

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

IN THE MATTER
OF
HISHAM M. HANAI, M.D.
CO-07-04-1910-A

COMMISSIONER'S
SUMMARY
ORDER

TO: HISHAM M. HANAI, M.D.
600 Tyrone Blvd.
St. Petersburg, FL 33710

HISHAM M. HANAI, M.D.
6527 Central Avenue
St. Petersburg, FL 33710

The undersigned, Richard F. Daines, M.D., Commissioner of Health, pursuant to New York 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 the duly authorized professional disciplinary agency of another jurisdiction, the State of Florida, Department of Health, has made a finding substantially equivalent to a finding that the practice of medicine by **HISHAM M. HANAI, M.D.**, New York license number 207094, in that jurisdiction constitutes an imminent danger to the health of its people, as is more fully set forth in the State of Florida, Department of Health, Order of Emergency Suspension of License, dated April 5, 2007, attached, hereto, as Appendix "A" and made a part, hereof.

It is therefore:

ORDERED, pursuant to New York Public Health Law §230(12)(b), that effective immediately, Respondent shall not practice medicine in the State of New York.

Any practice of medicine in the State of New York in violation of this Order shall constitute Professional

Misconduct within the meaning of New York Education Law §6530(29) and may constitute unauthorized medical practice, a Felony defined by New York Education Law §6512.

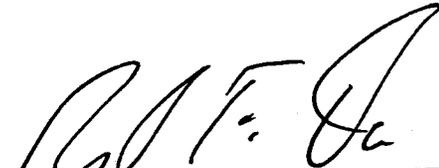
This Order shall remain in effect until the final conclusion of a hearing which shall commence within thirty days after the final conclusion of the disciplinary proceeding in the State of Florida .

The hearing will be held pursuant to the provisions of New York Public Health Law §230 and New York State Administrative Procedure 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 Summary Hearing to be provided to the Respondent after the final conclusion of the proceeding. Said written Notice may be provided in person, by mail, or by other means. If Respondent wishes to be provided said written notice at an address other than that set forth above, Respondent shall so notify, in writing, both the attorney whose name is set forth in this Order and the Director of the Office of Professional Medical Conduct, at the addresses set forth below.

Respondent shall notify the Director of the Office of Professional Medical Conduct, New York State Department of Health, 433 River Street, Suite 303, Troy, NY 12180-2299 via Certified Mail, Return Receipt Requested, of the final conclusion of the Florida proceeding immediately upon such conclusion.

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
July 7, 2007

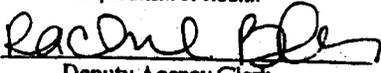


RICHARD F. DAINES, M.D.
Commissioner of Health
New York State Health Department

Inquiries should be directed to:

Robert Bogan
Associate Counsel
N.Y.S. Department of Health
Division of Legal Affairs
433 River Street
Suite 303
Troy, NY 12180
Telephone (518) 402-0828

STATE OF FLORIDA
DEPARTMENT OF HEALTH

Final Order No. DOH-07-0563-ESO-MOA
FILED DATE - 4.0.07
Department of Health
By: 
Deputy Agency Clerk

In Re: Emergency Suspension of the License of
Hisham M. Hanai, M.D.
License Number: ME 74438
Case Number: 2007-04240

ORDER OF EMERGENCY SUSPENSION OF LICENSE

Ana M. Viamonte Ros, M.D., M.P.H., Secretary of the Department of Health, ORDERS the emergency suspension of the license of Hisham M. Hanai, M.D. ("Dr. Hanai"), to practice as a physician. Dr. Hanai holds license number ME 74438 and his last known address is 6527 Central Avenue, St. Petersburg, Florida 33710. The following Findings of Fact and Conclusions of Law support the emergency suspension of Dr. Hanai's license to practice as a physician.

FINDINGS OF FACT

1. The Department of Health ("Department") is the state agency charged with regulating the practice of medicine pursuant to Chapters 20, 456, and 458, Florida Statutes. Section 456.073(8), Florida Statutes, empowers the Secretary of the Department to summarily suspend Dr. Hanai's license to practice as a physician in the State of Florida in accordance with Section 120.60(6), Florida Statutes.

2. At all times material hereto, Dr. Hanai was licensed to practice medicine in the State of Florida pursuant to Chapter 458, Florida Statutes.

3. On or about July 27, 2004, Professionals Resource Network ("PRN") received a report that Dr. Hanai's ability to practice medicine was impaired due to drug

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and/or alcohol abuse. PRN is a non-profit organization tasked with providing evaluation and treatment to impaired medical practitioners in accordance with Section 456.076, Florida Statutes.

4. The report PRN received included allegations that office staff had witnessed Dr. Hanai snorting cocaine and that his drug use was negatively affecting his performance at work. In July and August 2005, PRN received two additional, similar reports relating to Dr. Hanai's work performance. These included allegations that, among other things, he was experiencing excessive absenteeism due to hangovers, erratic mood swings, paranoia, a constantly running nose and dilated eyes.

5. On or about August 4, 2004, a representative of PRN met with Dr. Hanai to discuss the reports it had received. Dr. Hanai admitted that if he was tested that day, his blood or urine would test positive for marijuana use. Dr. Hanai insisted his drug use was not a problem but agreed to meet with a Department approved evaluator. Dr. Hanai also agreed to refrain from practicing medicine until the evaluation was complete.

6. On or about August 27, 2004, Dr. Hanai was evaluated by a Department approved addiction psychiatrist. This psychiatrist diagnosed Dr. Hanai with probable cocaine dependency, rule out alcohol and opiate dependency versus abuse, and Substance Induced Mood Disorder. The psychiatrist recommended that Dr. Hanai enter a residential treatment program for further evaluation and treatment.

7. Dr. Hanai disagreed with the aforementioned diagnoses and sought a second opinion. He continued to refrain from practicing medicine.

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8. On or about December 7, 2004, Dr. Hanai was evaluated by a second psychiatrist. The second psychiatrist diagnosed Dr. Hanai with Cyclothymia (a mild form of bipolar disorder), rule out possible modest Bipolar Affective Disorder, Substance Use Disorder in past (not current) and Paranoid Personality. The second psychiatrist also recommended that Dr. Hanai enter a residential treatment program for further evaluation and treatment.

9. Dr. Hanai continued to refrain from practicing medicine after this evaluation as well.

10. On or about February 16, 2005, Dr. Hanai entered into a five year contract with PRN that required him to continue to refrain from practicing medicine unless authorized by PRN to do so, refrain from the use of unprescribed drugs or alcohol, submit to random testing for the same and attend group and individual counseling.

11. On or about March 14, 2005, Dr. Hanai entered an intensive outpatient rehabilitation program which included counseling and drug and alcohol screening. As part of this program, Dr. Hanai was allowed to return to the practice of medicine as long as he worked limited hours under close supervision.

12. On or about June 8, 2005, Dr. Hanai was allowed to return to the practice of medicine full time.

13. On or about July 18, 2005, Dr. Hanai completed the intensive outpatient rehabilitation program. He was instructed to comply with the terms of his PRN contract as part of his aftercare program.

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14. On or about December 15, 2006, one of Dr. Hanai's patients reported to PRN that Dr. Hanai had appeared impaired during two office visits. The patient alleged that Dr. Hanai had fallen asleep during a visit, that his pupils were constricted and that he had been hostile, confrontational and exceptionally absent minded. The patient also alleged that he or she had overheard Dr. Hanai discussing "The Whizzinator," a device used to defeat urinalysis by surreptitiously substituting a test taker's "dirty" urine with another person's "clean" urine.

15. PRN followed up on the aforementioned allegations by contacting Dr. Hanai's treatment providers. Dr. Hanai's treatment providers reported that he did not appear to be exhibiting any signs that he had relapsed and was making satisfactory progress in his treatment program. PRN requested that Dr. Hanai's future urinalyses be monitored by another person.

16. On or about January 24, 2007, PRN received another report from a patient of Dr. Hanai. This patient reported that, after treating her, Dr. Hanai wrote a prescription for her while she sat in her car and offered to alter entries in her medical record. The patient also alleged that Dr. Hanai asked her out for coffee and, when she declined, called her at home three nights in a row. One of these calls was allegedly made at approximately 12:30 a.m. The patient reported that she was fearful of the consequences of continuing to reject Dr. Hanai's advances.

17. In light of concerns raised by Dr. Hanai's mention of The Whizzinator, on or about January 25, 2007, PRN ordered a sample of Dr. Hanai's hair gathered for testing. Later that night, a representative of PRN confronted Dr. Hanai at a group

meeting. Dr. Hanai was reluctant to allow a hair sample to be taken and tried to delay the test, but ultimately allowed the representative to collect some of his hair.

18. On or about February 1, 2007, Dr. Hanai's hair was tested by MecStat Laboratories in Des Plaines, IL. Dr. Hanai's hair tested positive for the presence of cocaine, morphine, oxycodone, phenobarbital and hydrocodone.

19. Under Section 893.03, Florida Statutes (2006), cocaine, morphine, oxycodone and phenobarbital are Schedule II controlled substances, meaning they have high potential for abuse, currently accepted but severely restricted medical uses in treatment in the United States and their abuse may lead to severe psychological or physical dependence. Under the same statute, drugs containing limited quantities of hydrocodone are Schedule III controlled substances, meaning they have a potential for abuse less than the substances contained in Schedules I and II, have currently accepted medical uses in treatment in the United States and their abuse may lead to moderate or low physical dependence or high psychological dependence.

20. All of the aforementioned drugs are dangerous and addictive narcotics. The only one that was properly prescribed to Dr. Hanai for a valid medical purpose was hydrocodone.

21. On or about February 2, 2007, PRN received a written report from MecStat Laboratories detailing the results of Dr. Hanai's hair test. Later that day, PRN unsuccessfully attempted to contact Dr. Hanai to arrange evaluation for inpatient drug treatment.

22. On or about February 9, 2007, Raymond M. Pomm, M.D., Medical Director for PRN, addressed a letter to the Department of Health asking that Dr. Hanai's license to practice medicine be immediately suspended on an emergency basis because of Dr. Hanai's inability to practice medicine with reasonable skill and safety such that he is an immediate threat to the public health, safety, and welfare. In his letter, Dr. Pomm relied on Dr. Hanai's unauthorized use of dangerous and addictive narcotics, the multiple reports of inappropriate behavior, and the appearance of impairment made to PRN by Dr. Hanai's patients as the factual bases for his opinion.

23. On or about March 16, 2007, Dr. Hanai executed a voluntary agreement with the Department legally obligating him within the meaning of Section 456.072(1)(k), Florida Statutes (2006), to withdraw from the practice of medicine in the State of Florida. Dr. Hanai signed this agreement in lieu of having the Department issue an emergency order suspending his license to practice medicine.

24. On or about March 28, 2007, an anonymous caller reported to PRN that Dr. Hanai was still actively practicing medicine in violation of his March 16, 2007, voluntary withdrawal from practice.

25. On or about March 29, 2007, PRN reported to the Department the allegation that Dr. Hanai was still actively practicing medicine in violation of his March 16, 2007, voluntary withdrawal from practice.

26. On or about March 29, 2007, the Department set up surveillance at Dr. Hanai's medical practice, located at 6527 Central Avenue, St. Petersburg, Florida 33710.

On or about March 29, 2007, an investigator for the Department observed Dr. Hanai

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actively practicing medicine in violation of his March 16, 2007, voluntary withdrawal from practice.

27. Section 458.331(1)(s), Florida Statutes (2006), subjects a licensee to discipline, including suspension, by the Board of Medicine for being unable to practice medicine with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition.

28. Dr. Hanai is unable to practice medicine with the requisite skill and safety due to impairment, as evidenced by his unauthorized use of dangerous and addictive narcotics, the multiple reports of inappropriate behavior and the appearance of impairment made to PRN by Dr. Hanai's patients. Therefore, Dr. Hanai is subject to discipline pursuant to Section 458.331(1)(s), Florida Statutes (2006).

29. Section 120.60(6), Florida Statutes (2006), authorizes the Department to suspend a physician's license if the Department finds that the physician presents an immediate serious danger to the public health, safety, or welfare.

30. In Section 458.301, Florida Statutes (2006), the Legislature of Florida stated, "the practice of medicine is potentially dangerous to the public if conducted by unsafe or incompetent practitioners." In the same statute, the Legislature set out to protect the public by further stating that "physicians . . . who . . . present a danger to the public shall be prohibited from practicing medicine in this state."

31. Dr. Hanai's unauthorized use of dangerous and addictive narcotics, the multiple reports made to PRN by Dr. Hanai's patients of inappropriate behavior and the

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appearance of impairment, the letter from Dr. Pomm stating that Dr. Hanai presents an immediate threat to the public health, safety and welfare, and Dr. Hanai's violation of his March 16, 2007, voluntary withdrawal from practice all represent the significant likelihood that Dr. Hanai will cause harm to patients or others, and this probability constitutes an immediate and/or serious danger to the health, safety, and welfare of the citizens of the State of Florida. Nothing short of the immediate suspension of Dr. Hanai's license will protect the public from the danger resulting from his practice of medicine.

CONCLUSIONS OF LAW

The findings of fact are the basis for the Conclusions of Law.

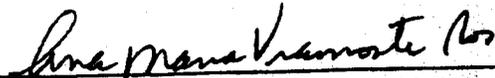
1. The Secretary of the Department of Health has jurisdiction over this matter pursuant to Section 456.073(8), Florida Statutes, and Section 20.43, Florida Statutes.
2. The Secretary concludes that Dr. Hanai is unable to practice medicine with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition, as outlined in Section 458.331(1)(s), Florida Statutes (2006).
3. The Secretary finds that Dr. Hanai's continued practice as a physician constitutes an immediate serious danger to the health, safety, and welfare of the public and that this summary procedure is fair under the circumstances to adequately protect the public.

WHEREFORE, in accordance with Section 120.60(6), Florida Statutes, it is ORDERED THAT:

1. The license of Hisham M. Hanai, M.D., license number ME 74438, is immediately suspended.

2. A proceeding seeking formal suspension or discipline of the license of Hisham M. Hanai, M.D., to practice as a physician will be promptly instituted and acted upon in compliance with Sections 120.569 and 120.60(6), Florida Statutes.

DONE and ORDERED this 5th day of April, 2007.


Ana M. Viamonte Ros, M.D., M.P.H.
Secretary, Department of Health

PREPARED BY:
Don Freeman
Assistant General Counsel
Florida Bar No. 736171
DOH, Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65
Tallahassee, Florida 32399-3265
(850) 245-4640 ext. 8139 Telephone
(850) 245-4681 Fax

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NOTICE OF RIGHT TO JUDICIAL REVIEW

Pursuant to Sections 120.60(6) and 120.68, Florida Statutes (2006), the Department's findings of immediate danger, necessity and procedural fairness shall be judicially reviewable. Review proceedings are governed by the Florida Rules of Appellate Procedure. Such proceedings are commenced by filing one copy of a Petition for Review, in accordance with Florida Rule of Appellate Procedure 9.100, with the Department of Health and a second copy of the petition accompanied by a filing fee prescribed by law with the District Court of Appeal within 30 days of the date this Order is filed.

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