

# LOUISIANA STATE BOARD OF MEDICAL EXAMINERS

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## BEFORE THE LOUISIANA STATE BOARD OF MEDICAL EXAMINERS

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IN THE MATTER OF  
  
RAKESH DAHYABHAI PATEL  
(Certificate No. 11143R)

CONSENT ORDER  
NO. 03-I-21

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The above captioned proceeding was docketed for investigation by the Louisiana State Board of Medical Examiners ("Board") following receipt of reliable information indicating that RAKESH DAHYABHAI PATEL, M.D. ("Dr. Patel" or "Respondent"), a physician who at all times material to the facts and matters alleged herein, was engaged in the practice of medicine in the State of Arizona and who was licensed by the Board to practice medicine in the State of Louisiana, as evidenced by Certificate No. 11143R. Such information revealed that Dr. Patel entered into an agreement with the Arizona Medical Board, effective October 2, 2002. According to the agreement, which set forth Findings of Fact, Conclusions of Law, and Order (of probation), Dr. Patel had engaged in unprofessional conduct involving sexual intimacies with a patient. (Exhibit A).

Investigation of the captioned matter was assigned to the Medical Consultant/Director of Investigations ("DOI"). The DOI's review and analysis of the matter confirms to his satisfaction that, although just cause exists for recommending that a formal Administrative Company be filed against Dr. Patel, charging him with violations of the Louisiana Medical Practice Act (the "Act"), La.R.S. 37:1285(A)(29)<sup>1</sup>, the matter docketed for investigation may be subject to informal disposition without the necessity of filing an Administrative Complaint.

As evidenced by his subscription hereto, Dr. Patel acknowledges that he has had ample time to review this Consent Order and to obtain legal counsel to assist in that review. Dr. Patel also acknowledges that he is freely and voluntarily entering into this Consent Order and hereby acknowledges the substantial accuracy of the foregoing information and hereby acknowledges, stipulates, and agrees that such information, if established at a formal administrative hearing, would provide lawful cause under the Louisiana Medical Practice Act for the Board to take action against Dr. Patel's license to practice medicine in the State of Louisiana, or for such other action as the Board may deem appropriate, pursuant to La.R.S. 37:1285A(29).

Recognizing his right to have notice of any allegation or charge asserted against him, to administrative adjudication of such charges at which time Dr. Patel would be entitled to be represented by legal counsel, to call witnesses and to present evidence on his own behalf in defense or in mitigation of the charges made, and to a decision thereon by the Board based upon written findings of fact and conclusions of law pursuant to La.R.S. 49:955-965, Dr. Patel, nonetheless,

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<sup>1</sup> La.R.S. 37:1285A(29) provides that the Board may take action against the license of a physician as a result of '[T]he refusal of a licensing authority of another state to issue or renew a license . . . or the revocation, suspension, or other restriction imposed on a license . . . issued by such licensing authority which prevents or restricts practice in that state.'

hereby waives his right to notice of charges, formal adjudication, and written decision, and, pursuant to La.R.S. 49:955(D), consents to entry of the Order set forth hereinafter. By his subscription hereto, Dr. Patel acknowledges that the Board's jurisdiction to completely adjudicate the matters under investigation has attached and such jurisdiction will continue notwithstanding Dr. Patel's residency outside of this State, and that he hereby waives any right to which he may be entitled pursuant to the Louisiana Administrative Procedure Act or which otherwise may be afforded to him by law, to contest his agreement to, or the force and effect of the Board's investigation or this document in any court. By his subscription hereto, Dr. Patel also hereby authorizes the DOI designated by the Board with respect hereto, as well as his legal counsel assisting him in connection herewith, to present this Consent Order to the Board for its consideration and to fully disclose to and discuss with the Board the nature and results of the investigation of this matter, and he hereby waives any objection to such disclosures under La.R.S. 49:960. Dr. Patel expressly acknowledges that the disclosure of the information to the Board by the DOI, or his legal counsel, shall be without prejudice to the DOI's authority to file a formal Administrative Complaint against him, or to the Board's capacity to adjudicate such Complaint, should the Board decline to approve this Consent Order.

Based upon the information provided, accordingly, and upon the recommendation of the DOI assigned to this matter, the Board has concluded that its responsibility to protect the health, safety and welfare of the citizens of this State pursuant to La.R.S. 37:1261, will be effectively served by entry of the Order set forth hereinafter, by consent.

Accordingly, in consideration of the foregoing, and pursuant to the authority vested in the Board by La.R.S. 37:1285 and La.R.S. 49:955 (D):

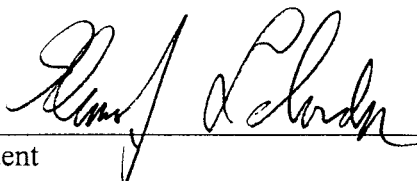
**IT IS ORDERED** that Dr. Patel's license to practice medicine in the State of Louisiana as evidenced by Certificate No. 11143R, as well as his continuing exercise of the rights and privileges thereunder, shall be conditioned upon his acceptance of and strict compliance with the following terms and conditions, is placed on PROBATION.

- (a) **Probation.** Dr. Patel's license to practice medicine in the State of Louisiana shall be on probation until the Board receives certification from the Arizona Board and/or the Board(s) of any other state(s) in which he may be licensed that he successfully satisfied all aspects of the Order imposed on his medical license in that state(s), his probation has ended, and his license to practice medicine in Arizona and/or any other state is unrestricted.
- (b) **Notice of Relocation to Louisiana and Personal Appearance before the Board.** As Dr. Patel is neither located nor practicing medicine in the State of Louisiana, following the satisfaction of the terms set forth in paragraph (a) above, and in the event that Dr. Patel should at any time in the future decide to relocate to Louisiana for the purpose of practicing medicine, he shall contact the Board at least sixty (60) days in advance of his desired return to Louisiana to arrange an appearance before the Board or its designee.

**IT IS FURTHER ORDERED** that this Consent Order shall be, and shall be deemed to be, a public record.

Signed in New Orleans, and effective on this 19<sup>th</sup> day of August, 2003.

**LOUISIANA STATE BOARD OF MEDICAL EXAMINERS**

By:   
President

ACKNOWLEDGMENT AND CONSENT

STATE OF LOUISIANA

PARISH/COUNTY OF Suffolk

I, RAKESH DAHYABHAI PATEL, M.D., hereby acknowledge, approve, accept and consent to the entry of the above and foregoing Consent Order this 12 day of July, 2003.

Rakesh Patel  
RAKESH DAHYABHAI PATEL, M.D.

WITNESSES:

Rob Naulty  
Signature

Loletta Engeron  
Signature

Typed Name: Rob Naulty

Typed Name: Loletta Engeron

Address: 3116 Williams Blvd  
Kennewick, WA 98045

Address: 3116 Williams Blvd  
Kennewick, WA 98045

SWORN TO AND SUBSCRIBED before me at Kennewick, WA, this 12 day of July, 2003, in the presence of the two stated witnesses.

Ronald M. Beagle  
NOTARY PUBLIC

Ronald M. Beagle  
Notary Public  
My Commission is for Life.

/300093.82116

BEFORE THE ARIZONA MEDICAL BOARD

In the Matter of

**RAKESH PATEL, M.D.**

Holder of License No. **24421**  
For the Practice of Medicine  
In the State of Arizona.

Board Case No. MD-00-0434  
MD-00-0498

**FINDINGS OF FACT,  
CONCLUSIONS OF LAW  
AND ORDER**

(Probation)

This matter was considered by the Arizona Medical Board ("Board") at its public meeting on August 7, 2002. Rakesh Patel, M.D., ("Respondent") appeared before the Board without legal counsel for a formal interview pursuant to the authority vested in the Board by A.R.S. § 32-1451(H). After due consideration of the facts and law applicable to this matter, the Board voted to issue the following findings of fact, conclusions of law and order.

**FINDINGS OF FACT**

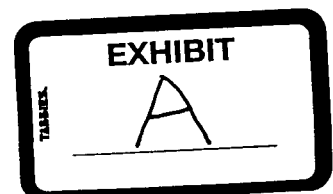
1. The Board is the duly constituted authority for the regulation and control of the practice of allopathic medicine in the State of Arizona.

2. Respondent is the holder of License No. 24421 for the practice of medicine in the State of Arizona.

**MD-00-0434**

3. The Board initiated case number MD-00-0434 after receiving a complaint regarding Respondent's care and treatment of a 45 year-old female patient ("C.W.").

4. C.W. presented to Respondent on June 8, 2000 for a preoperative examination. According to the complaint, while C.W. was in the examination room with her gown off from the waist up, Respondent noted that she seemed tense and started to rub her shoulders and back. The complaint also alleged that Respondent asked C.W.



1 how her marriage was going and, after Respondent stopped rubbing her shoulders and  
2 back, began to touch and rub her breasts. The complaint alleged that Respondent was  
3 breathing hard and had become aroused. C.W. subsequently sued Respondent for  
4 malpractice. Respondent denied C.W.'s allegations and settled the lawsuit.

5 5. On March 20, 2002, during the course of the Board's investigation,  
6 Respondent was interviewed by investigative staff. Respondent indicated that he  
7 examined C.W. prior to surgery and did a complete physical, including a breast  
8 examination. Respondent stated that a breast examination is not usually part of the  
9 physical, but he did the examination because C.W. mentioned a possible breast mass.  
10 According to Respondent, C.W. was on anti-inflammatory medication for headaches that  
11 he believed were caused by stress. Respondent states that he did demonstrate  
12 massage therapy to help C.W. with her headaches. Respondent denied inappropriately  
13 touching C.W. or discussing personal information with her.

14 **MD-0498**

15 6. The Board initiated case number MD-00-0498 after receiving a complaint  
16 regarding Respondent's care and treatment of a female patient ("D.W.").

17 7. D.W. presented to Respondent on June 29, 2000 for a preoperative  
18 examination. According to the complaint, while conducting the examination Respondent  
19 noted that D.W. seemed tense and stated that he believed in massage therapy. The  
20 complaint also alleged that after the pre-operative examination Respondent began to  
21 massage D.W.'s neck and shoulders and then began to massage her back and chest  
22 underneath her examination gown. The complaint stated that Respondent did not  
23 massage D.W.'s breasts, but between her breasts. According to the complaint,  
24 Respondent was breathing heavily after he completed D.W.'s massage and that his  
25 hands were shaking as he filled out the examination paperwork.

1           8.     On March 20, 2002, during the course of the Board's investigation,  
2 Respondent was interviewed by investigative staff. In regard to case number MD-00-  
3 0498, Respondent stated that he was aware that another complaint had been lodged  
4 against him for inappropriate touching (complaint regarding C.W.). Respondent stated  
5 that D.W. came for a pre-operative examination and was not expecting concerns about  
6 her headaches to be addressed. According to Respondent, he views the examination as  
7 a comprehensive evaluation and that because D.W. was in a gown she probably felt  
8 vulnerable. Respondent stated that the only time D.W.'s gown was lifted was for the  
9 abdominal examination. Respondent stated that he did massage D.W.'s back, neck and  
10 front upper chest just below the neck. Respondent stated that he did not massage  
11 D.W.'s breasts or between her breasts.

12           9.     At the formal interview Respondent testified that his general approach to  
13 patients was to provide a comprehensive evaluation to assess their readiness for surgery  
14 and perform what he believes is either a Level 3 or Level 4 complete medical  
15 examination. Respondent stated that because he practices as a locum tenens physician  
16 he takes on various assignments at different locations and is asked to play different roles.  
17 Respondent stated that in an effort to maintain his standard of care he keeps his  
18 approach to each patient fairly consistent and that as an internist he believes that a pre-  
19 operative medical examination is very similar to a physical examination with very few  
20 exceptions. Respondent acknowledged that he went beyond what is normally expected  
21 in a preoperative examination and stated that he had done so with other patients, for  
22 instance he performed prostrate examinations on patients if the examinations were not  
23 up to date, ordered prescription medication if refills were needed and ordered  
24 mammograms.

25



1           10.    Respondent was asked if he could explain how two unrelated individuals  
2 made similar complaints about Respondent's inappropriate touching. Respondent stated  
3 that he did not believe that C.W.'s story was credible or believable, that it defied common  
4 sense and that it was a story of exaggeration and hyperbole. Respondent stated that he  
5 did not believe an intelligent, articulate woman would allow to happen what she alleges to  
6 have happened. Respondent also stated that it is not believable that anybody would put  
7 up with that.

8           11.    Respondent was asked if he believed that during an examination a  
9 physician is in a position of authority, power and respect. Respondent stated that he did.

10          12.    Respondent was asked if in his current practice he has a chaperone  
11 present when he performs breast and pelvic examinations. Respondent stated that his  
12 current practice was to have a chaperone present if he is going to do both examinations,  
13 however, if he is only going to do a breast examination he does not have a chaperone  
14 present.

15          13.    Respondent was asked in regard to C.W. how the examination he  
16 conducted corresponded with the requirement that he conduct a preoperative evaluation  
17 to see if C.W. was a suitable candidate for surgery? Respondent testified that his  
18 dictation reflected a thorough examination and that if he had extra time with patients he  
19 would listen to any other complaints and address them. Respondent indicated that  
20 during the time he was performing the preoperative examinations at the location where  
21 C.W. and D.W. were seen he performed massage on 5 or 6 patients.

22          14.    Respondent acknowledged that the second complaint from D.W. lended  
23 credence to C.W.'s complaint. Respondent admitted that in D.W.'s case he believed he  
24 made her feel uncomfortable even though his intent was not of a sexual nature. With  
25 regard to C.W.'s complaint Respondent indicated that her complaint was patently false

1 and noted that he believed her motive was financial and that she did not report the  
2 incident for almost five weeks.

3 15. Respondent admitted that he did not mention that he gave C.W. a massage  
4 as part of the physical. Respondent also admitted that he did not document C.W.'s report  
5 of the breast cyst. Respondent stated that he did not mean to or derive any sexual  
6 gratification from the demonstration of massage on either C.W. or D.W.

### 7 CONCLUSIONS OF LAW

8 1. The Arizona Medical Board possesses jurisdiction over the subject matter  
9 hereof and over Respondent.

10 2. The Board has received substantial evidence supporting the Findings of  
11 Fact described above and said findings constitute unprofessional conduct or other  
12 grounds for the Board to take disciplinary action.

13 3. The conduct and circumstances above in paragraphs 4, and 7 through 15  
14 constitutes unprofessional conduct pursuant to A.R.S. § 32-1401(25)(z) "[s]exual  
15 intimacies with a patient."<sup>1</sup>

### 16 ORDER

17 Based upon the foregoing Findings of Fact and Conclusions of Law,

18 IT IS HEREBY ORDERED that:

19 1. Respondent is placed on Probation for one year with the following terms  
20 and conditions:

21 (a) Respondent shall within one year of the effective date of this Order, obtain  
22 20 hours of Board staff pre-approved Category I Continuing Medical Education (CME) in  
23 sexual intimacy/boundary issues with patients. Respondent is to provide Board staff with  
24

25 \_\_\_\_\_  
<sup>1</sup> When Respondent's conduct occurred in 2000 A.R.S. § 32-1401(25)(z) read "sexual intimacies with a patient."

1 satisfactory proof of attendance. The CME hours shall be in addition to the hours  
2 required for biennial renewal of Respondent's medical license.

3 (b) Respondent shall pay the costs associated with monitoring his probation as  
4 designated by the Board each and every year of probation. Such costs may be adjusted  
5 on an annual basis. Costs are payable to the Board no later than 60 days after the  
6 effective date of this Order and thereafter on an annual basis. Failure to pay these costs  
7 within 30 days of the due date constitutes a violation of probation.

8 **RIGHT TO PETITION FOR REHEARING OR REVIEW**

9 Respondent is hereby notified that he has the right to petition for a rehearing or  
10 review. Pursuant to A.R.S. § 41-1092.09, as amended, the petition for rehearing or  
11 review must be filed with the Board's Executive Director within thirty (30) days after  
12 service of this Order and pursuant to A.A.C. R4-16-102, it must set forth legally sufficient  
13 reasons for granting a rehearing or review. Service of this order is effective five (5) days  
14 after date of mailing. If a motion for rehearing or review is not filed, the Board's Order  
15 becomes effective thirty-five (35) days after it is mailed to Respondent.

16 Respondent is further notified that the filing of a motion for rehearing or review is  
17 required to preserve any rights of appeal to the Superior Court.

18 DATED this 03 day of October, 2002.

19  
20 ARIZONA MEDICAL BOARD



By Barry A. Cassidy  
BARRY A. CASSIDY, Ph.D, PA-C  
Executive Director

1 ORIGINAL of the foregoing filed this  
2 3<sup>rd</sup> day of OCTOBER, 2002 with:

3 The Arizona Medical Board  
4 9545 East Doubletree Ranch Road  
5 Scottsdale, Arizona 85258

6 Executed copy of the foregoing  
7 mailed by U.S. Certified Mail this  
8 3<sup>rd</sup> day of OCTOBER, 2002, to:

9 Rakesh Patel, M.D.  
10 9230 Sally Ln Apt 2E  
11 Schiller Park IL 60176-2315

12 Copy of the foregoing hand-delivered this  
13 3<sup>rd</sup> day of OCTOBER, 2002, to:

14 Christine Cassetta  
15 Assistant Attorney General  
16 Sandra Waitt, Management Analyst  
17 Lynda Mottram, Compliance Officer  
18 Investigations (Investigation File)  
19 Arizona Medical Board  
20 9545 East Doubletree Ranch Road  
21 Scottsdale, Arizona 85258

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