BEFORE THE ARIZONA MEDICAL BOARD

In the Matter of

KAPIL H. THAKKAR, M.D.

Holder of License No. 51425
For the Practice of Allopathic Medicine
In the State of Arizona.

Case No. MD-17-0374A

INTERIM CONSENT AGREEMENT
FOR PRACTICE RESTRICTION

INTERIM CONSENT AGREEMENT

In lieu of a summary suspension pursuant to A.R.S. § 32-1451.02(B), Kapil H. Thakkar, M.D. (“Respondent”), elects to permanently waive any right to a hearing and appeal with respect to this Interim Consent Agreement for Practice Restriction and consents to the entry of this Order by the Arizona Medical Board (“Board”).

INTERIM FINDINGS OF FACT

1. The Board initiated case number MD-17-0374A after receiving a complaint alleging that Respondent had been terminated from his position at a hospital in May 2016 due to behavioral concerns including sexual harassment, that his Louisiana medical license had been suspended in June 2016, and that he was arraigned in Louisiana with a second degree rape charge in January 2017.

2. Board staff received information that on September 13, 2015, Respondent voluntarily surrendered his clinical privileges at a hospital different from the hospital mentioned in the complaint while under, or to avoid, investigation relating to professional competence or conduct.

3. On June 29, 2016, Respondent’s medical license in Louisiana was summarily suspended based on a finding that the public health, safety and welfare imperatively required emergency action. Respondent’s license in Louisiana remains active and suspended.
4. Board staff also spoke with a witness involved in the hospital investigation who alleged that Respondent appeared to be impaired while on call.

5. Board staff also obtained a copy of the arrest information confirming that Respondent was charged with second degree rape. The criminal case is currently pending.

6. Respondent did not disclose any previous hospital actions on his September 24, 2015 initial application for licensure in Arizona nor did he disclose the previous hospital action on his October 23, 2015 application addendum.

7. The aforementioned information was presented to the investigative staff, the medical consultant and the lead Board member. All reviewed the information and concur that the interim consent agreement to restrict Respondent’s practice is appropriate.

8. The investigation into this matter is pending and will be forwarded to the Board promptly upon completion for review and action.

INTERIM CONCLUSIONS OF LAW

1. The Board possesses jurisdiction over the subject matter hereof and over Respondent.

2. Pursuant to A.R.S. § 32-1405(C)(25) the Executive Director has authority to enter into a consent agreement when there is evidence of danger to the public health and safety.

3. Pursuant to A.A.C. R4-16-504, the Executive Director may enter into an interim consent agreement when there is evidence that a restriction is needed to mitigate imminent danger to the public’s health and safety. Investigative staff, the Board’s medical consultant and the lead Board member have reviewed the case and concur that an interim consent agreement is appropriate.
INTERIM ORDER

IT IS HEREBY ORDERED THAT:

1. Respondent is prohibited from engaging in the practice of medicine in the State of Arizona as set forth in A.R.S. § 32-1401(22) until he applies to the Executive Director and receives permission to do so as stated in paragraph 14 below. If substance abuse monitoring is recommended, Respondent shall enroll in the Board’s PHP within 5 days of the recommendation to do so. Respondent must comply with all the terms and conditions of PHP monitoring, including at a minimum the following:

2. Respondent shall not consume alcohol or any food or other substance containing poppy seeds or alcohol.

3. Respondent shall not take any illegal drugs or mood altering medications.

4. All prescriptions for controlled substances shall be approved by the PHP prior to being filled except in an Emergency. Controlled substances prescribed and filled in an emergency shall be reported to the PHP within 48 hours. Respondent shall take no Medication unless the Primary Care Physician (“PCP”) or other health care provider to whom the PCP refers Respondent prescribes and the PHP approves the Medication. Respondent shall not self-prescribe any Medication. “Medication” means a prescription-only drug, controlled substance, and over-the-counter preparation, other than plain aspirin, plain ibuprofen, and plain acetaminophen. Respondent shall submit to random biological fluid, hair and nail testing to ensure compliance with PHP.

5. Respondent shall provide the PHP in writing with one telephone number that shall be used to contact Respondent on a 24 hour per day/seven day per week basis to submit to biological fluid, hair and nail testing to ensure compliance with PHP. For the purposes of this section, telephonic notice shall be deemed given at the time a message to appear is left at the contact telephone number provided by Respondent. Respondent
authorizes any person or organization conducting tests on the collected samples to
provide testing results to the PHP. Respondent shall comply with all requirements for
biological fluid, hair and nail collection. Respondent shall pay for all costs for the testing.

6. Respondent shall provide the PHP with written notice of any plans to travel
out of state.

7. Respondent shall successfully complete a PHP approved alcohol/drug
awareness education class with hours to be directed by PHP.

8. Respondent must provide full consent for the PHP to discuss the
Respondent’s case with the Respondent’s PCP or any other health care providers to
ensure compliance with PHP.

9. The relationship between the Respondent and the PHP is a direct
relationship. Respondent shall not use an attorney or other intermediary to communicate
with the PHP on participation and compliance issues.

10. Respondent shall be responsible for all costs, including PHP costs associated
with participating in PHP at the time service is rendered, or within 30 days of each invoice
sent to the Respondent. An initial deposit of two months PHP fees is due upon entering the
program. Failure to pay either the initial PHP deposit or monthly fees 60 days after
invoicing will be reported to the Board by the PHP and may result in disciplinary action up
to and including revocation.

11. Respondent shall immediately provide a copy of this Interim Consent
Agreement to all employers, hospitals and free standing surgery centers where
Respondent currently has or in the future gains employment or privileges. Within 30 days
of the date of this Interim Consent Agreement, Respondent shall provide the PHP with a
signed statement of compliance with this notification requirement. Respondent is further
required to notify, in writing, all employers, hospitals and free standing surgery centers,
where Respondent currently has or in the future gains employment or privileges of a chemical dependency relapse or violation of this Interim Consent Agreement.

12. In the event Respondent resides or practices as a physician in a state other than Arizona, Respondent shall participate in the rehabilitation program sponsored by that state’s medical licensing authority or medical society. Respondent shall cause the monitoring state’s program to provide written quarterly reports to the PHP regarding Respondent’s attendance, participation, and monitoring. The monitoring state’s program and Respondent shall immediately notify the PHP if Respondent: a) is non-compliant with any aspect of the monitoring requirements; b) relapses; c) tests positive for controlled substances; d) has low specific gravity urine drug test(s), missed and/or late urine drug tests, or otherwise rejected urine drug tests; and e) is required to undergo any additional treatment.

13. The PHP shall immediately notify the Board if Respondent: a) is non-compliant with any aspect of the monitoring requirements or this Interim Consent Agreement; b) relapses; c) tests positive for controlled substances; d) has low specific gravity urine drug test(s), missed and/or late urine drug tests, or otherwise rejected urine drug tests; and e) is required to undergo any additional treatment.

14. Respondent may request, in writing, release and/or modification of this Interim Consent Agreement. The Executive Director, in consultation with and agreement of the Lead Board Member and the Chief Medical Consultant, has the discretion to determine whether it is appropriate to release Respondent from this Interim Consent Agreement based on the totality of information available to Board staff at the time of the request, including but not limited to, the status of Respondent’s PHP participation (if applicable), any recommendations from Board staff approved evaluators, the status of Respondent’s pending criminal charges and the status of his Louisiana medical license.
15. The Board retains jurisdiction and may initiate new action based upon any
violation of this Interim Consent Agreement, including, but not limited to, summarily
suspending Respondent's license or forwarding the matter to Formal Hearing for
proceedings to revoke Respondent's license.

16. Because this is an Interim Consent Agreement and not a final decision by
the Board regarding the pending investigation, it is subject to further consideration by the
Board. Once the investigation is complete, it will be promptly provided to the Board for its
review and appropriate action.

17. This Interim Consent Agreement shall be effective on the date signed by the
Board's Executive Director.

RECITALS

Respondent understands and agrees that:

1. The Board, through its Executive Director, may adopt this Interim Consent
   Agreement, or any part thereof, pursuant to A.R.S. § 32-1405(C)(25) and A.A.C. R4-16-
   504.

2. Respondent has read and understands this Interim Consent Agreement as
   set forth herein, and has had the opportunity to discuss this Interim Consent Agreement
   with an attorney or has waived the opportunity to discuss this Interim Consent Agreement
   with an attorney. Respondent voluntarily enters into this Interim Consent Agreement and
   by doing so agrees to abide by all of its terms and conditions.

3. By entering into this Interim Consent Agreement, Respondent freely and
   voluntarily relinquishes all rights to an administrative hearing on the matters set forth
   herein, as well as all rights of rehearing, review, reconsideration, appeal, judicial review or
any other administrative and/or judicial action, concerning the matters related to the
Interim Consent Agreement.

4. Respondent understands that this Interim Consent Agreement does not constitute a dismissal or resolution of this matter or any matters that may be currently pending before the Board and does not constitute any waiver, express or implied, of the Board’s statutory authority or jurisdiction regarding this or any other pending or future investigations, actions, or proceedings. Respondent also understands that acceptance of this Interim Consent Agreement does not preclude any other agency, subdivision, or officer of this State from instituting civil or criminal proceedings with respect to the conduct that is the subject of this Interim Consent Agreement. Respondent further does not relinquish his rights to an administrative hearing, rehearing, review, reconsideration, judicial review or any other administrative and/or judicial action, concerning the matters related to a final disposition of this matter, unless he affirmatively does so as part of the final resolution of this matter.

5. Respondent acknowledges and agrees that upon signing this Interim Consent Agreement and returning it to the Board’s Executive Director, Respondent may not revoke his acceptance of this Interim Consent Agreement or make any modifications to it. Any modification of this original document is ineffective and void unless mutually approved by the parties in writing.

6. Respondent understands that this Interim Consent Agreement shall not become effective unless and until it is signed by the Board’s Executive Director.

7. Respondent understands and agrees that if the Board’s Executive Director does not adopt this Interim Consent Agreement, he will not assert in any future
proceedings that the Board's consideration of this Interim Consent Agreement constitutes bias, prejudice, prejudgment, or other similar defense.

8. Respondent understands that this Interim Consent Agreement is a public record that may be publicly disseminated as a formal action of the Board, and that it shall be reported as required by law to the National Practitioner Data Bank.

9. Respondent understands that this Interim Consent Agreement does not alleviate his responsibility to comply with the applicable license-renewal statutes and rules. If this Interim Consent Agreement remains in effect at the time Respondent's allopathic medical license comes up for renewal, he must renew his license if Respondent wishes to retain his license. If Respondent elects not to renew his license as prescribed by statute and rule, Respondent's license will not expire but rather, by operation of law (A.R.S. § 32-3202), become suspended until the Board takes final action in this matter. Once the Board takes final action, in order for Respondent to be licensed in the future, he must submit a new application for licensure and meet all of the requirements set forth in the statutes and rules at that time.

10. Respondent understands that any violation of this Interim Consent Agreement constitutes unprofessional conduct under A.R.S. § 32-1401(27)(r) ("[v]iolating a formal order, probation, consent agreement or stipulation issued or entered into by the board or its executive director under this chapter.").

[Signature]

DATED: 4/27/17

KAPIL H. THAKKAR, M.D.
DATED this 27th day of April, 2017.

ARIZONA MEDICAL BOARD
By Patricia E. McSorley
Executive Director

EXECUTED COPY of the foregoing hand delivered
this 27th day of April, 2017 to:

Kapil Harilal Thakkar, M.D.
Address of Record

Michael Goldberg, Esq.
Address of Record

ORIGINAL of the foregoing filed
this 27th day of April, 2017 with:

Arizona Medical Board
9545 E. Doubletree Ranch Road
Scottsdale, AZ 85258

Board staff