State of New Hampshire
Board of Medicine
Concord, New Hampshire

In the Matter of:
Hasan A. Duymazlar, DO
License No. 11269
(Adjudicatory Proceedings)

Docket No. 13-06

ORDER OF EMERGENCY LICENSE SUSPENSION AND NOTICE OF HEARING

1. RSA 329:18-b; RSA 541-A:30, III, and New Hampshire Board of Medicine Administrative Rule ("Med") 409.01 authorize the New Hampshire Board of Medicine ("Board") to suspend a license to practice medicine for no more than one hundred twenty (120) days pending completion of an adjudicatory proceeding, in cases involving imminent danger to life or health. In such cases, the Board must commence a hearing not later than 10 days after the date of the emergency order. If the Board does not commence the hearing within 10 days, the suspension order shall be automatically vacated. *See,* RSA 541-A:30, III. The Board may not continue such a hearing without the consent of the licensee to the continuation of the emergency suspension. *See,* RSA 329:18-b and Med 409.01. Postponement of the proceeding is prohibited unless the licensee agrees to continue the suspension pending issuance of the Board's final decision. *See,* RSA 329:18-b and Med 409.01.

2. Hasan A. Duymazlar, DO ("Hasan A. Duymazlar, D.O." or "Respondent"), holds an active license, No. 11269, issued on June 6, 2001, to practice medicine in the State of New Hampshire. Respondent practices medicine in Wolfboro, New Hampshire.

3. The Board has received information indicating that the continued practice of medicine by Dr. Duymazlar poses an imminent threat to life, safety and/or health, which warrants the temporary suspension of Dr. Duymazlar's license to practice medicine pending a hearing on whether permanent and/or temporary disciplinary sanctions should be imposed. An investigation was conducted and a Report of Investigation was provided to the Board.

4. In support of this *Order of Emergency License Suspension and Notice of Hearing*, the Board alleges the following facts:

A. On July 8, 2013, a pharmacist at Pharmacy A in Ossipee, New Hampshire informed an investigator with New Hampshire State Police ("investigator") that one of his customers from Moultonborough, New Hampshire, who went by the name of "S.F."[1], appeared to be getting a large quantity of Oxycodone. The investigator was told that one of the other pharmacists had asked the individual purporting to be S.F. for identification before the prescription was going to be filled. The individual purporting to be S.F. did not provide identification and then took his prescription back and left the store.

B. When the investigator checked with Pharmacy B, located across the street from Pharmacy A, the pharmacist on duty said that he had refused to fill prescriptions for an individual purporting to be S.F. in the past due to a lack of identification. He also said that the individual

[1] Initials are being used to protect the privacy of this individual referenced in the confidential report reviewed by the Board.

purporting to be S.F. looked like the same person that had received prescriptions under the name of "M.S."[2] of Boston, Massachusetts.

C. It was learned that prescriptions for controlled drugs written out to both S.F. and M.S. were filled at the same pharmacy, and that the prescriptions were purportedly written and signed by Dr. Hasan Duymazlar. The prescriptions were all for Oxycodone 30mg tablets with varying amounts for the quantity.

D. The pharmacist from Pharmacy B visited the website for the hospital where Dr. Duymazlar is employed and viewed a photograph of him. The pharmacist immediately recognized the picture of Dr. Duymazlar as the same person that came into Pharmacy B passing a prescription for M.S. The pharmacist then printed the photo, and faxed it to the pharmacist at Pharmacy A. Upon looking at the picture of Dr. Duymazlar the pharmacist at Pharmacist A immediately recognized the person as the individual purporting to be S.F.

E. The pharmacist at Pharmacy A informed the investigator that he spoke with an individual on the telephone, who identified himself as Dr. Duymazlar, and that the individual had an English accent. He then recalled that the individual purporting to be S.F. had an English accent when he came in to fill the prescription.

[2] Initials are being used to protect the privacy of this individual referenced in the confidential report reviewed by the Board.

F. On July 9, 2013, the investigator contacted the pharmacy where the prescriptions for M.S. were being primarily filled at. The pharmacist at that pharmacy told the investigator that an individual purporting to be M.S. does fill prescriptions at that pharmacy, and that she does know him to have an English accent. The pharmacist then recalled that Dr. Duymazlar also has an English accent.

G. On July 6, 2013, at 1:29 p.m., an individual purporting to be S.F. had a prescription for Oxycodone filled at Pharmacy C in Conway, New Hampshire. The prescription was for 120 tablets of 30mg Oxycodone, and it was written and signed by Dr. Duymazlar.

H. The pharmacist at Pharmacy C described the individual who purported to be S.F. on July 6, 2013 as a white male, reddish hair, approximately 50 years old, approximately 5' 8" tall with a stocky build and an English accent. The investigator obtained the prescription and the surveillance video of the transaction as evidence.

I. On July 12, 2013, the investigator responded to the hospital where Dr. Duymazlar works and met with the Director of Risk Management. The investigator told the Director that several fraudulent prescriptions had been retrieved from different pharmacies, and that all of the prescriptions were purportedly written on the hospital's emergency room prescription paper. The investigator asked the Director if S.F. or M.S. were ever patients at the hospital's emergency room. The

Director responded that S.F. and M.S. were never patients at the hospital.

J. On July 15, 2013, investigators reviewed the surveillance video from Pharmacy C and were able to identify the male subject that passed the prescription for S.F. as Hasan Duymazlar by comparing the video to a known investigative photograph of Hasan Duymazlar.

K. On July 17, 2013, Dr. Duymazlar was arrested and charged with a Class B Felony under RSA 318-B:2, V for obtaining a controlled drug by fraud.

L. In November 2009, the Board entered into a settlement agreement with Respondent for a reprimand, a $3,000 administrative fine and 36 hours of continuing medical education. At that time, it was alleged that Respondent (1) prescribed a controlled substance and non-controlled substances for his father without maintaining any medical record; (2) failed to appropriately document prescriptions written for use in his practice; and (3) erroneously wrote prescriptions in his nurse's name.

5. Based upon the above information, the Board finds that the case involves imminent danger to life and/or health. Further, the Board believes there is a reasonable basis for both immediately suspending Respondent's license on a temporary basis, and for commencing an expedited disciplinary proceeding against Respondent pursuant to RSA 329:18-b, 541-A:30, III, and Med 409.01.

6. The purpose of this proceeding will be to determine whether Respondent has engaged in professional misconduct contrary to RSA 329:17, VI and RSA 329:18-b, which warrants the continued imposition of a temporary license suspension, the imposition of permanent disciplinary sanctions, or both. The specific issues to be determined in this proceeding are:

A. Whether Respondent committed professional misconduct by using the name of an individual whose initials are S.F. on or about July 6, 2013 to have a fraudulent prescription for 120 tablets of 30mg Oxycodone that was written by Respondent, filled at Pharmacy C in Conway, New Hampshire, in violation of RSA 329:17, VI(d).

B. If any of the above allegations are proven, whether and to what extent, Respondent should be subjected to one or more of the disciplinary sanctions authorized by RSA 329:17, VII.

7. While RSA 329:18-a requires that the Board furnish Respondent at least 15 days' notice of allegations of professional misconduct and the date, time and place of an adjudicatory hearing, RSA 541-A:30, III and Med 409.01 require the Board to commence an adjudicatory hearing within ten (10) days after the date of an immediate, temporary license suspension order.

8. The Board intends to complete this adjudicative proceeding within the one hundred twenty (120) day time period provided by RSA 329:18-b and Med 409.01. Accordingly, neither the date of the initial evidentiary hearing nor the date for concluding this proceeding shall be postponed or extended unless Respondent agrees to continue the

suspension period pending issuance of the Board's final decision in this matter. *See* RSA 329:18-b, 541-A:30, III, and Med 409.01.

THEREFORE, IT IS ORDERED that Respondent's New Hampshire license to practice medicine is immediately suspended until further order of the Board; and,

IT IS FURTHER ORDERED that an adjudicatory proceeding be commenced for the purpose of resolving the issues articulated above pursuant to RSA 329:17; 329:18-a; 329:18-b; 541-A:30, III; and Med 409.01. To the extent that this order or the Board's rules do not address an issue of procedure, the Board shall apply the New Hampshire Department of Justice Rules, Part 800; and,

IT IS FURTHER ORDERED that Hasan A. Duymazlar, DO shall appear before the Board on July 26, 2013 at 10:30 a.m., at the Board's office located at 2 Industrial Park Drive, Concord, N.H., to participate in an adjudicatory hearing and, if deemed appropriate, be subject to disciplinary sanctions pursuant to RSA 329:17, VII; and,

IT IS FURTHER ORDERED that if Respondent elects to be represented by counsel, at Respondent's own expense, said counsel shall file a notice of appearance at the earliest date possible; and,

IT IS FURTHER ORDERED that Respondent's failure to appear at the time and place specified above may result in the hearing being held *in absentia*, or the imposition of disciplinary sanctions without further notice or an opportunity to be heard, or both; and,

IT IS FURTHER ORDERED that Matthew G. Mavrogeorge, 33 Capitol Street, Concord, N.H., 03301 is appointed to act as Hearing Counsel in this matter with all the

authority within the scope of RSA Chapter 329 to represent the public interest. Hearing Counsel shall have the status of a party to this proceeding; and,

IT IS FURTHER ORDERED that Mark Sullivan, P.A., President, or any other person whom he may designate, shall act as presiding officer in this proceeding; and,

IT IS FURTHER ORDERED that any proposed exhibits, motions or other documents intended to become part of the record in this proceeding, be filed by the proponent with the Board, in the form of an original and eleven (11) copies, and with an additional copy mailed to any party to the proceeding, and to Jeanne Herrick, Counsel to the Board, N.H. Department of Justice, 33 Capitol Street, Concord, New Hampshire 03301. All responses or objections to such motions or other documents are to be filed in similar fashion within ten (10) days of receipt of such motion or other document unless otherwise ordered by the Board; and,

IT IS FURTHER ORDERED that a witness and exhibit list and any proposed exhibits, pre-marked for identification only, shall be filed with the Board no later than three (3) days before the date of the hearing. Respondent shall pre-mark his exhibits with capital letters, and Hearing Counsel shall pre-mark her exhibits with Arabic numerals; and,

IT IS FURTHER ORDERED that unless good cause exists, all motions shall be filed at least three (3) days before the date of any hearing, conference, event or deadline which would be affected by the requested relief, except any motion seeking to postpone a hearing or conference, which shall be filed at least ten (10) days before the hearing or conference in question; and,

IT IS FURTHER ORDERED that the entirety of all oral proceedings be recorded verbatim by the Board. Upon the request of any party made at least ten (10) days prior to the proceeding or conference or upon the Board's own initiative, a shorthand court reporter shall be provided at the hearing or conference and such record shall be transcribed by the Board if the requesting party or agency shall pay all reasonable costs for such transcription; and,

IT IS FURTHER ORDERED that all documents shall be filed with the Board by mailing or delivering them to Penny Taylor, Administrator, N.H. Board of Medicine, 2 Industrial Park Drive, Suite 8, Concord, New Hampshire 03301; and

IT IS FURTHER ORDERED that routine procedural inquiries may be made by contacting Penny Taylor, Administrator, N.H. Board of Medicine, at (603) 271-1204, but that all other communications with the Board shall be in writing and filed as provided above. *Ex parte* communications are forbidden by statute and the Board's regulations; and,

IT IS FURTHER ORDERED that a copy of this Notice of Hearing shall be served upon Respondent by certified mail addressed to the office address he supplied to the Board in his latest renewal application. *See*, RSA 329:18, VI, Med. 409.01 (c) and RSA 329:16 (f). A copy shall also be delivered to Hearing Counsel.

BY ORDER OF THE BOARD/*

Dated: July 18, 2013

Penny Taylor, Administrator
Authorized Representative of the
New Hampshire Board of Medicine

/* Recused Board Members(s): Louis Rosenthall, M.D.