

Louisiana State Board of Medical Examiners

Mailing Address: P.O. Box 30250, New Orleans, LA 70190-0250
Physical Address: 630 Camp Street, New Orleans, LA 70130

Phone: (504) 568-6820

Fax: (504) 568-5754

Web site: <http://www.lsbme.louisiana.gov>

Telephone: 568-6820

Fax 568-5754



-----X
: **IN THE MATTER OF** : **No. 2010-I-470**
: :
: :
KASHMIR KAUR RAI, M.D. : **CONSENT ORDER**
(Certificate No. 022145) :
Respondent :
: :
-----X

The Investigating Officer of the Louisiana State Board of Medical Examiners (the "Board"), began an investigation of Kashmir K. Rai, M.D. ("Dr. Rai"), a physician licensed in the State of Louisiana pursuant to Certificate Number 022145, upon receipt of apparently reliable information indicating that Dr. Rai was prescribing controlled substances without appropriate medical justification. In the course of the investigation, the Board obtained information regarding her prescribing practice and thereafter obtained certain patient records from Dr. Rai's office for review. Review of the records by the DOI confirmed to her satisfaction that Dr. Rai prescribed controlled substances to her patients in a manner which was not in keeping with the requirements of the Board's Pain and Obesity Rules. In addition, based upon quality of care concerns, patient records were sent to an outside consultant for review, who provided an opinion that Dr. Rai utilized unproven or unnecessary diagnostic tests, used potentially harmful treatments without mention or discussion of risk, did not comply with the requirements of the Board's Integrative and Complementary Medicine Rules, and may have engaged in unethical and/or unprofessional conduct by promoting unscientific treatments and selling health-related products in her office.

In her meeting with the Director of Investigations and in an extensive letter submission, Dr. Rai acknowledged that while her documentation was inadequate, she did perform a thorough assessment and ongoing monitoring, and obtained informed consent for the treatment offered. She also stated that it had been her practice to offer non-conventional therapy only, and in general required that her patients continue to receive conventional medical treatment from other providers. Dr. Rai agreed to immediately comply with the Board's Rules on Integrative and Complementary Medicine. Furthermore, Dr. Rai agreed to cease utilizing controlled substances in the treatment of chronic pain and obesity, and to refer her chronic pain patients to other physicians.

As evidenced by her subscription hereto, Dr. Rai, without admitting any liability or violation of federal or state law or regulation, and for purposes of this Consent Order only, acknowledges that such information would provide the Investigating Officer with a reasonable basis to initiate formal administrative proceedings against her license pursuant

to the Louisiana Medical Practice Act, La. Rev. Stat. §37:1285A(6),¹ (12),² (13),³ (14),⁴ and (30)⁵ constituting cause for such action against the physician's license to practice medicine in the state of Louisiana as the Board may deem appropriate.

Recognizing her right to have an administrative adjudication of such charges, at which time Dr. Rai would be entitled to be represented by legal counsel, to call witnesses and to present evidence on her 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. Rev. Stat. §§49:955-965, Dr. Rai, nonetheless, hereby waives her right to formal adjudication and, pursuant to La. Rev. Stat. §49:955(D), consents to entry of the Order set forth hereinafter. Dr. Rai also acknowledges that she hereby waives any right to which she may be entitled pursuant to the Louisiana Administrative Procedure Act, La. Rev. Stat. §49:951, et seq., or to which she otherwise may be afforded by any law to contest her agreement to or the authority of the Board's investigation or this document in any court or other forum. By her subscription hereto, Dr. Rai also hereby authorizes the Investigating Officer designated by the Board, 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, and she waives any objection to such disclosures under La. Rev. Stat. §49:960. Dr. Rai expressly acknowledges that the disclosure of such information to the Board by the Investigating Officer shall be without prejudice to the Investigating Officer's authority to proceed with the filing and adjudication of an Administrative Complaint against her or to the Board's

¹ Pursuant to La. R.S. §37:1285A(6), the Board may suspend, revoke, or impose probation or other restrictions on the license of an individual licensed to practice medicine in the State of Louisiana as a result of “[p]rescribing, dispensing, or administering legally controlled substances or any dependency-inducing medication without legitimate medical justification therefor or in other than a legal or legitimate manner.”

² Pursuant to La. R.S. §37:1285A(12), the Board may suspend, revoke, or impose probation or other restrictions on the license of an individual licensed to practice medicine in the State of Louisiana as a result of “[p]rofessional or medical incompetency.”

³ Pursuant to La. R.S. §37:1285A(13), the Board may suspend, revoke, or impose probation or other restrictions on the license of an individual licensed to practice medicine in the State of Louisiana as a result of “[u]nprofessional conduct.”

⁴ Pursuant to La. R.S. §37:1285A(14), the Board may suspend, revoke, or impose probation or other restrictions on the license of an individual licensed to practice medicine in the State of Louisiana as a result of “[c]ontinuing or recurring medical practice which fails to satisfy the prevailing and usually accepted standards of medical practice in this state.”

⁵ Pursuant to La. R.S. §37:1285A(30), the Board may suspend, revoke, or impose probation or other restrictions on the license of an individual licensed to practice medicine in the State of Louisiana as a result of a “[v]iolation of any rules and regulations of the board, or any provisions of this Part.”

capacity to adjudicate such Complaint, should the Board decline to approve this Consent Order.

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

IT IS ORDERED that the license of Kashmir K. Rai, M.D., to engage in the practice of medicine in the State of Louisiana, as evidenced by Certificate No. 022145 is hereby placed under **PROBATION** for three years; *provided, however*, that Dr. Rai's license to practice medicine and her continuing exercise of the rights and privileges granted to her thereby, shall be subject to her acceptance of and strict compliance with the following terms, conditions and restrictions:

(1) **Personal Appearance Before the Board.** Upon the Board's Acceptance of this Consent Order, Dr. Rai shall personally appear before the Board to permit the Board to discuss her understanding of and intent to comply with the terms of this Order and to advise the Board of her intentions with respect to her continued practice of medicine.

(2) **Strict Compliance with the Board's Rules on Integrative and Complementary Medicine.** Dr. Rai shall strictly comply with the Board's Rules on Integrative and Complementary Medicine, Title 46, Chapter 71 § 7101 *et. seq.*, including, without limitation, § 7107 (A), (B), and (C), and shall maintain documented records of her compliance with said rules with respect to each of her patients.

(3) **Practice Monitoring.** Within 30 days of the effective date of this Order, Dr. Rai shall enter into a contract or arrangement with another physician (the "Practice Monitor"), who has been pre-approved in writing by the Board or its designee. The Practice Monitor shall be a physician who is in good standing with the Board and currently Board Certified in Internal Medicine or Family Practice. The Practice Monitor shall review no less than twenty-five (25) medical records quarterly, and provide quarterly written reports to the Board attesting to whether Dr. Rai is complying with the requirements of § 7107 (A), (B), and (C) of the Board's Rules on Integrative and Complementary Medicine, and otherwise practicing in accordance with the generally accepted standards of medical practice. The Practice Monitor in his/her report shall also confirm that the records of all patients reviewed reflect adequate conventional medical care on an ongoing basis. Dr. Rai may petition the Board for relief from this provision, which the Board,

receiving four (4) quarterly reports attesting to the quality of her practice, may grant or deny in its sole discretion. Any and all fees, costs or expenses incurred by Dr. Rai in connection with this monitoring requirement shall be borne by Dr. Rai. Dr. Rai shall not practice in any setting until and unless the Board has approved her Practice Monitor.

(4) Continuing Medical Education/ Update in Family Practice. Within the first year of the probationary period, Dr. Rai shall provide written confirmation that she has attended and successfully completed a comprehensive continuing medical educational activity of no less than twenty-five (25) credit hours, acceptable and pre-approved in writing by the Board, in the area of family practice.

(5) Attendance at Approved Seminar/Professionalism and Medical Ethics. Within the first year of the probationary period, Dr. Rai shall provide written confirmation that she has attended and successfully completed a course of study, acceptable to and pre-approved in writing by the Board, in the area of professionalism and medical ethics.

(6) Limitations on Prescribing. Except as authorized herein, Dr. Rai shall not, during the probationary period, prescribe (i) any substance which may be classified, defined, enumerated or included in 21 C.F.R. §§1308.11-.15 or La. Rev. Stat. §40:964, as a Schedule II or III controlled substance, with the exception of testosterone prescribed for testosterone imbalance; or (ii) any substance which may hereafter be designated as one of the foregoing controlled substances by amendment or supplementation of such regulations and statute.

(7) Payment of Fine. Dr. Rai shall pay a fine of \$3,000 to the Board, which payment shall be made within 3 months of the acceptance of this Order by the Board.

(8) Absence from State/Practice/Effect on Probation. Should Dr. Rai at any time during the period of probation ordered herein be absent from the state of Louisiana, relocate to and/or take up residency in another state or country, or discontinue practicing medicine for a period of thirty (30) days or more, or should she fail to renew her license to practice medicine in this state, she shall advise the Board in writing. In such instance, the probationary period ordered herein and all terms, conditions and restrictions thereof, shall be deemed interrupted and extended and shall not commence to run until Dr. Rai notifies the Board in writing that she has returned to, relocated or taken up

residency in, resumed the practice of medicine in the state of Louisiana or renewed her Louisiana license. In such instance, Dr. Rai shall not receive credit toward completion of the probationary period for the time during which she was absent from the state of Louisiana or while she was not engaged in or licensed to practice medicine in this state.

(9) Cooperation with the Board's Probation and Compliance Officer.

Dr. Rai shall immediately notify the Board's Probation and Compliance Officer of any change in her current home and professional addresses and telephone numbers and she shall direct all matters required pursuant to this Order to the attention of the Probation and Compliance Officer, with whom she shall cooperate on all matters and inquiries pertaining to her compliance with the terms and conditions of this Order.

(10) Continuing Medical Education. Dr. Rai shall obtain not less than fifty (50) credit hours per year for each of the three (3) years of her probationary term through attendance at and participation in continuing medical education ("CME") programs accredited by and qualifying for the Physician's Recognition Award of the American Medical Association, provided, however, that no less than twenty-five (25) hours each year shall be in a CME in conventional medicine approved by the American Academy of Family Practice. On or before the anniversary date of the effective date of this Order, for each of the next three (3) years, Dr. Rai shall cause to be submitted to the Board written certification of the required CME programs and credits completed by her during the preceding twelve (12) months.⁶

(11) Probation Monitoring Fee. For each year of the probationary term Dr. Rai shall pay the Board a probation monitoring fee of Three Hundred (\$300.00) Dollars. Payment of the initial fee shall be due not later than sixty (60) days from the effective date of this Order. All subsequent annual payments shall be due on or before the anniversary date of the initial fee payment.

(12) Effect of Violation/Sanction. By her subscription hereto, Dr. Rai acknowledges that her receipt of written notification that the Board has received apparently reliable information which indicates her failure to comply

⁶ Dr. Rai's attendance at approved seminars as required by (4) and (5) of this Section may be used to fulfill the fifty (50) credit hour requirement of Dr. Rai's first year of probation.

with the requirements set forth by this Order in any respect shall, without the need for formal hearing or for providing her with any right to which she may otherwise be entitled pursuant to the Louisiana Administrative Procedure Act, La. Rev. Stat. §§49:951 et seq., or which otherwise may be afforded to her by law, constitute her irrevocable consent to the immediate suspension of her license to practice medicine as a physician in this state pending a hearing before the Board and the conclusion of the administrative proceedings by issuance of a final decision following administrative adjudication of such charges.

(13) Certification of Compliance with Probationary Terms. At least sixty (60) days prior to the conclusion of the probationary term imposed herein, Dr. Rai shall file a request for termination of probation in accordance with this paragraph. As a precondition to her request for termination of probation, Dr. Rai shall provide the Board with an executed affidavit certifying that she has complied with each of the terms of probation imposed upon her by this Order. The probationary period and all of its terms and conditions shall be, and shall be deemed to be, extended and continued in full force and effect pending Dr. Rai's compliance with the requirements of this provision.

(14) Effective Date. This Consent Order shall be effective the date it is approved and accepted by the Board as shown by the signature of its representative below.

IT IS FURTHER ORDERED that any violation or failure of strict compliance with any of the terms, conditions or restrictions set forth by this Order by Dr. Rai shall be deemed adequate and sufficient cause, upon proof of such violation or failure at a hearing, for the revocation and cancellation of Dr. Rai's license to practice medicine in the state of Louisiana, or for such other disciplinary action as the Board deems appropriate, as if such violations were enumerated among the causes provided in La. Rev. Stat. §37:1285. Dr. Rai's right to judicial review of any such Board disciplinary action is reserved.

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

New Orleans, Louisiana, this 5th day of December, 2011.

**LOUISIANA STATE BOARD
OF MEDICAL EXAMINERS**

By: Mark Dawson
MARK H. DAWSON, M.D.
PRESIDENT

Acknowledgement and Consent on Following Page

In the Matter of Kashmir K. Rai, M.D.

Page 8

STATE OF _____
PARISH/COUNTY OF _____

**ACKNOWLEDGMENT
AND CONSENT**

I, KASHMIR K. RAI, M.D., hereby acknowledge, approve, accept and consent to entry of the above and foregoing Order, this 16 day of November, 2011.

Kashmir K. Rai
KASHMIR K. RAI, M.D.

WITNESSES:

Komal Brown
Signature

Komal Brown
Printed Name

3736 Vincennes Pl
Address

New Orleans, LA 70125
City/State/Zip Code

Aimee Aitken
Signature

Aimee Aitken
Printed Name

128 Stevens Place
Address

River Ridge, LA 70123
City/State/Zip Code

Sworn to and subscribed before me this 16 day of November, 2011, in the presence of the two stated witnesses.

Estelle Makouy
Notary Public (Signature)

Print name Estelle Makouy

Bar/Notary No.: LF Bar Kal #08079