

BEFORE THE BOARD OF MEDICINE

STATE OF NORTH DAKOTA

North Dakota Board of Medicine –	)	
Investigative Panel A,	)	
	)	
Complainant,	)	
	)	<b>COMPLAINT</b>
vs.	)	
	)	
Saurav Pokharel, M.D.,	)	
	)	
Respondent.	)	

COMES NOW, the Complainant, North Dakota Board of Medicine – Investigative Panel A, and for its Complaint against the Respondent, Saurav Pokharel, M.D., alleges and states as follows:

I.

Investigative Panel A of the North Dakota Board of Medicine (“Board”) is authorized pursuant to N.D.C.C. Chapter 43-17.1 to conduct investigations related to the practice of any physician licensed to practice in this state and file a formal complaint against any licensed physician with the Board of Medicine.

II.

Saurav Pokharel M.D., is a physician licensed to practice medicine in the State of North Dakota.

FACTS

III.

Respondent practiced medicine as a pulmonologist at CHI St. Alexius Health in Bismarck, North Dakota until July 3, 2017. Respondent then applied for a medical license in North Carolina

which he later withdrew. In January 2018, Respondent went back to work for CHI St. Alexius Health as a pulmonologist in Bismarck, North Dakota.

#### IV.

On March 24, 2017, the Board disciplined Respondent for being intoxicated while he was the on-call pulmonologist. As a part of said discipline, Respondent was required to complete a substance abuse evaluation at a facility approved of by the Board. Respondent completed said evaluation within the four-month time-frame required by the Order. Recently, the Board has been informed by the Respondent that he was not truthful in the substance abuse evaluation he completed as a result of the March 24, 2017 Board Order. In addition, Respondent has also informed the Board that he has now been diagnosed with an alcohol use disorder based upon his continued use/abuse of alcohol. Based upon the above, Respondent is subject to discipline for engaging in the habitual use of alcohol as prescribed by N.D.C.C. § 43-17-31(1)(d) and for engaging in conduct that is dishonorable, unethical, or unprofessional and likely to deceive, defraud, or harm the public as proscribed by N.D.C.C. § 43-17-31(1)(f).

WHEREFORE, Complainant respectfully requests Respondent, Saurav Pokharel, M.D., be disciplined for his violations of N.D.C.C. § 43-17-31 and seeks an appropriate sanction(s) for those violations as authorized by N.D.C.C. § 43-17-30.1. Complainant also respectfully requests that the Board be awarded its costs and attorney's fees in having to bring this action pursuant to N.D.C.C. § 43-17-31.1.

**NOTICE:** Respondent must answer this Complaint within twenty days after service of the complaint or the allegations may be deemed admitted and may result in a default order revoking the subject license. Such answer must be served in the manner allowed for service under the North Dakota Rules of Civil Procedure.

Dated this 13<sup>th</sup> day of April, 2018.

By Stacy M. Moldenhauer

Stacy M. Moldenhauer (ID #06293)

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Attorney for: North Dakota Board of  
Medicine— Investigative Panel A

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Respondent. )

**STIPULATION**

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WHEREAS, the North Dakota Board of Medicine (hereinafter "the Board") issued a Complaint requesting Respondent be disciplined for his violations of the North Dakota Medical Practices Act, for engaging in the habitual use of alcohol as proscribed by N.D.C.C. § 43-17-31 (1)(d), and/or by engaging in conduct that is dishonorable, unethical, or unprofessional, and that is likely to deceive, defraud, or harm the public as proscribed by N.D.C.C. § 43-17-31(1)(f).;

WHEREAS, the Respondent admits service of the Summons and Complaint and agrees that the facts alleged in the Complaint of Investigative Panel A dated are true and are grounds for disciplinary action by the North Dakota Board of Medicine and that the terms of this Stipulation are appropriate;

THEREFORE, IT IS HEREBY agreed by and between the parties to this action and the North Dakota Board of Medicine:

1. The Respondent hereby waives any procedural irregularity herein and his right to a hearing on the Complaint now pending in this action.
2. The Respondent agrees he is required to participate in the ND Professional Health Program for the next five years. Respondent further agrees that he is required to abide by and

comply with any and all requests made by the ND Professional Health Program. In addition, Respondent will sign any and all documents as requested by the ND Professional Health Program. Any non-compliance by Respondent with the ND Professional Health Program, will be reported to the Board and further disciplinary action may ensue.

3. Respondent shall be responsible for paying the costs and attorney's fees incurred by the Board in the investigation and prosecution of this action in an amount not to exceed \$2500.00. The Board will notify the Respondent of any such costs within a reasonable time after the Stipulation is approved by the Board and Respondent shall make payment within (30) days from receiving such notification.

4. If Respondent fails, neglects, or refuses to fully comply with any of the terms, provisions, or conditions herein, the license of the Respondent to practice medicine in the state of North Dakota shall be immediately suspended in accordance with the law.

5. In the event the Board, in its discretion, does not approve this settlement, this Stipulation is withdrawn and shall be of no evidentiary value and shall not be relied upon nor introduced in any disciplinary action by either party hereto except that Respondent agrees that should the Board reject this Stipulation, and if this case proceeds to a hearing, Respondent will assert no claim that the Board was prejudiced by its review and discussion of this Stipulation or of any records relating hereto.

6. This agreement for the disposition of the above-entitled contested case is a matter of public record and the obligations of the Board with respect thereto shall be governed by the laws of North Dakota and current Board policy.

7. All parties hereto recognize that the Board representatives who have engaged in discussions relative to an agreed disposition of this matter can only make recommendations to

the North Dakota Board of Medicine, which recommendations can in no way be considered as binding upon the full membership of the Board who would ultimately decide the pending contested case, and this agreement is subject to acceptance by the full membership of the Board.

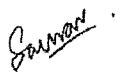
8. Respondent understands that he has the right and has been afforded the opportunity to have this agreement reviewed by an attorney and Respondent has retained Robert Udland to represent him in this matter.

9. Respondent specifically waives any claim that any disclosures made to the full membership of the Board for the purposes of consideration of this agreement have prejudiced his right to a fair and impartial hearing in the event that this agreement is not accepted by the full Board and if further proceedings ensue.

10. Respondent further agrees that there have been no inducements, threats or promises made in order to obtain his entry into this agreement.

11. The parties further agree that all statements contained herein are based upon the facts known to the Board on the date of execution of this agreement.

Dated this 21<sup>st</sup> day of April, 2018.

  
\_\_\_\_\_  
Saurav Pokharel, M.D.

Dated this 9<sup>th</sup> day of July, 2018.

By Stacy M. Moldenhauer

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Attorney for: North Dakota Board of  
Medicine -- Investigative Panel A

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**ORDER**

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WHEREAS, Investigative Panel A of the North Dakota Board of Medicine issued a Complaint against Respondent on April 13, 2018 alleging Respondent engaged in the habitual use of alcohol proscribed by N.D.C.C. § 43-17-31 (1)(d) and/or engaged in conduct that is dishonorable, unethical, or unprofessional, and that is likely to deceive, defraud, or harm the public as proscribed by N.D.C.C. § 43-17-31(1)(f) because Respondent was not truthful in the substance abuse evaluation he had conducted pursuant to the Board's March 24, 2017 Order. In addition, Respondent has been recently diagnosed with an alcohol use disorder. Thus, the Board requested Respondent be disciplined for his violations of the Medical Practices Act. The Board also requested it be awarded its fees and costs associated with this matter.

WHEREAS, Respondent and Investigative Panel A entered into a voluntary Stipulation dated July 9, 2018 wherein Respondent admitted the facts alleged in the complaint were true and were grounds for the Board to discipline him.

WHEREAS, the North Dakota Board of Medicine finds that the terms of that Stipulation are an appropriate disposition of this case.



IT IS HEREBY ORDERED THAT:

1. Respondent is required to participate in the ND Professional Health Program for the next five years. Respondent is required to abide by and comply with any and all requests made by the ND Professional Health Program. In addition, Respondent will sign any and all documents as requested by the ND Professional Health Program. Any non-compliance by Respondent with the ND Professional Health Program, must be reported to the Board and further disciplinary action may ensue.

2. Respondent is required to pay the costs of the prosecution of this action not to exceed \$2,500.00. Within thirty (30) days from the date Respondent is notified of the exact amount of the fees and expenses, Respondent shall pay said fees and expenses in full.

This Order is effective July 20, 2018.

NORTH DAKOTA BOARD OF MEDICINE

A handwritten signature in black ink, appearing to read "Robert Olson", is written over a horizontal line.

Robert Olson, M.D.  
Chairman