

Public

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

IN THE MATTER

OF

ATAUR RAHMAN, M.D.
CO-10-09-6086-A

COMMISSIONER'S
SUMMARY
ORDER

TO: ATAUR RAHMAN, M.D.
302 Broadway
Brooklyn, NY 11211

ATAUR RAHMAN, M.D.
REDACTED

The undersigned, James W. Clyne, Jr., Executive Deputy 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 (hereinafter "Florida Board"), has made a finding substantially equivalent to a finding that the practice of medicine by **ATAUR RAHMAN, M.D.**, Respondent, New York license number 238348, in that jurisdiction, constitutes an imminent danger to the health of its people, as is more fully set forth in the Order of Emergency Suspension on License, dated September 27, 2010, 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, **ATAUR RAHMAN, M.D.**, shall not practice medicine in the State of New York or in any other jurisdiction where that practice is predicated on a valid New York State license to practice medicine.

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 (30) days after the final conclusion of the disciplinary proceeding in 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 Referral Proceeding to be provided to the Respondent after the final conclusion of the Florida 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 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.

DATE: Albany, New York
December 22, 2010

REDACTED

J
JAMES W. CLYNE, JR.
Executive Deputy Commissioner of Health
New York State Department of Health

Inquires should be directed to:

Michael G. Bass
Assistant Counsel
Bureau of Professional Medical Conduct
Corning Tower – Room 2512
Empire State Plaza
Albany, New York 12237
(518) 473-4282

**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

**IN RE: The Emergency Suspension of the License of
Ataur Rahman, M.D.
License No.: ME 95010
Case No.: 2010-07365**

ORDER OF EMERGENCY SUSPENSION OF LICENSE

Ana M. Viamonte Ros, M.D., M.P.H., State Surgeon General, ORDERS the emergency suspension of the license of Ataur Rahman, M.D., to practice as a physician. Dr. Rahman holds license number ME 95010. Dr. Rahman practices at Family Medicine/Pain Management, a registered pain clinic located at 4234 Chadsworth Lane, Port Orange, Florida 32129, which is Dr. Rahman's address of record. The following Findings of Fact and Conclusions of Law support the emergency suspension of Dr. Rahman'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 (2010), authorizes the State Surgeon General to summarily suspend Dr. Rahman's license to practice as a physician in the State of Florida in accordance with Section 120.60(6), Florida Statutes (2010).

2. At all times material to this Order, Dr. Rahman was licensed to practice as a medical doctor, in the State of Florida, pursuant to Chapter 458, Florida Statutes.

3. At all times material to this Order, Dr. Rahman was a dispensing practitioner within the State of Florida, having been licensed on or about January 6, 2006.

4. A dispensing practitioner licensed in the State of Florida is one of a small number of licensed professionals allowed to dispense controlled substances in the state. The legislature has vested a trust and confidence in these licensed professionals by permitting them to dispense drugs with a high potential for abuse and harm. Inappropriate dispensing of highly addictive controlled substances to patients presents a danger to the public health, safety or welfare, and does not correspond to that level of professional conduct expected of one licensed to practice medicine in this state.

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5. From on or about March 2010 through on or about August 2010, the Port Orange Police Department (POPD) and the United States Drug Enforcement Agency (DEA) conducted an investigation of Dr. Rahman's clinic due to many complaints from citizens about Dr. Rahman's clientele and allegations that Dr. Rahman was prescribing drugs without cause. A Department of Health Investigator (DOHI) was recruited to help with the investigation.

6. The DOHI made three visits to Dr. Rahman, in 2010, posing as a patient.

7. When the DOHI went to Dr. Rahman's office the DOHI was equipped with a video device and an audio device which were being monitored by the POPD agents and the DEA agents.

8. On or about May 13, 2010, the DOHI called Dr. Rahman's office for an appointment as a new patient. The appointment was set for May 19, 2010 at 10:00 a.m. The DOHI was told to bring an MRI, CAT scan, or X-ray and his prescription history. He was also told that the appointment cost would be \$200.00 and follow-up visits would be \$150.00.

9. On or about May 19, 2010, the DOHI went to the

appointment with Dr. Rahman at 900 North Swallowtail Drive, Unit 105, Port Orange, Florida. The receptionist asked if he had brought his pharmacy records. The DOHI told her that he had not been able to get his pharmacy record. The receptionist told him that all he could be given was Lortab.

10. Lortab is the brand name for a drug that contains hydrocodone and is prescribed to treat pain. According to Section 893.03(3), Florida Statutes, hydrocodone, in the dosages found in Lortab, is a Schedule III controlled substance that has a potential for abuse less than the substances in Schedules I and II and has a currently accepted medical use in treatment in the United States. Abuse of the substance may lead to moderate or low physical dependence or high psychological dependence.

11. When Dr. Rahman took the DOHI into an exam room he asked the DOHI if he was currently using any prescriptions. The DOHI said that he had not been for about three months.

12 Dr. Rahman then asked for his doctor's name. The DOHI gave him the name of Dr. Shahla from Jacksonville.

13. Dr. Rahman then told the DOHI that he could not give

him a prescription for oxycodone, but could give him one for hydrocodone 10, for 120 tablets. Dr. Rahman told him the office visit would be \$200.00 and the following visits would be \$150.00.

14. Dr. Rahman asked if the DOHI had a driver's license and if it was from Florida. The DOHI confirmed that he had a Florida driver's license. Dr. Rahman then took the DOHI to the front and asked the receptionist to prepare a new folder for him.

15. Dr. Rahman took the DOHI back to the exam room where he asked for his driver's license and \$200.00 cash. The DOHI gave Dr. Rahman the \$200.00 in cash, and Dr. Rahman placed the money in his pocket.

16. The DOHI then gave an MRI report, which was supplied from the POPD, to Dr. Rahman. The MRI report is dated December 15, 2009. The report is not signed by a doctor, but purports to be from Dr. Natalia Nagornaya. The report is not on letterhead and contains no indication of where the MRI was performed. Under the heading of IMPRESSION, the MRI reads:

1. No evidence for cord injury within the thoracic or lumbar spine.
2. No evidence for bone marrow edema to

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suggest fracture.

3. Mild spondylosis at the T11-12 level and L4-5, and L5-S1.

17. Dr. Rahman asked the DOHI if he was allergic to any medications, took his blood pressure, listened to his chest and abdomen with a stethoscope and tested his knee reflex.

18. Dr. Rahman then told the DOHI that he was going to give him Lortab 10. He asked the DOHI if he needed anything else. The DOHI stated that he would like some Soma to loosen up his back. Dr. Rahman said that he would give him a prescription for Soma. Dr. Rahman also stated that the next time he could give him a prescription for Oxycontin.

19. Soma is the brand name for carisoprodol, a muscle relaxant commonly prescribed to treat muscular pain. According to Section 893.03(4), Florida Statutes, carisoprodol is a Schedule IV controlled substance that has a low potential for abuse relative to the substances in Schedule III and has a currently accepted medical use in treatment in the United States. Abuse of carisoprodol may lead to limited physical or psychological dependence relative to the substances in Schedule III.

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20. The physical exam Dr. Rahman completed on the DOHI took about six minutes. The DOHI left Dr. Rahman's office approximately 30 minutes after his arrival with a prescription for Lortab 10/500, 120 tablets, a prescription for Soma 350mg, 60 tablets, and an appointment for July 27, 2010.

21. On or about July 27, 2010, the DOHI went to his appointment with Dr. Rahman. He arrived at the clinic at approximately 2:30 p.m. In the thirty minutes that the DOHI waited to see the doctor, Dr. Rahman saw approximately four other patients.

22. Dr. Rahman took the DOHI back to the exam room and took the DOHI's blood pressure. When Dr. Rahman removed the blood pressure cuff he asked the DOHI for \$150.00. The DOHI gave Dr. Rahman \$160.00 in twenty dollar bills. Dr. Rahman placed the money in his front pocket and then took his wallet out of his back pocket and handed the DOHI \$10.00 in change. Dr. Rahman then wrote the prescriptions for Lortab 10/500, 120 tablets and Soma 350mg, 60 tablets. Dr. Rahman handed the prescriptions to the DOHI and told him to have a nice day.

23. Before leaving the office the DOHI made another appointment to see Dr. Rahman on August 24, 2010.

24. The time Dr. Rahman spent with the DOHI on this second visit in the exam room was approximately two and a half minutes.

25. On or about August 19, 2010, approximately five days before his appointment, the DOHI went to Dr. Rahman's office. He arrived at the clinic at approximately 3:25 p.m. In the approximately one hour that the DOHI waited to see the doctor, Dr. Rahman saw approximately six other patients and one woman who appeared to be a sales representative.

26. When Dr. Rahman took the DOHI back to the exam room, he asked the DOHI why he was there early and said that his medicine was not due. The DOHI told Dr. Rahman that he was out of medicine.

27. Dr. Rahman then told him that his charge for this visit would be \$175.00. Dr. Rahman said "This is cheap, usually \$200.00 we charge." Then Dr. Rahman asked if four tablets a day of the Lortab was not enough and if five tablets a day would be enough. The DOHI said that five tablets would be good.

28. Dr. Rahman asked the DOHI about if he was good on Soma or if he needed more. The DOHI told Dr. Rahman that he had Soma left, but if he could get more it would be good. Dr. Rahman agreed to give him more Soma.

29. Dr. Rahman dropped the cost of the visit to \$160.00. The DOHI gave Dr. Rahman \$160.00 in cash, which Dr. Rahman placed in his front pants pocket.

30. Dr. Rahman placed the blood pressure cuff on the DOHI, pumped it up to 120mm/Hg, quickly released the pressure and removed the cuff. Approximately three seconds elapsed from the time Dr. Rahman stopped pumping the cuff to the time he took the cuff off.

31. Dr. Rahman made some notes in the DOHI's folder, then wrote him prescriptions for Lortab 10/500 150 tablets and Soma 350mg 60 tablets.

32. The DOHI went to Dr. Rahman's office on or about September 1, 2010, and obtained a copy of his medical records.

33. The first page of the document titled "Initial Exam and Pain Assessment Tool" indicates that the patient rated his pain as a

"4" and says that the worst pain the patient gets is "9." At no time did Dr. Rahman ask the DOHI how he rated his pain. The form indicates that the DOHI's pulse was 72. At no time did Dr. Rahman or anyone else take the DOHI's pulse.

34. The second page of the "Initial Exam and Pain Assessment Tool" document indicates "difficulty" for the "stance: heel, tiptoe tendon walk." At no time did the DOHI do the "heel, tiptoe tendon walk" for Dr. Rahman. Dr. Rahman indicates, under the Range of Motion, "well preserved" for all areas listed. At no time did Dr. Rahman perform range of motion tests on the DOHI.

35. The progress notes for July 27, 2010, indicate that the DOHI's best pain level during the past month was a "2" and the worst pain level during the past month was a "2." At no time did Dr. Rahman ask the DOHI how he rated his pain; Dr. Rahman simply wrote out the prescriptions for the DOHI.

36. The progress notes for August 19, 2010, have circles around the number 2 and circles around the numbers 4, 5, and 6, in response to the questions of "What was your pain level at its best during the past month." At no time did Dr. Rahman ask the DOHI

how he rated his pain; Dr. Rahman simply wrote out the prescriptions for the DOHI.

37. Section 458.331(1)(q), Florida Statutes (2009), subjects a licensee to discipline, including suspension, for prescribing, dispensing, administering, mixing, or otherwise preparing a legend drug, including any controlled substance, other than in the course of the physician's professional practice. For purposes of Section 458.331(1)(q), it shall be legally presumed that prescribing, dispensing, administering, mixing, or otherwise preparing legend drugs, including all controlled substances, inappropriately or in excessive or inappropriate quantities is not in the best interest of the patient and is not in the course of the physician's professional practice, without regard to his or her intent.

38. On or about May 19, 2010, July 27, 2010, and August 19, 2010, Dr. Rahman inappropriately prescribed controlled substances to the DOHI when he prescribed Lortab 10/500 150 tablets and Soma 350mg 60 tablets for the DOHI without doing a proper physical examination and without even asking the DOHI if he was in pain.

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

40. A physician licensed in the State of Florida is one of a small number of licensed professionals allowed to prescribe, administer, and dispense controlled substances in the State. The Legislature has vested a trust and confidence in these licensed professionals by permitting them to prescribe drugs with a high potential for abuse and harm. Inappropriate prescribing of highly addictive controlled substances to patients presents a danger to the public health, safety, or welfare, and does not correspond to that level of professional conduct expected of one licensed to practice medicine in this state.

41. Dr. Rahman has demonstrated a flagrant disregard for the duties and responsibilities imposed upon a physician practicing in the State of Florida and for the health and welfare of his patients and for the citizens of this state. Dr. Rahman's excessive and

inappropriate prescribing of highly addictive and dangerous drugs constitutes a breach of the trust and confidence that the Department of Health and the Board of Medicine placed in him by issuing him a license to practice medicine and to dispense medication, including controlled substances.

42. Dr. Rahman's actions demonstrate such a propensity to excessively and inappropriately prescribe dangerous and addictive drugs which makes it clear that Dr. Rahman is a danger to the public safety. An emergency order of restriction is not sufficient to protect the public, because the practice of prescribing dangerous narcotics to patients without a proper physical examination and without a proper assessment of the patient's pain that Dr. Rahman has engaged in demonstrates a total disregard for the best interest of his patients. Nothing short of the immediate suspension of Dr. Rahman's license will protect the public from this danger.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the State Surgeon General concludes as follows:

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1. The Department has jurisdiction pursuant to Sections 20.43 and 456.073(8), Florida Statutes, and Chapter 458, Florida Statutes.

2. Dr. Rahman violated Section 458.331(1)(q), Florida Statutes (2010) by excessively and inappropriately prescribing controlled substances to the DOHI on three visits in 2010.

3. Dr. Rahman's continued practice as a physician constitutes an immediate serious danger to the health, safety, or welfare of the public and 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 Ataur Rahman, M.D., license number ME 95010, is immediately suspended.

2. A proceeding seeking formal suspension or discipline of the license of Ataur Rahman, 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.