

BEFORE THE IOWA BOARD OF MEDICINE

IN THE MATTER OF THE STATEMENT OF CHARGES AGAINST

RASHID NAYYAR, M.D., RESPONDENT

FILE No. 02-13-327

**STATEMENT OF CHARGES and SETTLEMENT AGREEMENT
(Combined)**

COMES NOW the Iowa Board of Medicine (Board) and Rashid Nayar, M.D., (Respondent), on December 20, 2013, and pursuant to Iowa Code sections 17A.10(2) and 272C.3(4) and 653 IAC 25.3, enter into this combined Statement of Charges and Settlement Agreement.

STATEMENT OF CHARGES

1. Respondent was issued Iowa medical license no. 29505 on August 18, 1993.
2. Respondent's Iowa medical license went inactive due to nonrenewal on March 1, 1997.
3. The Board has jurisdiction in this matter pursuant to Iowa Code chapters 147, 148 and 272C.

COUNT I

4. **Discipline by Another Licensing Authority:** Respondent is charged pursuant to Iowa Code section 148.6(2)(d) and 653 IAC 23.1(1) with having a license to practice medicine and surgery or osteopathic medicine and surgery revoked or suspended, or having other disciplinary action taken by a licensing authority of another state, territory, or country. A certified copy of the order of disciplinary action is prima facie evidence.

STATEMENT OF THE MATTERS ASSERTED

5. Respondent is an Iowa-licensed physician who currently practices sleep medicine at six sleep centers in northern Virginia.

6. **Virginia Disciplinary Action:** On or about May 22, 2013, Respondent entered into a Consent Order with the Virginia Board of Medicine (Virginia Board). The Virginia Board alleged that Respondent engaged in conduct likely to deceive or defraud or harm the public, aided or abetted the unlicensed practice of medicine, violated the laws and rules governing the practice of medicine and made or used false or misleading statements in the practice of medicine at six sleep centers in northern Virginia between September 2010, and 2012, when he:

- A. Inappropriately recommended and solicited individuals for and to perform annual updates of prior sleep studies and received payments from individuals and/or their insurance companies for the solicited/recommended sleep studies;

- B. Inappropriately authorized, prescribed or facilitated the ordering of sleep studies and CPAP, BiPAP, or other sleep-related durable medical equipment for individuals without establishing or having a bona fide physician-patient relationship with such individuals; and
- C. Inappropriately aided or abetted the unlicensed practice of medicine by non-physician employees who scheduled/ordered sleep studies after performing the initial intake assessment without a physician determining the medical necessity for the performance of the sleep study.

Under the terms of the May 22, 2013, Consent Order, the Virginia Board issued Respondent a Reprimand and ordered him to pay a \$5,000 fine. See Attachment A.

SETTLEMENT AGREEMENT

7. **CITATION AND WARNING:** Respondent is hereby **CITED** for being disciplined by the Virginia Board for engaging in conduct likely to deceive or defraud or harm the public, aiding or abetting the unlicensed practice of medicine, violating the laws and rules governing the practice of medicine and making or using false or misleading statements in the practice of medicine at six sleep centers in northern Virginia between September 2010, and 2012. Respondent is hereby **WARNED** that being disciplined by another state licensing board and/or violating the laws and rules governing the practice of medicine in the future may result in further formal disciplinary action against his Iowa medical license.

8. Respondent voluntarily submits this Order to the Board for consideration.

9. Respondent agrees that the State's counsel may present this Order to the Board for consideration.

10. By entering into this Order, Respondent understands that he has a right to be represented by legal counsel, voluntarily waives any rights to a contested case hearing on the allegations in the Statement of Charges, and waives any objections to the terms of this Order. This Order constitutes the resolution of a contested case proceeding.

11. Respondent understands that by entering into this combined Statement of Charges and Settlement Agreement, Respondent cannot obtain a copy of the investigative file. Pursuant to Iowa Code section 272C.6(4), a copy of the investigative file may only be provided to a licensee after a Statement of Charges is filed but before the final resolution of those charges.

12. Respondent shall obey all federal, state and local laws, and all rules governing the practice of medicine in Iowa.

13. Respondent understands that the Board is required by Federal law (45 C.F.R. 60.8) to report this Order to the National Practitioner Data Bank.

14. This Order becomes a public record available for inspection and copying upon execution in accordance with the requirements of Iowa Code Chapters 17A, 22 and 272C.

15. This Order is subject to approval of the Board. If the Board fails to approve this Order it shall be of no force or effect to either party.

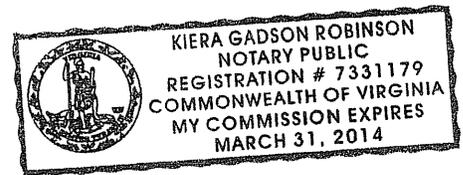
16. The Board's approval of this Order shall constitute a **Final Order** of the Board.



Rashid Nayyar, M.D., Respondent

Subscribed and sworn to before me on October 23, 2013.

Notary Public, State of Virginia.



This Order is approved by the Board on December 20, 2013.



Gregory B. Hoversten, D.O., Chairman
Iowa Board of Medicine
400 SW 8th Street, Suite C
Des Moines, Iowa 50309-4686

VIRGINIA:

BEFORE THE BOARD OF MEDICINE

**IN RE: RASHID NAYYAR, M.D.
License No.: 0101-231228**

CONSENT ORDER

By letter dated February 1, 2013, the Virginia Board of Medicine ("Board") noticed Dr. Nayyar for an informal conference to inquire into allegations that he may have violated certain laws governing the practice of medicine and surgery in the Commonwealth of Virginia.

In lieu of proceeding to this informal conference, the Board and Dr. Nayyar, as evidenced by their signatures affixed below, agree to enter into this Consent Order affecting the license of Dr. Nayyar to practice medicine and surgery in the Commonwealth of Virginia.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Board adopts the following findings of fact and conclusions of law in this matter:

1. Dr. Nayyar was issued license number 0101-231228 by the Board to practice medicine in the Commonwealth of Virginia on May 25, 2001. Said license is currently active and will expire on March 31, 2014 unless renewed or otherwise restricted.
2. From approximately September 2010 to 2012, in Dr. Nayyar's capacity as co-medical director of 1st Class Sleep Diagnostics ("1st Class Diagnostics"), with sleep six centers located in northern Virginia:
 - a. Dr. Nayyar violated Sections 54.1-2915.A(12), (16), and (18) of the Code and 18 VAC 85-20-28.A(1) of the Board of Medicine General Regulations, in that, it is 1st Class Diagnostics' policy to recommend and solicit individuals for and to perform annual updates of prior sleep studies. Further, Dr. Nayyar or other personnel at 1st Class

Consent Order – Rashid Nayyar, M.D.

Diagnostics (or its affiliated company, 1st Class Medical, acting on behalf of 1st Class Diagnostics) received payments from individuals and/or their insurance companies for the foregoing solicited/recommended sleep studies.

b. Dr. Nayyar violated Sections 54.1-2915.A(3) and (13) of the Code in that, he or other co-medical directors at 1st Class Diagnostics authorized, prescribed or facilitated the ordering of sleep studies and CPAP, BiPAP, or other sleep-related durable medical equipment for individuals tested at 1st Class Diagnostics without establishing or having a bona fide physician-patient relationship with such individuals. Specifically, Dr. Nayyar and the other co-medical directors of 1st Class Sleep Diagnostics generally do not meet, see, examine, assess, evaluate, take or review medical histories or referrals from other physicians, or have any contact with individuals who undergo sleep studies at 1st Class Diagnostics.

c. Dr. Nayyar violated Sections 54.1-2915.A(3), (11), (12), (13) and (18) of the Code, and 18 VAC 85-20-29.A(1) of the Board of Medicine General Regulations, in that, generally neither he nor any other licensed physician at 1st Class Diagnostics determined the medical necessity for the performance of individual sleep studies prior to their performance, thereby aiding and abetting, having a professional connection with, or lending his name to the unlicensed practice of medicine by 1st Class non-physician employees who scheduled/ordered such sleep studies after performing the initial intake assessment.

CONSENT

I, Rashid Nayyar, M.D., by affixing my signature hereto, acknowledge that;

1. I have been advised specifically to seek the advice of counsel prior to signing this

Consent Order – Rashid Nayyar, M.D.

document and am represented by Anisa P. Kelley, Esquire;

2. I am fully aware that without my consent, no legal action can be taken against me, except pursuant to the Virginia Administrative Process Act, § 2-2-4000.A et seq. of the Code of Virginia;

3. I have the following rights, among others:

- a. the right to an informal conference before the Board; and
- b. the right to appear in person or by counsel, or other qualified representative before the agency.

4. I waive all rights to an informal conference;

5. I admit the truth of the above Findings of Fact and Conclusions of Law and waive my right to contest them or any any sanction in any future judicial or administrative proceedings where the Board is a party; and

6. I consent to the following Order affecting my license to practice medicine in the Commonwealth of Virginia.

ORDER

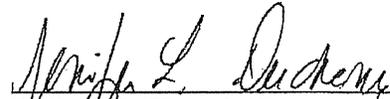
WHEREFORE, based on the foregoing Findings of Fact and Conclusions of Law, and with the consent of the licensee, it is hereby ORDERED that Rashid Nayyar, M.D., is issued a REPRIMAND and ordered to pay to the Board, within 90 days of entry of this Consent Order, a MONETARY PENALTY in the amount of \$5,000 (five thousand dollars). Failure to pay the full monetary penalty within the timeframe stipulated may constitute grounds for an administrative proceeding.

Dr. Nayyar shall maintain a course of conduct in his practice of medicine commensurate with the requirements of Title 54.1, Chapter 29 of the Code and all laws of the Commonwealth.

Consent Order – Rashid Nayyar, M.D.

Pursuant to Section 54.1-2400.2 of the Code, the signed original of this Order shall remain in the custody of the Department of Health Professions as a public record, and shall be made available for public inspection and copying upon request.

FOR THE BOARD:

for 

William L. Harp, M.D.
Executive Director
Virginia Board of Medicine
ENTERED: 5/22/2013

Consent Order – Rashid Nayyar, M.D.

SEEN AND AGREED TO:



Rashid Nayyar, M.D.

COMMONWEALTH OF VIRGINIA
COUNTY/CITY OF Henrico, TO WIT:

Subscribed and sworn to before me, the undersigned Notary Public, in and for the Commonwealth of Virginia, at large, this 22nd day of May, 2013, by Rashid Nayyar, M.D.



Notary Public

Registration Number: 7057255

My commission expires: June 30, 2014

