

**Before the
New Hampshire Board of Medicine
Concord, New Hampshire**

**In the Matter of:
Vishal Verma, M.D.
License No.: 17417
(Adjudicatory/Disciplinary Proceeding)**

Docket #: 20-MED-0004

FINAL DECISION AND ORDER

Before the New Hampshire Board of Medicine (“Board”) is an adjudicatory/disciplinary proceeding in the matter of Vishal Verma, M.D. (“Respondent” or “Dr. Verma”) in Docket Number 20-MED-0004.

Background Information

The Board first granted a license to practice medicine in the State of New Hampshire to Dr. Verma on January 6, 2016. Dr. Verma holds license number 17417.

1. On January 31, 2020, the Maryland State Board of Physicians (“Maryland Board”) issued a Final Decision and Order (“Order”) against Dr. Verma. Pursuant to the terms of this Order, Dr. Verma was reprimanded and placed on probation for a minimum of six months with probationary conditions as follows:

A. Dr. Verma shall successfully complete Board-approved courses on telemedicine, prescribing of medication, and recordkeeping. The following terms apply:

- a) It is Dr. Verma’s responsibility to locate, enroll in and obtain the disciplinary panel’s approval of the courses before a course is begun;
- b) The disciplinary panel will not accept courses taken over the internet;
- c) Dr. Verma must provide documentation to the disciplinary panel that he has successfully completed the courses;
- d) The courses may not be used to fulfill the continuing medical education credits required for license renewal;
- e) Dr Verma is responsible for the cost of the courses; and

B. Dr. Verma shall pay a civil fine of \$50,000. The Payment shall be by money order or bank certified check made payable to the Maryland Board of Physicians and mailed to P.O. Box 37217, Baltimore, Maryland 21297. The Board will not renew or reinstate Dr. Verma's license if Dr. Verma fails to timely pay the fine to the Board; and

C. A violation of probation constitutes a violation of this Final Decision and Order.

2) This action was based on the Maryland Board's disciplinary panel conclusion that Dr. Verma (a) dispensed prescription drugs without possessing the required dispensing permit, (b) committed unprofessional conduct by prescribing Latisse to 1,313 patients in Maryland without having a prior in-person, face-to-face interaction with each patient, and (c) willfully made false statements on his renewal application about prior discipline and investigations.

Pursuant to RSA 329:17-c, when the Board receives "an administratively final order from the licensing authority of another jurisdiction which imposes disciplinary sanctions against a licensee of the board, . . . the board may issue an order directing the licensee to appear and show cause why similar disciplinary sanctions . . . should not be imposed in the state." Accordingly, on March 4, 2020, the Board voted to issue a Notice of Hearing to Show Cause. The purpose of the Show Cause hearing was for Respondent to show cause to the Board why his license to practice medicine in New Hampshire should not be disciplined.

On March 11, 2020, the Board issued a Notice of Hearing to Show Cause scheduling the hearing to take place on Wednesday, August 5, 2020 at 1:00 P.M. at the Board's office located at 121 South Fruit Street, Concord, New Hampshire. Subsequently, the Board issued an Amended Notice of Hearing to Show Cause scheduling the hearing to take place on the date and time above, electronically via real-time, two-way video conferencing through the Office of Professional Licensure and Certification ("OPLC") ZOOM account.

The hearing commenced on August 5, 2020 beginning at approximately 1:27 P.M. The Board members present included:

Daniel P. Potenza M.D., President

David C. Conway, M.D., Vice President

Emily R. Baker, M.D.

Michael Barr, M.D.

Jonathan Ballard, M.D., M.P.H.

Gilbert J. Fanciullo, M.D.

Nina C. Gardner, Public Member

Donald L. LeBrun, Public Member

Linda M. Tatarczuch, Public Member

Daniel P. Potenza, M.D., Board President, served as presiding officer. Dr. Verma appeared and was represented by Allyson A. Avila, Esq. of Gordon Rees Scully Mansukhani, LLP.

The presiding officer confirmed with Attorney Avila that the Board has Respondent's Exhibits A through M and asked Attorney Avila if she had any other exhibits she wanted to add. Attorney Avila indicated they did not have any other exhibits.

Dr. Verma submitted the following exhibits, which were admitted into evidence by the presiding officer:

- A. Declaration of Katherine Campbell
- B. Highlights of Prescribing Information – Allergan
- C. Allergan, Global Value Dossier, LATISSE™ for the Treatment of Hypotrichosis of the Eyelashes, December 2013
- D. Letter from Steve Yoelin, M.D. dated February 25, 2017
- E. Letter from John Fozza, M.D. dated March 7, 2017
- F. Medical History Form
- G. SkinSolutions.MD, Latisse 3ml/5ml
- H. SkinSolutions.MD, Informed Consent For Latisse™ Treatment (Treatment for Hypotrichosis)
- I. SkinSolutions.MD Privacy Policy
- J. About SkinSolutions.MD
- K. SkinSolutions.MD – “Thank you for your recent purchase...” from Vishal Verma, M.D.
- L. SkinSolutions.MD, Order Summary form
- M. Patient Prescription – form

Discussion and Rulings

The presiding officer opened the hearing and offered Attorney Avila the opportunity to make an opening statement. Attorney Avila indicated that she would like to make an opening statement. She went on to state that she had a lot of involvement with the initial Maryland matter, researching the laws and making a lot of phone calls to Maryland and the pharmacy boards to make sure Dr. Verma was complying with the regulations. Attorney Avila indicated that she had a different opinion than the Maryland Board and, unfortunately, the Maryland Board decided against her and her client. Although there was a disagreement, Attorney Avila indicated Dr. Verma complied with everything the Maryland Board requested. Attorney Avila pointed out to the Maryland Board that Dr. Verma had no prior blemish on his record whatsoever, no malpractice cases, nothing that he has ever done to harm anyone, but for whatever reason, the Maryland Board rejected that argument and imposed discipline. Despite her difference of opinion with the Maryland Board, Attorney Avila testified that Dr. Verma has now incorporated a system where what happened in Maryland would never happen again. She argued that to continue on this path of reciprocal discipline in every single state would be like punishing Dr. Verma over and over again for something that was inadvertent. Attorney Avila pointed out that she has supplied an affidavit from the staff member who clearly said that it was a

clerical error. Attorney Avila indicated that punishment for Dr. Verma is not warranted and asked for leniency from the New Hampshire Board.

Dr. Verma then testified, indicating it has been a complicated four years. He indicated to the Board that he is not making any excuses and he takes full responsibility for everything that happened. He stated he has learned a lot from what has happened and has put in a lot of corrective measures. He stated that patient safety has always been number one. Dr. Verma testified to his background; he did teleradiology starting in 2008, then got licensed in all fifty (50) states. In 2006, he and his wife started a medical spa practice called Revive. In 2013, he and his wife launched the website called SkinSolutions.MD, with mostly over-the-counter beauty products that were just an extension of what was being sold in the practice at the med spas. He testified that there was one prescription product called Latisse for eyelash growth, which he did a very thorough analysis on before deciding he would prescribe to patients. He testified that Latisse had no contraindications. He researched telemedicine laws across the fifty (50) states, putting together a very big, complicated matrix, and worked together with Allergan. Dr. Verma then testified that, in 2016, a competitor, Gail Gentile, filed complaints against him, which created a very large flurry of activity, inquiries, and so forth. As the states investigated, the vast majority determined that he was in full compliance, but some issues arose, and Dr. Verma testified that he takes responsibility for the errors but that he was “not willful in any way.”

Dr. Verma explained that he had staff at StatRad Holdco, LLC (an organization that develops teleradiology technologies and services) keeping licenses and credentials at hospitals and doing all the paperwork, and then he had separate staff at SkinSolutions. He testified he did not do a good job of linking the two and keeping the two in communication. He indicated that the staff at StatRad did not know what was going on at SkinSolutions, and he takes full responsibility for that.

Dr. Verma indicated that the other issue was the practice of telemedicine. In his assessment, he had determined that store-and-forward was allowed in Maryland. This turned out to be incorrect. Maryland requires real-time audio-video visits in order to prescribe Latisse. Dr. Verma testified it was a mistake on his part. There was never any patient harm. He now has a triple-check process on every application. He is providing regular Board update letters every few months, disclosing everything that is going on with other states' investigations. He admitted that it's been a bit of a challenge since he has licenses in fifty (50) states and reciprocal investigations have been opened up in many states. Dr. Verma concluded with an assurance that it is his intention to be forthright and make sure these kind of mistakes never happen again.

The presiding officer then asked Board members if they had questions for Dr. Verma.

Dr. Fanciullo inquired about prescribing Latisse without a face-to-face meeting with patients in the state of New Hampshire. Dr. Verma responded that he has not been prescribing in New

Hampshire. He indicated there is a nurse practitioner associated with his practice that is doing audio-video with New Hampshire patients, but he himself has not been prescribing in the state of New Hampshire.

Dr. Fanciullo asked Dr. Verma if he supplies Latisse to his patients via a compounding pharmacy. Dr. Verma indicated he does not and that it is bought from Allergan in a sealed package kit that comes with applicators and is shipped from a few different pharmacies. Dr. Fanciullo went on to ask Dr. Verma if he has a financial arrangement with the compounding pharmacy and Dr. Verma replied that he did not. Dr. Fanciullo asked if Dr. Verma served on an advisory board for Allergan. Dr. Verma responded that Allergan has ad boards where they relate it to the med spa and they invite 100 physicians at a time, once every year. They call it an advisory board. Dr. Verma testified he's attended maybe two or three of those. He indicated he's paid a stipend.

Dr. Conway asked Dr. Verma to clarify his description of satisfying different requirements for different states as far as audiovisual. Dr. Conway asked if that has been from the inception of his company, or only since the Maryland action. Dr. Verma responded that they weren't prescribing prior to the audiovisual capabilities, because they had understood that it was real-time. Once the audiovisual capabilities came, that's when the prescribing started.

Ms. Gardner informed Dr. Verma that she would be very interested in having the updates of what other states have done to get a sense of what the actions in other states have been. Ms. Gardner cautioned Dr. Verma that New Hampshire has a statutory requirement that if he is a licensee, he is required to inform the Board within 30 days of an action or notification of an action in another state. Dr. Verma agreed to provide updates of what other states have done.

Ms. Tatarczuch commented that, although it is onerous on Dr. Verma, it's a price he has to pay to do business in many jurisdictions. Ms. Tatarczuch indicated to Dr. Verma that the Board has a responsibility to its citizenry to make sure that the services that they're acquiring from a distance are safe and done in a way that's fair to them. Dr. Verma responded that he's "making every wholehearted effort" and would never do anything that would put any patient at risk.

Dr. Fanciullo inquired about Dr. Verma's time he spends gratuitously for the benefit of society. Dr. Verma indicated they have set up many locations in Africa and Haiti, and all around the world, with pro bono radiology readings. He also indicated they've built an internal software system to transmit images digitally to their cloud infrastructure here in the United States.

Dr. Ballard pointed out to Dr. Verma that store-and-forward technology is now allowed in New Hampshire; the law was passed last year. He also asked how Dr. Verma internally balances going after financial gain through eyelashes, versus what he went to school for many, many years -- to become a board-certified radiologist. Dr. Verma explained that he's on hospital staffs for

emergency backup and that he just got into telemedicine where he feels it's very safe, and something he understands from personal experience. It's an area where he saw an opportunity. He and his wife love esthetics and his medical spa has been an area that he enjoys.

Attorney Avila made a closing statement reiterating what was already discussed. She indicated the main factors are that there was no harm done to any patient whatsoever and no violation in New Hampshire. Again, Attorney Avila asked for leniency because of the fact that it's been a never-ending process. She indicated that Dr. Verma, at no time, ever tried to deceive anyone or fraudulently fill out any type of application. She also reiterated that he has been compliant with what the regulations are in terms of the telemedicine. Attorney Avila requested the Board dismiss the case.

The presiding officer closed the hearing at 2:26 P.M.

Disciplinary Sanctions

The issue before the Board is whether Dr. Verma should be subject to disciplinary sanctions similar to those imposed by the Maryland State Board of Physicians pursuant to RSA 329:17-c.

After hearing testimony from Attorney Avila and Dr. Verma, reviewing Dr. Verma's Response to Notice of Hearing to Show Cause dated July 27, 2020, and reviewing Respondent's Exhibits, **the Board voted not to impose reciprocal discipline against Dr. Verma.**

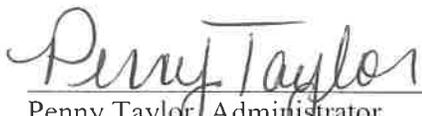
THEREFORE, IT IS ORDERED that the Board votes not to impose reciprocal discipline against Vishal Verma, M.D.; and

IT IS FURTHER ORDERED that this Final Decision and Order shall become a permanent part of the Respondent's file, which is maintained by the Board as a public document; and

IT IS FURTHER ORDERED that this Final Decision and Order shall take effect as an Order of the Board on the date an authorized representative of the Board signs it.

BY ORDER OF THE BOARD

Dated: 9/9/2020



Penny Taylor, Administrator
Authorized Representative of the
New Hampshire Board of Medicine