XAVIER BECERRA
Attorney General of California
JANE ZACK SIMON
Supervising Deputy Attorney General
ALICE W. WONG
Deputy Attorney General
State Bar No. 160141
455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102-7004
Telephone: (415) 703-5597
Facsimile: (415) 703-5480
Attorneys for Complainant

BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against, **HARRY PERSAUD, M.D.** **29099 Health Campus Drive, Suite 110** **Westlake, OH 44145** **Physician's and Surgeon's Certificate No. C-51114** Respondent	OAH Case No. 2017030687 MBC Case No. 800-2016-022179 **DEFAULT DECISION AND ORDER** [Gov. Code §11520]

On or about February 8, 2017, an employee of the Medical Board of California (Board), sent by certified mail a copy of Accusation No. 800-2016-022179, Statement to Respondent, Notice of Defense in blank, Request for Discovery, and Government Code sections 11507.5, 11507.6, and 11507.7 to Harry Persaud, M.D. (Respondent) at his address of record with the Board, which was and is 29099 Health Campus Drive, Suite 110, Westlake, OH 44145. On or about February 27, 2017, Deputy Attorney General Alice W. Wong received a Notice of Defense. (Exhibit Package, Exhibit 1[1]: Accusation, the related documents, Declaration of Service, certified mail receipt card, Notice of Defense.)

[1] The evidence in support of this Default Decision and Order is contained in the "Exhibit Package."

On March 7, 2017, a letter was mailed to Respondent at the location where he is incarcerated at the Federal Correctional Institution Elkhorn, P.O. Box 10, Liston, OH 44432, informing him a hearing would be scheduled for June 1, 2017 at 9:00 a.m. at the Office of Administrative Hearings at 1515 Clay Street, Suite 206, Oakland, California. On March 13, 2017, Respondent mailed a letter to Deputy Attorney General Alice W. Wong, acknowledging receipt of the March 7, 2017 letter and the hearing date of June 1, 2017. On April 18, 2017, a letter and discovery of exhibits to be offered at the June 1, 2017 hearing was mailed to Respondent at the Federal Correctional Institution Elkhorn if Respondent availed himself to the opportunity to appear at the hearing by telephone. (Exhibit Package, Exhibit 2: March 7, 2017 letter to Respondent; March 13, 2017 letter from Respondent; and April 18, 2017 letter to Respondent.)

On or about March 15, 2017, via regular mail, a Notice of Hearing was served on Respondent at his address of record and at Federal Correctional Institution Elkton, P.O. Box 10, Lisbon, OH 44432, informing him that a hearing would be held on June 1, 2017 at 9:00 a.m. at the Office of Administrative Hearings at 1515 Clay Street, Suite 206, Oakland, California. (Exhibit Package, Exhibit 3: Notice of Hearing and proof of service.)

The matter was called for hearing at the date, time and location as set forth in the Notice of Hearing. Deputy Attorney Alice W. Wong of the Attorney General's Office appeared on behalf of the Complainant Medical Board of California. There was no appearance by or on behalf of Respondent. Respondent was aware of the hearing date and provided with the opportunity to appear by telephone since he is incarcerated. At 9:15 a.m., Administrative Law Judge Mary Margaret Anderson declared the matter a default, and at the request of Complainant's counsel, the matter was remanded to the agency for action under Government Code section 11520. (Exhibit Package, Exhibit 4: Findings and Declaration of Default; Order of Remand.)

///

///

///

///

FINDINGS OF FACT

I.

Complainant Kimberly Kirchmeyer is the Executive Director of the Board. The charges and allegations in Accusation No. 800-2016-022179 were at all times brought and made solely in the official capacity of the Board's Executive Director.

II.

On or about March 12, 2003, the Board issued Physician's and Surgeon's Certificate No. C51114 to Respondent. The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought herein and expired on February 28, 2017. (Exhibit Package, Exhibit 5: Certificate of License.)

III.

Business and Professions Code section 118 states, in pertinent part:

"(b) The suspension, expiration, or forfeiture by operation of law of a license issued by a board in the department, or its suspension, forfeiture, or cancellation by order of the board or by order of a court of law, or its surrender without the written consent of the board, shall not, during any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its authority to institute or continue a disciplinary proceeding against the licensee upon any ground provided by law or to enter an order suspending or revoking the license or otherwise taking disciplinary action against the license on any such ground."

California Government Code section 11520 states, in pertinent part:

"(a) If the respondent either fails to file a notice of defense or to appear at the hearing, the agency may take action based upon the respondent's express admissions or upon other evidence and affidavits may be used as evidence without any notice to respondent."

IV.

On or about February 8, 2017, Respondent was served with an Accusation, alleging causes for discipline against Respondent. The Accusation and accompanying documents were duly served on Respondent. Respondent filed a Notice of Defense. Respondent was served with a

Notice of Hearing scheduled for June 1, 2017 at the Office of Administrative Hearings. There was no appearance by or on behalf of Respondent. The matter was remanded to the agency for action under Government Code section 11520.

V.

The allegations of the Accusation are true as follows:

On or about April 25, 2016, the New York State Board for Professional Medical Conduct issued a Commissioner's Order of Summary Action wherein Respondent was ordered not to practice medicine in the State of New York. On August 15, 2016, the New York Board issued a Surrender Order wherein Respondent's license was surrendered. The New York Board made factual allegations that on September 25, 2015, in the United States District Court, Northern District of Ohio (Eastern Division), Respondent was found guilty of Health Care Fraud in violation of 18 U.S.C. Section 1347, thirteen felony counts of Making a False Statement Relating to Health Care Matters in violation of 18 U.S.C. section 1957, and one felony count of Money Laundering in violation of 18 U.S.C. section 1957. (Exhibit 1, Exhibit A: Commissioner's Order of Summary Action and Surrender Order of Respondent's license.)

On or about July 13, 2016, the State Medical Board of Ohio issued an Entry of Order wherein Respondent's license was permanently revoked. This action was based on Respondent's convictions in the United States District Court, Northern District of Ohio (Eastern District) of Health Care Fraud in violation of 18 U.S.C. Section 1347, thirteen felony counts of Making a False Statement Relating to Health Care Matters in violation of 18 U.S.C. section 1957, and one felony count of Money Laundering in violation of 18 U.S.C. section 1957. (Exhibit 1, Exhibit B: Entry of Order permanently revoking Respondent's license.)

On September 25, 2015, in the United States District Court, Northern district of Ohio (Eastern Division), Respondent was found guilty following a jury trial, of one count of Health Care Fraud in violation of 18 U.S.C. section 1347, thirteen felony counts of Making False Statement Relating to Health Care Matters in violation of 18 U.S.C. section 1957, and one felony count of Money Laundering in violation of 18 U.S.C. section 1957. (Exhibit Package, Exhibit 6: September 25, 2015 Minutes of Jury Verdict and Jury Verdict on Counts 1 to 16.)

Respondent's criminal convictions constitute unprofessional conduct and the convictions of crimes substantially related to the qualifications, functions or duties of a physician and surgeon, and are cause for discipline pursuant to Business and Professions Code sections 2234 and/or 2236.

Respondent's failure to report either the filing of the criminal charges or the criminal convictions in violation of section 802.1 constitutes unprofessional conduct and is cause for discipline pursuant to section 2234. (Exhibit Package, Exhibit 7: Declaration of Christina Delp In Support of Default Decision.)

DETERMINATION OF ISSUES

Pursuant to the foregoing Findings of Fact, Respondent is subject to discipline under Code sections 2305 and/or 141 (Discipline, Restriction, or Limitation imposed by another State) in that Respondent's conduct would have been grounds for discipline in California and the actions of the New York State Board for Professional Medical Conduct and the State Medical Board of Ohio as set forth above, constitute cause for discipline. Respondent's criminal convictions constitute unprofessional conduct and the conviction of crimes substantially related to the qualifications, functions or duties of a physician and surgeon, and cause for discipline pursuant to Business and Professions Code sections 2234 and/or 2236. Moreover, Respondent's failure to report either the filing of the criminal charges or the criminal convictions in violation of section 802.1 constitutes unprofessional conduct and is cause for discipline pursuant to section 2234.

///

///

///

///

///

///

///

DISCIPLINARY ORDER

IT IS SO ORDERED that Physician's and Surgeon's Certificate No. C-51114, issued to Respondent Harry Persaud, M.D., is hereby REVOKED.

Respondent shall not be deprived of making a request for relief from default as set forth in Government Code section 11520, subdivision (c), for good cause shown. However, such showing must be made in writing by way of a motion to vacate the default decision and directed to the Medical Board of California at 2005 Evergreen Street, Suite 1200, Sacramento, CA 95815 within seven (7) days after service of the Decision on Respondent.

This Decision shall become effective on September 1, 2017.

It is so ORDERED: August 4, 2017.

MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By _____
KIMBERLY KIRCHMEYER
Executive Director

SF2016202316
41785108.doc

XAVIER BECERRA
Attorney General of California
JANE ZACK SIMON
Supervising Deputy Attorney General
ALICE W. WONG
Deputy Attorney General
State Bar No. 160141
455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102-7004
Telephone: (415) 703-5597
Facsimile: (415) 703-5480
Email: Alice.Wong@doj.ca.gov
Attorneys for Complainant

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO Feb. 8 2017
BY D. Richards ANALYST

BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: **Harry Persaud, M.D.** **29099 Health Campus Drive, Suite 110** **Westlake, OH 44145** **Physician's and Surgeon's Certificate No. C 51114,** Respondent.	Case No. 800-2016-022179 **ACCUSATION**

Complainant alleges:

PARTIES

1. Kimberly Kirchmeyer (Complainant) brings this Accusation solely in her official capacity as the Executive Director of the Medical Board of California, Department of Consumer Affairs (Board).

2. On or about March 12, 2003, the Medical Board issued Physician's and Surgeon's Certificate Number C 51114 to Harry Persaud, M.D. (Respondent). The certificate is renewed and current with an expiration date of February 28, 2017.

///

///

///

JURISDICTION

3. This Accusation is brought before the Board, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2227 of the Code provides that a licensee who is found guilty under the Medical Practice Act may have his or her license revoked, suspended for a period not to exceed one year, placed on probation and required to pay the costs of probation monitoring, or such other action taken in relation to discipline as the Board deems proper..

5. Section 2305 of the Code states:

.The revocation, suspension, or other discipline, restriction or limitation imposed by another state upon a license or certificate to practice medicine issued by that state, or the revocation, suspension, or restriction of the authority to practice medicine by any agency of the federal government, that would have been grounds for discipline in California of a licensee under this chapter shall constitute grounds for disciplinary action for unprofessional conduct against the licensee in this state.

6. Section 141 of the Code states:

"(a) For any licensee holding a license issued by a board under the jurisdiction of the department, a disciplinary action taken by another state, by any agency of the federal government, or by another country for any act substantially related to the practice regulated by the California license, may be a ground for disciplinary action by the respective state licensing board. A certified copy of the record of the disciplinary action taken against the licensee by another state, an agency of the federal government, or another country shall be conclusive evidence of the events related therein.

"(b) Nothing in this section shall preclude a board from applying a specific statutory provision in the licensing act administered by that board that provides for discipline based upon a disciplinary action taken against the licensee by another state, an agency of the federal government, or another country."

7. Section 2234 of the Code provides that the Board shall take action against a licensee who is charged with unprofessional conduct.

8. Section 2236 of the Code provides that the conviction of any offense substantially related to the qualifications, functions or duties of a physician and surgeon constitutes unprofessional conduct.

9. Section 802.1 of the Code provides that a physician charged with a felony must report the charge to the Medical Board within 30 days. The licensee must also report a conviction of any felony or misdemeanor within 30 days of the conviction.

FIRST CAUSE FOR DISCIPLINE

(Discipline, Restriction, or Limitation Imposed by Another State)

10. On or about April 25, 2016, the New York State Board for Professional Medical Conduct issued a Commissioner's Order of Summary Action wherein Respondent was ordered not to practice medicine in the State of New York. On August 15, 2016, the New York Board issued a Surrender Order wherein Respondent's license was surrendered. The New York Board made factual allegations that on September 25, 2015, in the United States District Court, Northern District of Ohio (Eastern Division), Respondent was found guilty of Health Care Fraud in violation of 18 U.S.C. section 1347, thirteen felony counts of Making a False Statement Relating to Health Care Matters in violation of 18 U.S.C. section 1957, and one felony count of Money Laundering in violation of 18 U.S.C. section 1957.

A copy of the Commissioner's Order of Summary Action and Surrender Order of Respondent's license is attached as Exhibit A.

11. Respondent's conduct and the action of the New York State Board for Professional Medical Conduct as set forth in paragragh 10, above, constitutes cause for discipline pursuant to sections 2305 and/or 141 of the Code.

SECOND CAUSE FOR DISCIPLINE

(Discipline, Restriction, or Limitation Imposed by Another State)

12. On or about July 13, 2016, the State Medical Board of Ohio issued an Entry of Order wherein Respondent's license was permanently revoked. This action was based on Respondent's convictions in the United States District Court, Northern District of Ohio (Eastern District) of

Health Care Fraud in violation of 18 U.S.C. Section 1347, thirteen felony counts of Making a False Statement Relating to Health Care Matters in violation of 18 U.S.C. section 1957, and one felony count of Money Laundering in violation of 18 U.S.C. section 1957.

A copy of the Entry of Order permanently revoking Respondent's license is attached as Exhibit B.

13. Respondent's conduct and the action of the State Board of Ohio as set forth in paragragh 12, above, constitutes cause for discipline pursuant to sections 2305 and/or 141 of the Code.

THIRD CAUSE FOR DISCIPLINE

(Criminal Conviction)

14. On September 25, 2015, in the United States District Court, Northern district of Ohio (Eastern Division), Respondent was found guilty following a jury trial, of one count of Health Care Fraud in violation of 18 U.S.C. section 1347, thirteen felony counts of Making a False Statement Relating to Health Care Matters in violation of 18 U.S.C. section 1957, and one felony count of Money Laundering in violation of 18 U.S.C. section 1957.

15. Respondent's criminal convictions constitute unprofessional conduct and the convictions of crimes substantially related to the qualifications, functions or duties of a physician and surgeon, are cause for discipline pursuant to Business and Professions Code sections 2234 and/or 2236.

16. Respondent's failure to report either the filing of the criminal charges or the criminal convictions in violation of section 802.1 constitutes unprofessional conduct and is cause for discipline pursuant to section 2234.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Medical Board of California issue a decision:

1. Revoking or suspending Physician's and Surgeon's Certificate Number C 51114, issued to Harry Persaud, M.D.;

2. Revoking, suspending or denying approval of Harry Persaud, M.D.'s authority to supervise physician assistants, pursuant to section 3527 of the Code;

3. Ordering Harry Persaud, M.D., if placed on probation, to pay the Board the costs of probation monitoring; and

4. Taking such other and further action as deemed necessary and proper.

DATED: February 8, 2017

KIMBERLY KIRCHMEYER
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

SF2016202316

Exhibit A

Accusation No. 800-2016-022179

NEW YORK STATE OF OPPORTUNITY. | Department of Health

ANDREW M. CUOMO
Governor

HOWARD A. ZUCKER, M.D., J.D.
Commissioner

SALLY DRESLIN, M.S., R.N.
Executive Deputy

CERTIFICATION

STATE OF NEW YORK)
ss:
COUNTY OF RENSSELAER)

Douglas P. Mackey, being duly sworn, deposes and says:

I am with the Office of Professional Medical Conduct, New York State Department of Health. I am an officer having legal custody of the records of the Office of Professional Medical Conduct. I, hereby, certify that the enclosed documents are true copies of documents from the files of the Office of Professional Medical Conduct in the case of :

Harold/Harry Persaud, MD
NYS medical license # 172341

Douglas P. Mackey
Program Director
Office of Professional Medical Conduct

Sworn to before me this 13th day of September, 2016

Kathleen S. Roy
Notary Public, State of New York
Qualified in Rensselaer County
Commission expires August 31, 2018
No. 4765175

BPMC No. 16-140

NEW YORK STATE DEPARTMENT OF HEALTH
STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

IN THE MATTER OF HAROLD PERSAUD, M.D.	COMMISSIONER'S ORDER OF SUMMARY ACTION

TO: Harold Persaud, M.D.
#60376-060
FCI Elkton
8730 Scroggs Road
Lisbon, OH 44432

The undersigned, Howard A. Zucker, M.D., J.D., Commissioner of Health, pursuant to N.Y. Public Health Law §230, upon the recommendation of a Committee on Professional Medical Conduct of the State Board for Professional Medical Conduct, has determined that **Harold Persaud, M.D.**, Respondent, New York license number 172341, has pleaded or been found guilty or convicted of committing an act constituting a felony under New York State law, federal law, or the law of another jurisdiction which, if committed within this state, would have constituted a felony under New York State law, as is more fully set forth in the Statement of Charges attached to the Notice of Referral Proceeding or Notice of Hearing and made a part hereof.

It is therefore:

ORDERED, pursuant to N.Y. Public Health Law §230(12)(b), that effective immediately, Respondent shall not practice medicine in the State of New York, or practice in any setting under the authority of Respondent's New York license.

> Any practice of medicine in violation of this Order shall constitute Professional Misconduct within the meaning of N.Y. Educ. Law §6530(29) and may constitute unauthorized medical practice, a Felony defined by N.Y. Educ. Law §6512.

This Order shall remain in effect until the final conclusion of a hearing which shall commence within ninety days of the service of this order and shall end within ninety days

thereafter. The hearing will be held pursuant to the provisions of N.Y. Pub. Health Law §230, and N.Y. State Admin. Proc. Act §§301-307 and 401. The hearing will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct on a date and at a location to be set forth in a written Notice of Hearing or Notice of Referral Proceeding provided to the Respondent contemporaneously with this Order.

THESE PROCEEDINGS MAY RESULT IN A DETERMINATION THAT YOUR LICENSE TO PRACTICE MEDICINE IN NEW YORK STATE BE REVOKED OR SUSPENDED, AND/OR THAT YOU BE FINED OR SUBJECT TO OTHER SANCTIONS SET FORTH IN NEW YORK PUBLIC HEALTH LAW §230-a. YOU ARE URGED TO OBTAIN AN ATTORNEY TO REPRESENT YOU IN THIS MATTER.

DATED: Albany, New York
April 25, 2016

Howard A. Zucker, M.D., J.D.
Commissioner of Health
New York State Department of Health

Inquiries should be directed to:

Paul Tsui
Associate Counsel
Bureau of Professional Medical Conduct
Corning Tower – Room 2512
Empire State Plaza
Albany, NY 12237
(518) 473-4282

NEW YORK STATE DEPARTMENT OF HEALTH
STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

IN THE MATTER OF HAROLD (aka HARRY) PERSAUD, M.D.	BPMC No. 16-284 SURRENDER ORDER

Upon the application of (Respondent) Harold Persaud, M.D. to surrender his license as a physician in the State of New York, which is made a part of this Surrender Order, it is

ORDERED, that the Surrender, and its terms, are adopted and it is further

ORDERED, that Respondent's name be stricken from the roster of physicians in the State of New York; it is further

ORDERED, that this Order shall be effective upon issuance by the Board, either

- by mailing of a copy of this Surrender Order, either by first class mail to Respondent at the address in the attached Surrender of License application or by certified mail to Respondent's attorney, OR
- upon facsimile transmission to Respondent or Respondent's attorney,

Whichever is first.

SO ORDERED.

DATE: 8/15/2016

Carmela Torrelli
Vice Chair
State Board for Professional Medical Conduct

NEW YORK STATE DEPARTMENT OF HEALTH
STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

IN THE MATTER OF HAROLD (aka HARRY) PERSAUD, M.D.	SURRENDER OF LICENSE AND ORDER

Harold Persaud, M.D., represents that all of the following statements are true:

That on or about September 14, 1987, I was licensed to practice as a physician in the State of New York, and issued License No.172341 by the New York State Education Department.

My current address is [redacted]

I understand that the New York State Board for Professional Medical Conduct (Board) has charged me with one or more specifications of professional misconduct, as set forth in a Statement of Charges, marked as Exhibit "A", which is attached to and part of this Surrender of License.

I am applying to the State Board for Professional Medical Conduct for permission to surrender my license as a physician in the State of New York on the grounds that I do not contest the charges against me.

I ask the Board to accept my Surrender of License, and I agree to be bound by all of the terms set forth in attached Exhibit "B".

I understand that, if the Board does not accept my Surrender of License, none of its terms shall bind me or constitute an admission of any of the acts of misconduct alleged; this application shall not be used against me in any way and shall be kept in strict

confidence; and the Board's denial shall be without prejudice to the pending disciplinary proceeding and the Board's final determination pursuant to the Public Health Law.

I agree that, if the Board accepts my Surrender of License, the Chair of the Board shall issue a Surrender Order in accordance with its terms. I agree that this Order shall take effect upon its issuance by the Board, either by mailing of a copy of the Surrender Order by first class mail to me at the address in this Surrender of License, or to my attorney by certified mail, or upon facsimile transmission to me or my attorney, whichever is first. The Surrender Order, this agreement, and all attached exhibits shall be public documents, with only patient identities, if any, redacted. As public documents, they may be posted on the Department's website(s). OPMC shall report this action to the National Practitioner Data Bank, the Federation of State Medical Boards, and any other entities that the Director of OPMC shall deem appropriate.

I ask the Board to accept this Surrender of License, which I submit of my own free will and not under duress, compulsion or restraint. In consideration of the value to me of the Board's acceptance of this Surrender of License, allowing me to resolve this matter without the various risks and burdens of a hearing on the merits, I knowingly waive my right to contest the Surrender Order for which I apply, whether administratively or judicially, and I agree to be bound by the Surrender Order.

I understand and agree that the attorney for the Department, the Director of the Office of Professional Medical Conduct and the Chair of the State Board for Professional Medical Conduct each retain complete discretion either to enter into the proposed agreement and Order, based upon my application, or to decline to do so. I further

understand and agree that no prior or separate written or oral communication can limit that discretion.

DATE 7/29/16

[redacted]
HAROLD PERSAUD, M.D.
RESPONDENT

The undersigned agree to Respondent's attached Surrender of License and Order and to its proposed penalty, terms and conditions.

DATE: 8/3/16

[redacted]
HENRY HILOW, ESQ.
Attorney for Respondent

DATE: 8/3/16

[redacted]
PAUL TSUI
Associate Counsel
Bureau of Professional Medical Conduct

DATE: 8/4/16

[redacted]
KEITH W. SERVIS
Director
Office of Professional Medical Conduct