

PUBLIC

IN THE MATTER

OF

**SARFRAZ MIRZA, M.D.**  
**CO-04-02-0677-A**

COMMISSIONER'S  
SUMMARY  
ORDER

**TO:** SARFRAZ MIRZA, M.D.  
3055 S. Highway A1A  
Melbourne, FL 32951

SARFRAZ MIRZA, M.D.  
1566 Sarno Road  
Suite B  
Melbourne, FL 32935

The undersigned, Antonia C. Novello, M.D., M.P.H., Dr. P.H., 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 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 **SARFRAZ MIRZA, M.D.**; Respondent, licensed to practice medicine in New York state on January 3, 1973, by license number 114712, in that jurisdiction constitutes an imminent danger to the health, safety, and welfare of its people, as is more fully set forth in documents of the Florida Board, attached hereto, as Appendix "A," and made a part hereof.

It is therefore:

ORDERED, pursuant to N.Y. Public Health Law Section 230(12)(b), that effective immediately, **SARFRAZ MIRZA, M.D.**, Respondent, shall not practice medicine in the State of New York or in any other jurisdiction where that practice is dependent on a valid New York State license to practice medicine.

Any practice of medicine in the State of New York or in any other jurisdiction where that practice is dependent on a valid New York State license to practice medicine in violation of this Commissioner's Summary Order shall constitute Professional Misconduct within the meaning of N.Y. Educ. Law §6530 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 that shall commence within thirty (30) days after the final conclusion of the disciplinary proceeding in the State of Florida. The hearing will be held pursuant to the provisions of NY. 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 Summary Hearing, together with a Statement of Charges, 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 those set forth above, Respondent shall so notify, in writing, both the attorney whose name is set forth on 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  
MAY BE FINED OR SUBJECT TO OTHER SANCTIONS  
SET FORTH IN NEW YORK PUBLIC HEALTH LAW  
SECTION 230-A. YOU ARE URGED TO OBTAIN AN  
ATTORNEY FOR THIS MATTER.**

DATE: Albany, New York

*April 14*, 2004



ANTONIA C. NOVELLO, M.D., M.P.H, Dr. P. H.  
Commissioner

Inquires should be addressed to:

Robert Bogan  
Associate Counsel  
Office of Professional Medical Conduct  
433 River Street – Suite 303  
Troy, New York 12180  
(518) 402-0828

STATE OF FLORIDA  
DEPARTMENT OF HEALTH

By: Valerie Wilton  
Deputy Agency Clerk

IN RE: The Emergency Suspension of the License of  
Sarfraz Mirza, M.D.  
License Number: ME 75776  
Case Number 2003-18740

**ORDER OF EMERGENCY SUSPENSION OF LICENSE**

John O. Agwunobi, M.D., M.B.A., Secretary of the Department of Health, hereby ORDERS the Emergency Suspension of the license of Sarfraz Mirza, M.D., ("Dr. Mirza") to practice medicine. Dr. Mirza holds license number ME 75776. His last known address is 1565 Sarno Road, Suite B, Melbourne, Florida 32935. The following Findings of Fact and Conclusions of Law support the Emergency Suspension of Dr. Mirza's license to practice as a physician in the State of Florida.

**FINDINGS OF FACT**

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

2. At all times material to this Order, Dr. Mirza was licensed to practice medicine in the State of Florida, pursuant to Chapter 458, Florida Statutes. Dr. Mirza is board-certified in internal medicine.

3. In or about November 2002, the Melbourne Police Department ("MPD") received information from a confidential informant ("CI") that Dr. Mirza was issuing

prescriptions for controlled substances to patients without any medical justification for doing so. Based on that information, MPD, in coordination with the Drug Enforcement Agency ("DEA") and the St. Lucie County Sheriff's Office ("SLCSO"), commenced an undercover investigation of Dr. Mirza's medical practice. Over the course of several months, CI and several undercover law enforcement officers obtained prescriptions for controlled substances from Dr. Mirza without demonstrating any medical need to Dr. Mirza for the medications.

#### **FACTS RELATED TO CI**

4. On or about November 18, 2002, CI presented to Dr. Mirza with complaints of generalized pain related to an automobile accident. CI did not provide any medical records or test results to Dr. Mirza related to CI's reported pain. During this visit, Dr. Mirza did not perform any physical examination of CI, and he did not attempt to ascertain the etiology of CI's reported pain. Dr. Mirza also failed to obtain a complete medical history from CI, despite the fact that on CI's intake sheet for this visit CI indicated a history of previous surgeries. At the conclusion of this visit, Dr. Mirza issued prescriptions for 90 MS Contin 60 mg and 60 MS IR 15 mg to CI without discussing the risks and benefits of the use of these drugs with CI. Dr. Mirza's office assistant charged CI \$15.00 for this visit and advised CI that Dr. Mirza would bill Medicare the balance of the cost of CI's office visit.

5. MS Contin and MS IR contain morphine sulfate, a schedule II controlled substance listed in Chapter 893, Florida Statutes, which is indicated for the relief of moderate to severe pain. Morphine has a high potential for abuse and has a currently

accepted but severely restricted medical use in treatment in the United States. Abuse of morphine may lead to severe psychological or physical dependence.

6. On or about December 19, 2002, CI returned to Dr. Mirza's office. Almost immediately after CI entered the examination room where Dr. Mirza was waiting, Dr. Mirza began preparing prescriptions for 90 MS Contin 30 mg and 60 MS IR 15 mg for CI. As with CI's previous visit, Dr. Mirza did not perform any physical examination of CI, or otherwise attempt to justify prescribing controlled substances to CI. Similarly, CI did not provide Dr. Mirza with CI's medical history or with any previous medical records or test results. At the conclusion of this visit, Dr. Mirza's assistant again charged CI a \$15 office visit fee and advised CI that Medicare would be billed for the balance of the fee.

7. On or about January 23, 2003, CI again presented to Dr. Mirza. This time, CI complained to Dr. Mirza that CI's pain had increased. In response, Dr. Mirza agreed to prescribe larger quantities of medication to CI. In particular, Dr. Mirza increased CI's prescription for MS Contin 30 mg from 90 tablets to 120 tablets, and he increased CI's prescription for MS IR 15 mg from 60 tablets to 120 tablets. Dr. Mirza increased CI's medication without performing any physical examination of CI. At the conclusion of this visit, Dr. Mirza advised CI that the cost of CI's visit was \$100.00, instead of \$15.00. Dr. Mirza took \$100.00 in cash from CI, and placed it into his pocket. Dr. Mirza advised CI that he would bill Medicare for the remainder of the cost of the visit.

8. On or about February 20, 2003, CI returned to Dr. Mirza's office. At the inception of this visit, Dr. Mirza took CI's weight and blood pressure for the first time, but did not perform any further examination of CI or obtain any medical records or test results for CI. Immediately after noting CI's weight and blood pressure, Dr. Mirza prepared the following prescriptions for CI: 120 MS Contin 30 mg and 60 MS IR 15 mg. At the end of this visit, CI paid Dr. Mirza's assistant \$15.00 in cash and was advised that Medicare would be billed the balance of the cost of this visit.

9. On or about March 20, 2003, CI presented to Dr. Mirza's office for the last time. Once again, Dr. Mirza failed to perform any physical examination of CI, with the exception of taking CI's weight. As with CI's previous visits, Dr. Mirza did not attempt to obtain any previous medical records or test results for CI, and he did not order any new tests in order to verify CI's reported pain. Notwithstanding this, Dr. Mirza issued prescriptions for 120 MS Contin 30 mg and 60 MS Contin 15 mg to CI. Dr. Mirza charged CI \$15.00 for this visit and advised CI's that he would bill Medicare for the remainder of the cost of the office visit.

#### **FACTS RELATED TO UO1**

10. On or about January 16, 2003, SLCSO provided one of its undercover detectives ("UO1") with a series of fictitious medical records, including an MRI (Magnetic Resonance Imaging) report that reflected that UO1 was healthy and did not suffer from any injuries. Subsequently, UO1 presented to Dr. Mirza's office and provided the fictitious records to the doctor. At the beginning of this visit, UO1 explained to Dr. Mirza that he suffered from pain related to an automobile accident.

According to UO1, Dr. Mirza asked him several basic questions related to his health, but did not examine him in any way. Dr. Mirza then issued prescriptions for 120 Methadone 10 mg and 60 Valium 5 mg to UO1. At the conclusion of this visit, UO1 paid \$350.00 in cash to Dr. Mirza. During this visit, Dr. Mirza failed to conduct a physical examination of UO1, and he failed to discuss with UO1 the risks and benefits of using the controlled substances that he prescribed to him.

11. Methadone contains methadone hydrochloride, a schedule II controlled substance listed in Chapter 893, Florida Statutes, which is indicated for the relief of severe pain. Methadone should be prescribed and administered with the same degree of caution appropriate to the use of morphine as repeated administration of this powerful drug can cause psychological dependence, physical dependence, and tolerance.

12. Valium contains diazepam, a schedule IV controlled substance listed in Chapter 893, Florida Statutes, which is indicated for the management of anxiety disorder. The abuse of Valium can lead to physical or psychological dependence.

13. UO1 met with Dr. Mirza again on January 30, 2003. At the beginning of this meeting, UO1 admitted to Dr. Mirza that he had abused the medications that Dr. Mirza had previously prescribed to him during his visit earlier that same month. In response, Dr. Mirza required UO1 to execute a written statement indicating that he would not abuse his medications in the future. However, Dr. Mirza did not take any other measures to ensure that UO1 did not continue to abuse his medications, such as referring UO1 to an expert in the management of patients who are addicted to pain.



medications. UO1 complained to Dr. Mirza that the Methadone that he had previously prescribed to him had made him somewhat somnolent. As a result, Dr. Mirza agreed to prescribe 45 MS Contin 30 mg to UO1 instead of Methadone.

14. UO1 next met with Dr. Mirza on February 13, 2003. During this meeting, Dr. Mirza took UO1's blood pressure, but failed to perform any other physical examination of UO1. Dr. Mirza gave UO1 prescriptions for 60 MS Contin 30 mg and 60 Valium 5mg at the end of this visit. UO1 paid \$150 to Dr. Mirza for this visit.

15. On or about March 17, 2003, UO1 returned to Dr. Mirza's office. Upon meeting with Dr. Mirza, UO1 advised Dr. Mirza that, since his previous visit, he had ingested all of the medications that Dr. Mirza had previously prescribed to him. In response, Dr. Mirza informed UO1 of his suspicion that UO1 was selling the drugs that he was obtaining through Dr. Mirza's prescriptions. Due to this suspicion, Dr. Mirza advised UO1 that he would have to undergo a drug screen during his next visit. According to Dr. Mirza, the drug screen would show whether UO1 was actually ingesting the medications himself. Despite his suspicions that UO1 was selling the drugs that he obtained through Dr. Mirza's prescriptions, at the end of this visit, Dr. Mirza issued the following prescriptions to UO1: 60 MS Contin 30 mg and 60 Valium 5 mg. Dr. Mirza charged UO1 \$220.00 in cash for this visit.

**FACTS RELATED TO UO2**

16. On or about February 27, 2003, the Brevard County Medical Examiner's Office ("BCMEO") supplied one of its undercover investigators ("UO2") with fictitious medical records, including the same MRI (Magnetic Resonance Imaging) report that

UO1 previously presented to Dr. Mirza in January 2003. Upon presenting to Dr. Mirza on this date, UO2 provided Dr. Mirza with his fictitious medical records and advised Dr. Mirza that he was seeking pain relief. According to UO2, Dr. Mirza asked him several basic health questions and performed a limited physical examination on him. Dr. Mirza then issued prescriptions for 60 MS Contin 60 mg, 120 MS IR 15 mg, and 60 Xanax 1 mg to UO2 and advised UO2 that if the medications did not work well, he would issue stronger prescriptions to him. UO2 paid \$350.00 in cash to Dr. Mirza for this visit. Dr. Mirza did not discuss with UO2 the risks and benefits of the use of the controlled medications that he prescribed to him.

17. Xanax contains alprazolam, a schedule IV controlled substance listed in Chapter 893, Florida Statutes, which is indicated for the short-term relief of symptoms of anxiety. The abuse of alprazolam can lead to physical and psychological dependence.

18. UO2 returned to Dr. Mirza on March 28, 2003. At the inception of this visit, Dr. Mirza took UO2's weight. After briefly questioning UO2 regarding his health, Dr. Mirza prepared prescriptions for 60 MS Contin 60 mg, 120 MS IR 15 mg, and 60 Xanax 1 mg for UO2. While Dr. Mirza prepared these prescriptions, UO2 inquired about obtaining a prescription for Viagra from Dr. Mirza. UO2 explained to Dr. Mirza that, based on his past experiences with Dr. Mirza, he thought that Dr. Mirza would prescribe almost any medication to him. In response, Dr. Mirza issued a prescription for 6 (with 5 refills) Viagra 100 mg. Dr. Mirza explained to UO2 that this was the strongest dosage

of Viagra available. During this visit, Dr. Mirza did not perform any physical examination of UO2, with the exception of taking UO2's weight.

19. Viagra is a prescription medication indicated for the treatment of erectile dysfunction.

20. In or about April 2003, MPD contracted with a medical expert to review the undercover debriefing statements and medical files for CI, UO1, and UO2. According to MPD's expert, Dr. Mirza failed to meet the appropriate standards of care with regard to CI, UO1, and UO2. The expert determined that there was no evidence that Dr. Mirza performed a valid medical work-up prior to, or during, the prescribing of controlled substances to CI, UO1, or UO2. With regard to CI, the expert noted that there appears to be "clear evidence of Medicare fraud." The expert found that "this patient [CI] has documentation of five office visits over a five month period of time, with no visit lasting more than approximately five minutes, no physical assessment/exam having taken place, no significant patient management having taken place, and yet five Medicare bills were presumably submitted . . . ." In addition, the expert stated that

[t]his physician appears to be practicing medicine in an office without an examination table, without even the basics of a history and physical exam on the first or subsequent visit, without obtaining old records, without customizing the management of the individual patient needs, without ruling out contraindications, without a diagnostic work-up, and without attempts to use a multi-modal approach to management. This is incredible, and lacks even the most basic principles involved in medical practice.

21. Section 458.331(1)(q), Florida Statutes (2002), subjects a physician 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.

22. Dr. Mirza inappropriately and excessively prescribed controlled substances by repeatedly prescribing controlled substances to patients without performing adequate physical examinations of them; by repeatedly prescribing controlled substances to patients without ascertaining the etiology of their pain; and by prescribing controlled substances to patients in quantities, combinations, and dosages that were not in their best interest.

23. Section 458.331(1)(t), Florida Statutes (2002), subjects a physician to discipline, including suspension, for gross or repeated malpractice or the failure to practice medicine with that level of care, skill, and treatment which is recognized by a reasonably prudent similar physician as being acceptable under similar conditions and circumstances.

24. Dr. Mirza failed to practice medicine with an acceptable level of care, skill, and treatment by failing to perform initial and follow-up physical examinations of patients; by inappropriately and excessively prescribing controlled substances to patients; by failing to ascertain the etiology, if any, of patients' pain; and by failing to obtain previous physician records and study results to document the accuracy of the medical and physical history reported by patients.

25. Section 120.60(6), Florida Statutes (2002), authorizes the Department to suspend a physician's license if the Department finds that the physician presents an immediate and serious danger to the public health, safety, or welfare.

26. As explained by law enforcement officials, Dr. Mirza's behavior was not an isolated instance of misjudgment, but rather part of an extended course of dangerous criminal activity that extended over a period of several months. During that time, Dr. Mirza prepared and issued prescriptions for controlled substances to several individuals for his own financial gain without any medical justification for doing so and without any regard to the health and safety of the public.

27. Dr. Mirza's inappropriate prescribing practices and his practice below the standard of care present an immediate and serious danger to the health, safety, and welfare of the public.

28. 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. Excessive and inappropriate prescribing of highly addictive controlled substances to patients presents a danger to the public health and does not correspond to that level of professional conduct expected of one licensed to practice medicine in this state.

29. Dr. Mirza 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. Dr. Mirza's egregious and repeated conduct of excessive and inappropriate prescribing of highly addictive and dangerous drugs constitutes a breach of the trust and confidence that the Legislature placed in him by issuing him a license to practice medicine.

30. Dr. Mirza's acts manifest such a pattern and propensity to excessively and inappropriately prescribe dangerous and addictive narcotic drugs and practice below the appropriate standard of care that a continuation of this practice is likely to recur. Nothing short of the immediate suspension of Dr. Mirza's license will protect the public from this danger.

#### CONCLUSIONS OF LAW

1. The Secretary of the Department of Health has jurisdiction over this matter pursuant to Section 456.073, Florida Statutes, and Section 20.43(3)(g), Florida Statutes, as set forth above.

2. Based on the foregoing Findings of Fact, the Secretary concludes that Dr. Mirza has violated Section 458.331(1)(q), Florida Statutes (2002), by 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.

3. Based on the foregoing Findings of Fact, the Secretary concludes that Dr. Mirza has violated Section 458.331(1)(t), Florida Statutes (2002), by failing to practice medicine with that level of care, skill and treatment which is recognized by a reasonably prudent similar physician as being acceptable under similar conditions and circumstances.

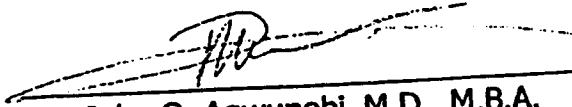
4. Based on the foregoing Findings of Fact, the Secretary concludes that Dr. Mirza's continued practice as a physician constitutes an immediate and serious danger to the health, safety, and welfare of the public and that this summary procedure is fair under the circumstances to adequately protect the public.

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

THEREUPON ORDERED THAT:

1. The license of Sarfraz Mirza, M.D., license number ME 75776, is hereby immediately suspended.
2. A proceeding seeking formal suspension or discipline of the license of Sarfraz Mirza, M.D., to practice medicine will be promptly instituted and acted upon in compliance with Sections 120.569 and 120.60(6), Florida Statutes.
3. Dr. Mirza shall comply with the rules regarding the closing of a practice as set forth in Rule 64B8-10, Florida Administrative Code.

DONE and ORDERED this 29<sup>th</sup> day of July, 2003.

  
John O. Agwunobi, M.D., M.B.A.  
Secretary, Department of Health

PREPARED BY:  
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IN RE: The Emergency Suspension of the License of  
Sarfraz Mirza, M.D.  
License Number: ME 75776

NOTICE OF RIGHT TO JUDICIAL REVIEW

Pursuant to Section 120.60(6), and 120.68, Florida Statutes, 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 thirty (30) days of the date this Order is filed.