of care deficiencies and improper CDS prescribing, and the Board's numerous attempts to remedy his medical practice by continuous monitoring.

Based on Dr. Mathur's disciplinary history, the State emphasized that Dr. Mathur was familiar with the need to comply with conditions to which he had agreed. The State also highlighted his inability to follow Board directives, his efforts to substitute other courses and CMEs for the competency assessment required by the March 4, 2020 Consent Order, and his repeated excuses for his general non-compliance with past Consent Orders. Regarding health information requested by the Program, the State observed that the Program was unable to make a full evaluation of any health conditions that could interfere with Dr. Mathur's medical practice because he failed to provide the information. The State clarified that the term "Dr. Smith" in a two-page Report Appendix was not a mistaken reference to Dr. Mathur or his specific evaluation, but was generic wording used to convey broad types of educational needs and resources available for physicians. The Panel agrees. The Appendix simply and succinctly described the categories of educational recommendations universally applicable to all physicians. In contrast, the Program's 14-page competency assessment of Dr. Mathur was personalized, and identified concerning gaps in his medical knowledge and specific inadequacies of clinical judgment and

reasoning in a general medicine practice setting. As the State noted, the remediation recommended was a structured, individualized, educational intervention.

Contrary to Dr. Mathur's characterization of the Consent Order's requirements and the Program's Report, Panel A finds that the State's analysis is correct. It was undisputed that Dr. Mathur entered into the March 4, 2020 Consent Order freely and voluntarily and has experience with the Consent Order process, conditions, and compliance requirements. It was also undisputed that Dr. Mathur did not ever propose, contract with, or request Board approval for any supervisor in any specialty at any time before returning to medical practice, as required by the Consent Order.

By resuming medical practice unsupervised, Panel A finds that Dr. Mathur defied the Consent Order's supervision requirements. In addition, Panel A finds that it was Dr. Mathur's responsibility to ensure that his health information requested by the Program was submitted. In failing to do so, Dr. Mathur did not fully and timely comply with all the Program's rules and requirements, in violation of the Consent Order. Based upon the report from the Program and the evidence presented at the show cause hearing, Panel A further finds that the results of Dr. Mathur's clinical competency assessment confirm the Program's determination that Dr. Mathur is not clinically competent to practice medicine, in violation of the Consent Order.

CONCLUSION OF LAW

Panel A concludes that Dr. Mathur violated the terms and conditions of the March 4, 2020 Consent Order based on the Program's determination that he was not clinically competent to practice medicine, his failure to provide the health information requested by the Program, and his failure to propose or obtain a supervisor before resuming the practice of medicine.

DISPOSITION

The privilege of medical licensure in Maryland involves a physician's obligation to fulfill conditions necessary to ensure competency to practice medicine safely. Dr. Mathur's non-compliance with the March 4, 2020 Consent Order and his historical pattern of non-compliance with Board deadlines, conditions, and orders generally is of serious concern to the Panel. Since 2012, the Board has given Dr. Mathur multiple chances to correct his deficiencies by re-educating him on the essential components of quality medical care integral to his practice. The Board's objective was to enable Dr. Mathur to provide care and treatment within appropriate standards, prevent patient harm, and enhance patient safety. Despite the Board's efforts, it is apparent that its previous attempts to remedy his practice were unsuccessful. Even after multiple courses and CMEs, and years of Board monitoring, he has obviously learned little or nothing from the Board's remedial efforts and has shown no meaningful understanding of or commitment to the competent practice of internal medicine.

In the March 2020 Consent Order, Dr. Mathur was given yet another opportunity to prove to Panel A, by undergoing an assessment and educational rehabilitation, that he was competent to practice medicine. He agreed to abide by the Consent Order but ignored deadlines and important conditions. Equally disturbing to the Panel is Dr. Mathur's lack of personal responsibility for his non-compliance. His oral communications to the Panel reveal an enduring incapacity or refusal to be accountable for failing to abide by the Panel's directives. Considering his answers, the Panel is not persuaded that Dr. Mathur appreciates or understands the seriousness of his deficiencies. Given the dangerous implications for adult patient care created by the wide-ranging deficits in Dr. Mathur's medical knowledge and his inadequate clinical judgment and reasoning,

as identified by the Program's Assessment, the Panel is also not reassured that he is capable of safe medical practice in critical care, internal medicine or in any setting.

Having considered the entire record in this case, including Dr. Mathur's prior disciplinary history, his violations of the March 4, 2020 Consent Order, his specific deficiencies identified by the Program, his presentation before the Panel and responses to questions at the Show Cause hearing, and the arguments from the Administrative Prosecutor, Panel A concludes that revocation of Dr. Mathur's medical license is necessary to protect the public from his continued practice.

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is, by an affirmative vote of a majority of the quorum of Board Disciplinary Panel A, hereby:

ORDERED that the license of Rakesh K. Mathur, M.D., License No. D39170, to practice medicine in the State of Maryland, is **REVOKED**; and it is further

ORDERED that this Final Decision and Order is a **PUBLIC** document pursuant to Health Occ. § 1-607, § 14-411.1(b)(2), and Gen. Prov. § 4-333(b)(6) (Repl. Vol. 2021).

Signature on File

02/23/2022
Date

Christine A. Farrelly, Executive Director
Maryland State Board of Physicians