

BEFORE THE
NORTH CAROLINA MEDICAL BOARD

In re:)	
)	NOTICE OF CHARGES
Sanjay Kumar, M.D.,)	AND ALLEGATIONS;
)	NOTICE OF HEARING
Respondent.)	

The North Carolina Medical Board ("Board") has preferred and does hereby prefer 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. Dr. Kumar was first issued a license to practice medicine by the Board on or about June 24, 2002, license number 200200938.

3. At all times relevant hereto, Dr. Kumar practiced medicine in New Bern, North Carolina.

4. On July 3, 2017, Dr. Kumar's license became inactive.

5. The Board received information that two of Dr. Kumar's patients died from opioid related overdoses.

6. Patient A presented to Dr. Kumar in October 2012 complaining of knee and back pain. Patient A also complained of anxiety, which had been treated by another physician. Dr. Kumar documented a physical examination, documented counseling, and had

Patient A sign a narcotic agreement. Dr. Kumar ordered x-rays of Patient A's knees and spine.

7. For the next three and a half years Patient A was treated by Dr. Kumar. Practically every month Patient A presented to Dr. Kumar and received a prescription for a short acting narcotic (oxycodone) and Xanax® (alprazolam), a benzodiazepine. The majority of Dr. Kumar's notes for these visits were cloned, copied, and pasted from one visit to the other.

8. Dr. Kumar's care of Patient A failed to conform to, and departed from, standards of acceptable and prevailing medical practice in North Carolina. Those departures include the following: Dr. Kumar initiated chronic use of narcotics in Patient A without first attempting non-narcotic medicines and without administering an opioid risk tool or other screening test to evaluate Patient A's risk of opioid abuse. It is unclear why Dr. Kumar, a physiatrist and sports rehabilitation physician, treated Patient A's anxiety. The standard of care for anxiety is to first try non-benzodiazepine medications or consider behavioral therapy before beginning a patient on a benzodiazepine concomitantly with an opioid. If benzodiazepines are initiated for long term use, then a controlled substance agreement and other monitoring measures should occur. A referral to a psychiatrist should be considered.

9. Dr. Kumar copied and pasted the vast majority of his notes, causing one to suspect whether all of the components of the documented examinations happened at each visit. For instance, during a July 11, 2015 visit, Dr. Kumar documented Patient A as having recently fractured his clavicle. Yet, at this same visit, Dr. Kumar also documented performing a range of motion examination on that same shoulder. It is doubtful this examination occurred if Patient A had a displaced fracture of the clavicle.

10. Dr. Kumar documented Patient A providing a urine drug screen on at least one occasion. However, in the following three and a half years of treating Patient A, Dr. Kumar's urine drug screen plan was copied and pasted going forward making it unclear how many, or if any, urine drug screens were actually performed. Results of urine drug screens were not documented in the record. Another example which calls into question the validity of Dr. Kumar's medical records occurred on March 15, 2013, where Dr. Kumar documented two separate patient encounters on the same day and having prescribed Patient A two different doses of Xanax®.

11. Patient B presented to Dr. Kumar in July 2012 complaining of chronic pain and anxiety. Dr. Kumar documented a physical examination and ordered x-rays. Patient B did not obtain x-rays until months later following a motor vehicle accident. Patient B was prescribed oxycodone for his pain. Several months later, Dr. Kumar prescribed Patient B Xanax® for anxiety.

12. For approximately the next four years, Patient B was seen by Dr. Kumar on practically a monthly basis. Each month Patient B received new prescriptions for oxycodone and Xanax®. The vast majority of Dr. Kumar's notes for these visits were cloned, copied, and pasted from one visit to the other.

13. Dr. Kumar's care of Patient B failed to conform to, and departed from, standards of acceptable and prevailing medical practice in North Carolina. Dr. Kumar initiated chronic use of narcotics in Patient B's treatment without first attempting a trial of non-narcotic medicines. Dr. Kumar also initiated treatment of anxiety with a benzodiazepine without first attempting non-benzodiazepine medications or therapies. At no point did Dr. Kumar refer Patient B to a psychiatrist.

14. Because Dr. Kumar copied and pasted the vast majority of his notes, one could reasonably question whether all of the components of the documented examinations happened at each visit. For instance, during multiple visits following Patient B's fasciotomy for compartment syndrome, Dr. Kumar continued to document performing a full ligamentous and meniscal examination, including anterior and posterior drawer tests, as he had done for prior visits. However, if these physical examinations actually occurred after Patient B's October 23, 2012 surgery, then Patient B would have been in extreme pain because these exams involve gripping the leg. For a March 1, 2013 office visit there existed

a discrepancy between the number of pills prescribed in the office chart and what appeared on the actual prescription for that same date.

15. Dr. Kumar's care of Patients A and B, 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) and grounds exist under this section of the North Carolina General Statutes for the Board to annul, suspend, revoke, condition or limit Dr. Kumar's license to practice medicine or to deny any application he might make in the future.

NOTICE TO DR. KUMAR

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 Thursday, October 17, 2019, at 8:00 a.m. or as soon thereafter, at the offices of the Board at 1203 Front Street, 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 at which they shall prepare and sign a stipulation on pre-hearing conference. The proposed pre-hearing stipulation shall be submitted to the undersigned no later than ten (10) days prior to the hearing date. The pre-hearing conference shall occur no later than seven (7) days prior to the hearing date.

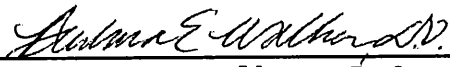
The identities of Patients A and B are being withheld from public disclosure pursuant to N.C. Gen. Stat. § 90-8. However, this information will be provided to you upon your request.

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 17th day of June, 2019.

NORTH CAROLINA MEDICAL BOARD

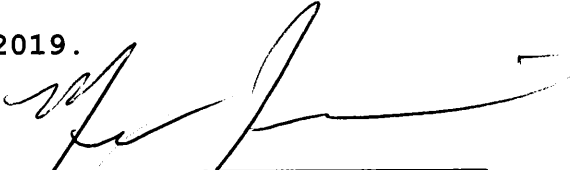
By: 
Barbara E. Walker, D.O.
President

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 Respondent's counsel by depositing a copy with the United States Postal Service, postage paid and by electronic mail to the following:

Deborrah L. Newton
Newton Law
557 E. Edenton Street
Raleigh, NC 27601
NewtonAtLaw1@aol.com

This the 17th day of June, 2019.



Marcus Jimison
Senior Board Attorney
North Carolina Medical Board
P.O. Box 20007
Raleigh, NC 27619-0007
1.800.253.9653, ext. 226

BEFORE THE
NORTH CAROLINA MEDICAL BOARD

In Re:)
)
Sanjay Kumar, M.D.,) SCHEDULING ORDER
)
Respondent.)

The undersigned Presiding Officer hereby enters the following Scheduling Order. This Scheduling Order may be later amended at the discretion of the Presiding Officer based upon information provided by the parties.

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

2. The pre-hearing conference will be held on October 9, 2019, at 11:00 a.m. The pre-hearing conference will be held via telephone and will not be recorded. The call-in instructions will be emailed in advance of the pre-hearing conference.

3. The proposed pre-hearing stipulation shall be submitted to the undersigned no later than ten (10) days prior to the hearing date.

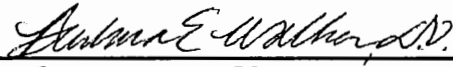
4. Unless otherwise permitted by the Presiding Officer, all exhibits shall be provided to the Board electronically. Exhibits that are stipulated into evidence or agreed or ordered to be admitted into evidence during the pre-hearing conference,

shall be furnished to the Board along with the pre-hearing stipulation seven (7) days prior to the hearing date.

5. Discovery shall be completed on or before fourteen (14) days prior to the hearing date; however, depositions *de bene esse* may be taken outside the period of discovery.

This the 17th day of June, 2019.

NORTH CAROLINA MEDICAL BOARD

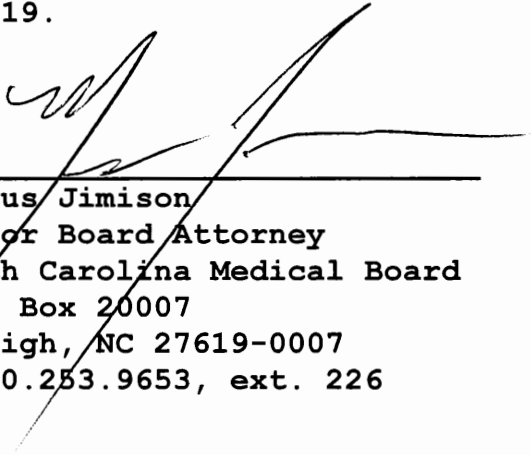
By: 
Barbara E. Walker, D.O.
President

CERTIFICATE OF SERVICE

I, the undersigned attorney for the North Carolina Medical Board, hereby certify that I have served a copy of the foregoing SCHEDULING ORDER on Respondent's Counsel by depositing a copy with the United States Postal Service, postage paid and by electronic mail to the following:

Deborrah L. Newton
Newton Law
557 E. Edenton Street
Raleigh, NC 27601
NewtonAtLaw@aol.com

This the 17th day of June, 2019.



Marcus Jimison
Senior Board Attorney
North Carolina Medical Board
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Raleigh, NC 27619-0007
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