

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

IN THE MATTER
OF
JAYENDRA ARVINDLAL SHAH, M.D.

COMMISSIONER'S
SUMMARY
ORDER

TO: JAYENDRA ARVINDLAL SHAH, M.D.
7960 W. McFadden Avenue
Westminster, California 92683

P.O. Box 9559
Anaheim, CA 92812

The undersigned, Barbara A. DeBuono, M.D., M.P.H., Commissioner of Health of the State of New York, pursuant to N.Y. Public Health Law §230 (McKinney 1990 and Supp. 1998), 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 California) has made a finding substantially equivalent to a finding that the unrestricted practice of medicine by JAYENDRA ARVINDLAL SHAH (the Respondent)[New York State License number 125819 issued October 31, 1975] in that jurisdiction constitutes an imminent danger to the health of its people, as is more fully set forth in the Orders, dated January 30, 1998 (Interim Order of Suspension - Appendix "A", attached and incorporated) and October 1, 1997 (Interim Order of Suspension (ex parte application) - Appendix "B", attached and incorporated) of the Medical Board of California.

It is therefore:

ORDERED, pursuant to N.Y. Public Health Law §230(12)(b) (McKinney 1990 and Supp. 1998), that effective immediately, Respondent shall not practice medicine in the State of New York

- Until and unless he submits to the Director of the Office of

Professional Medical Conduct a proposed written Plan of Compliance, fully addressing the requirements set forth in Appendix "C", attached hereto; and

- Until and unless the Director approves such plan, in writing, as sufficient to address such requirements; and
- Until and unless such plan is fully operational, as determined by the Director in her reasonable discretion, and communicated to Respondent in writing.


Any violation of any term of this (Commissioner's) Order shall constitute Professional Misconduct within the meaning of N.Y. Educ. Law §6530(29). Any medical practice in the State of New York in violation of said Order 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 thirty days after the final conclusion of the disciplinary proceedings in the State of California. The hearing will be held pursuant to the provisions of N.Y. Pub. Health Law §230 (McKinney 1990 and Supp. 1998), and N.Y. State Admin. Proc. Act §§301-307 and 401 (McKinney 1984 and Supp. 1998). 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 California proceedings are finally concluded. 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 notify both the attorney whose name is set forth in this Order, and the Director of the Bureau of Adjudication, New York State Department of Health, Hedley Park Place, 433 River Street, Fifth Floor South, Troy, NY 12180 (Telephone: 518-402-0748).

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 (McKinney Supp. 1998). YOU ARE URGED TO OBTAIN AN ATTORNEY TO REPRESENT YOU IN THIS MATTER.

DATED: Albany, New York
June 26, 1998


BARBARA A. DeBUONO, M.D., M.P.H.
Commissioner of Health

Inquiries should be directed to:

Roy Nemerson
Deputy Counsel, B.P.M.C.
N.Y.S. Department of Health
Division of Legal Affairs
5 Penn Plaza
Suite 601
New York, New York 10001
(212) - 613-2615

MEDICAL BOARD OF CALIFORNIA

I do hereby certify that this document is true and correct copy of the original on file in this office.

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

Jane C. Greig 4-14-98 SIGNED DATE

Assistant Custodian of Record TITLE

In the Matter of the Petition for an Interim Order of Suspension Against:

Case No. 06-97-71371 OAH No. L-1997090435

JAYENDRA A. SHAH, M.D. 7960 W. McFadden Avenue Westminster, California 92683

Physician's and Surgeon's Certificate No. A 29575,

Respondent.

INTERIM ORDER OF SUSPENSION

On September 30 1997, Petitioner Ron Joseph, Executive Director of the California Medical Board, presented an ex parte application for an interim order of suspension of the physician's and surgeon's certificate of Respondent Jayendra A. Shah, M.D.

Joseph P. Furman, Deputy Attorney General, represented Petitioner.

Sunil A. Brahmhatt, Attorney at Law, represented Respondent, who was present throughout the proceedings.

The matter was assigned to Ralph B. Dash, Administrative Law Judge, Medical Quality Hearing Panel, of the Office of Administrative Hearings at Los Angeles California, under the provisions of Business and Professions Code Sections 11371 and 11529. The Administrative Law Judge read and considered the ex parte application, the declarations and points and authorities filed in support thereof, as well as documentary evidence filed in opposition thereto, and heard argument of counsel. An order was issued suspending the license, and October 21, 1997 was set as the date for hearing on notice.

By stipulation of the parties, the noticed hearing was continued to November 13, 1997. On that date the parties and counsel appeared and argued the matter. Respondent had submitted two psychiatric reports, as well as additional evidence, contradicting the reports of Complainant. To protect the rights of all parties and to reconcile the conflicting reports, Respondent was ordered to undergo further psychiatric evaluation by Dr. Gerald Rozansky. The examination took place and his report was duly filed.

APPENDIX A

The parties agreed to set January 28, 1998 as the hearing date. The parties and counsel of record appeared on that date. Dr. Rozanky's report was identified as Exhibit 21 and received in evidence. Neither party requested oral testimony. The matter was argued and submitted.

The Administrative Law Judge now makes the following Findings and Determinations, and issues the following Order.

FINDINGS OF FACT

1. Ron Joseph made the application in his official capacity as Executive Director of the California Medical Board ("Board").
2. At all times pertinent hereto, Respondent Jayendra A. Shah was and now is licensed by the Board as a medical doctor, certificate number A 29575. Said certificate is currently in full force and effect and is due to expire on January 31, 1999.
3. Respondent is employed as a physician with the County of Los Angeles, currently assigned to the Rancho Los Amigos Medical Center. For a number of years, Respondent has been embroiled with his employers and the County on a myriad of claims before the Civil Service Commission, the Courts and other quasi-judicial and administrative agencies. The basis or merits of the disputes is not at issue here. Respondent's conduct, apparently growing out of the same, is.
4. The papers filed in support of and in opposition to the Petition, taken in conjunction with the report of Dr. Rozanky demonstrate by a preponderance of the evidence that over a course of years, Respondent's mental capacity may have deteriorated to the point that his present licensure, unless restricted in accordance with the order set forth below, may constitute a danger to the public. It is not necessary to detail the evidence presented. The findings set forth in the Ex Parte Order for Interim Suspension are incorporated herein by this reference.
5. Dr. Rozanky's report, issued after his having read all of the psychiatric reports previously admitted in evidence and having personally evaluated Respondent on two occasions, shows that Respondent suffers from Mixed Personality Disorder with Narcissistic Depressive Traits. It is Dr. Rozanky's belief that Respondent's mental state is such that he could continue to practice medicine safely, provided that he be supervised and be in regular psychiatric care. This view appears to be the most balanced of the five reports admitted in evidence, in light of all other evidence submitted by the parties. It is also the view most consistent with the provisions of Business and Professions Code Section 2229 of the Medical Practice Act. This section provides that the highest priority of the Board, as well as Administrative Law Judges of the Medical Quality Hearing Panel,

is protection of the public, but that wherever possible, the Board or Administrative Law Judge "shall take action that is calculated to lead to the rehabilitation of the licensee."

DETERMINATION OF ISSUES

1. Respondent has engaged in acts constituting a violation of the Medical Practice Act in that he is presently incompetent to practice medicine within the meaning of Business and Professions Code Section 2234(d), by reason of Findings 2 through 5, unless his license is restricted as set forth below.

2. Permitting Respondent to continue to engage in the unrestricted practice of medicine medical will endanger the public health, safety and welfare by reason of Findings 2 through 5.

3. There is a reasonable probability that Petitioner will prevail in the underlying action by reason of Findings 2 through 5.

4. The likelihood of injury to the public in not issuing the below order outweighs the likelihood of injury to Respondent in issuing the order by reason of Findings 2 through 5.

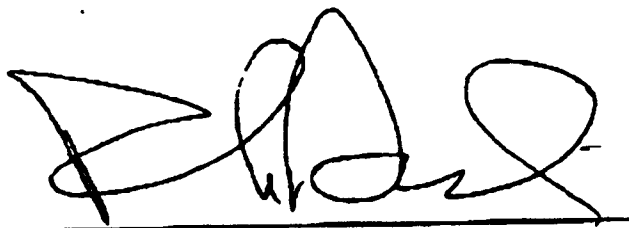
ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

1. The Ex Parte Interim Order of Suspension is dissolved.
2. Subject to the provisions of Government Code Section 11529(f), Respondent's Physician and Surgeon's Certificate No. A 29575 is restricted as set forth below, pending a final determination by the Medical Board of California on the Accusation to be filed against Respondent.
3. Respondent shall obey all federal, state and local laws, all rules governing the practice of medicine in California, and remain in full compliance with all of the terms of this Order.
4. Within ten days of the date of this Order, Respondent shall submit to the Board the name and qualifications of a psychiatrist licensed to practice in the State of California and who currently practices psychotherapy in this state. Respondent shall undergo and continue treatment with said psychiatrist on a regular, not less than weekly, basis, during the time this Order is in effect. Respondent shall have the psychiatrist submit monthly status reports to the Board, or its designee. Respondent shall pay the cost of the psychiatrist.

5. Within ten days of the date of this Order, Respondent shall submit to the Board a plan of practice in which Respondent's practice shall be monitored by another physician licensed in this state and who practices in Respondent's field, who shall provide monthly reports to the Board or its designee. If Respondent continues the employment he held prior to the issuance of the Ex Parte Order, said monitor may be a co-employee. Respondent shall not engage in the solo practice of medicine.

Date: 1-30-98



RALPH B. DASH
Administrative Law Judge
Office of Administrative Hearings

10/01/97 WED 18:14 FAX
RECEIVED: 10/1/97 11:30AM
OCT-01-97 WED 11:51 AM OAH LA

92138874548 JET-EX MS. MEDICAL BOARD OF CALIFORNIA
FAX NO. 92138874548
0002
02/08

I hereby certify that
this document is true
and correct copy of the
original on file in this
office.

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

Lorena C. Garcia 4-14-98
SIGNED DATE
Assistant Custodian of Rec
TITLE

In the Matter of the Petition for an
Interim Order of Suspension Against:

Case No. 06-97-71371
OAH No. L-1997090435

JAYENDRA A. SHAH, M.D.
7960 W. McFadden Avenue
Westminster, California 92683

Physician's and Surgeon's
Certificate No. A 29575,

Respondent.

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(ex parte application)

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The matter was assigned to Ralph B. Dash, Administrative Law
Judge of the Office of Administrative Hearings at Los Angeles
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Sections 11371 and 11529, who read and considered the ex parte
application, the declarations and points and authorities filed in
support thereof, as well as documentary evidence filed in
opposition thereto, and heard argument of counsel.

The Administrative Law Judge now makes the following
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FINDINGS OF FACT

1. Ron Joseph made the application in his official capacity
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Shah was and now is licensed by the Board as a medical doctor,

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APPENDIX B

OCT-01-97 WED 11:51 AM OAH LA

FAX NO. 92138974548

P. 03/06

certificate number A 29575. Said certificate is currently in full force and effect and is due to expire on January 31, 1999.

3. Respondent is employed as a physician with the County of Los Angeles, currently assigned to the Rancho Los Amigos Medical Center. For a number of years, Respondent has been embroiled with his employers and the County on a myriad of claims before the Civil Service Commission, the Courts and other quasi-judicial and administrative agencies. The basis or merits of the disputes is not at issue here. Respondent's conduct, apparently growing out of the same, is.

4. The papers filed in support of the ex parte Petition demonstrate by a preponderance of the evidence that over a course of years, Respondent's mental capacity may have deteriorated to the point that his present licensure constitutes a danger to the public. It is not necessary to detail the evidence presented. However, the following excerpt from a letter Respondent wrote to the Equal Employment Opportunity Commission dated January 31, 1997, with a copy to the Board, (and which proved to be the catalyst for the commencement of the investigation which resulted in these proceedings) illustrates what appears to be a significant breakdown in Respondent's thought processes. The excerpt is presented exactly as written by Respondent:

*SUBJECT: CH 340940677.DISMISSAL-Prematurely,
UNFAIR TO CONSUMER AS ISSUES NOT RESOLVED/90DAYS /RIGHT
TO SUE ISSUED : WITHOUT PROPER INVESTIGATION-TIME
WASTED. YOUR OFFICE CANT DO SUCH INCOMPETENT
/COVERUP/DEFRAUD ME. WHY? THIS TYPE ATTITUDE?
ASSIGNMENT ISSUES ARE YET-3 YRS-NOT RESOLVED..HOW YOUR
OFFICE ACTS LIKE MORON?.NOW ACT..CO.JOB SINCE 18 FEB.
1976: PRETEXTURAL REASONS OF DISCRIMINA

DEAR DIRECTOR: [name deleted by ALJ]

I RECEIVED YOUR OFFICE LETTER ON NOV 15,
96 (MAIL11/7/96) IT TOOK YOUR PEOPLE OVER YEARS TO WASTE
TIME & ACT STUPIDLY, & WITHOUT REALLY CHECKING, &
LOOKING IN ISSUES-PROBLEMS-(ASSIGNMENT PROBLEM OF MY
AS MD-SPECIALIST NEVER RESOLVED-TODAY EVEN AFTER 5
YEARS I AM WORKING AS A CLERK.NURSE.TECNICIAN, & NEVER
EXAMINED PATIENT-NO RESTRICTION ,BUT CO'S BIGOTRY--
&&MORE DISCRIMINATION, INTIMIDATIONS, REPRISALS,
RETALIATION, HARRESHMENTS, ON GOING PATTERN OF ABOVE
ACTS (ILLEGAL), && FABRICATION, FALSIFICATION, & CSC
HAVE NO POWER,,, CORRUPT COUNTY OFFICIAL COVERUPACTIONS,
ALSO CONSPIRACY, CODE OF SILENCE, POOR MED. CARE- FRAUD BY
FEW IN DHS-INCREASAD MORTALITY, MORBIDITY, MILLIONS
WASTED- FEW RACIST & CO.COUNSEL EVEN INTIMIDATED MY
ATTORNEY [name deleted by ALJ] CO.LA SUP. COURT JUDGES

**CONSPIRED TO , CONTINUE COVERUP//&((JCAHO/DHS OF STATE
OF CAL, & PUBLIC DEFRAUDED-))**

5. The foregoing cannot be construed, as Respondent's counsel suggested, as the inartful language of an individual who is perhaps frustrated over the course of certain legal proceedings, who has difficulty with English, and who has First Amendment rights to express himself freely. Rather this is a perfect example of what the Court of Appeal, Division Two, Second Appellate District described as "someone who communicates in...a raving and incoherent style" and which led the Court to ask how such an individual "could be presently qualified as a licensed health care practitioner."

6. Respondent's evident impairment goes beyond scatological ranting. He has, over the course of the past several years, made covert and overt threats of violence to co-workers and others-- one such threat made as recently as two months ago. That there has been no actual violence may only be fortuitous and a mere matter of time. Certainly the risk of such violence is not to be taken lightly.

7. In light of the foregoing, ample cause exists to immediately suspend Respondent's medical license, based on his evident unfitness to safely practice and, pending further hearing, to order Respondent to undergo a mental competency exam under the provisions of Business and Professions Code Sections 820 and 11529.

DETERMINATION OF ISSUES

1. Respondent has engaged in acts constituting a violation of the Medical Practice Act in that he is presently incompetent within the meaning of Business and Professions Code Section 2234(d), by reason of Findings 2 through 7.

2. Permitting Respondent to continue to engage in the medical profession will endanger the public health, safety and welfare by reason of Findings 2 through 7.

3. There is a reasonable probability that Petitioner will prevail in the underlying action by reason of Findings 2 through 6.

4. The likelihood of injury to the public in not issuing the below order outweighs the likelihood of injury to Respondent in issuing the order by reason of Findings 3 through 7.

5. Petitioner demonstrated, as required by Government Code Section 11529(b), that serious injury would result to the public in the event Respondent was given at least fifteen days' prior

notice of the hearing on the Petition, instead of the twenty-four hour notice actually given.

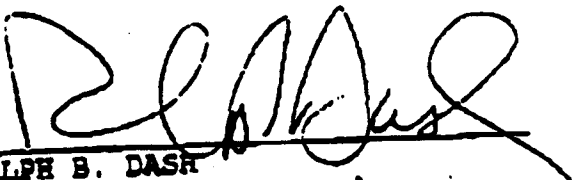
ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

1. Pending a noticed hearing on the Petition, which is hereby set for October 21, 1997 at 9:00 a.m. at the Office of Administrative Hearings, 107 South Broadway, Second Floor, Los Angeles, California Physician and Surgeon Certificate No. A 29575 issued to Respondent Jayendra A. Shah, together with all licensing rights appurtenant thereto, is suspended. During said period of suspension, Respondent may not engage in any act for which a physician and surgeon's certificate is required.

2. Respondent shall, upon 24 hours prior notice given by the Board, submit to a complete mental competency evaluation to be performed under the provisions of Business and Professions Code Section 820. The evaluation is to be completed and the report submitted to the Administrative Law Judge prior to the above hearing date.

Date: 10-1-97


RALPH B. DASH
Administrative Law Judge
Office of Administrative Hearings

APPENDIX "C"

1. Licensee will provide the Director of OPMC, New York State Department of Health, 433 River Street, Suite 303, Troy, NY 12180-2299, with the following:
 - a. A signed acknowledgement from the supervising physician referred to below.
 - b. A signed acknowledgement from the health care professional referred to below.
 - c. Certified true and complete copies of records of all evaluation and treatment, relating to Licensee's impairment, whether that evaluation and treatment occurred prior to or during the time this order is in effect. These records shall include documentation of the results of all urine/blood/breath tests conducted to detect the presence of drugs and/or alcohol.
 - d. Fully executed waivers of patient confidentiality concerning any previous and prospective treatment records.
 - e. An independent current psychiatric evaluation by a board certified psychiatrist. Also, upon request of the Director of OPMC, a current in-depth chemical dependency evaluation by a health care professional in a licensed facility.
 - f. Attendance at, participation in, and cooperation with an interview conducted by personnel of OPMC, upon the request of the Director thereof.
 - g. Certified true and complete records of all psychiatric, psychological, and/or any other mental health treatment, evaluation, and/or testing, whether in an out-patient, in-patient, office, consultation setting.
 - h. Evidence of compliance with the terms of a continuing after-care out-patient treatment plan that addresses the major problems associated with Licensee's illness.
2. Licensee will comply with the terms of a continuing after-care treatment plan that addresses the major problems associated with his illness.
3. At the direction of the Director of OPMC, Licensee will submit to periodic interviews with, and evaluations by, a board certified psychiatrist or other licensed mental health practitioner designated by the Director. Said practitioner shall report to the Director regarding Licensee's condition and his fitness or incapacity to practice medicine.
4. Licensee shall be supervised in his medical practice by a licensed physician, proposed by Licensee and approved in writing by the Director of OPMC, in accordance with the conditions contained in or annexed to the Order. Said supervising physician shall be familiar with Licensee's history of mental illness

and with the Order and its conditions. Said supervising physician shall supervise Licensee's compliance with the conditions of practice imposed by the Order. Said supervising physician shall be in a position regularly to observe and assess Licensee's medical practice. Said supervising physician shall acknowledge his/her willingness to comply with the supervision by executing the acknowledgement provided by OPMC.

1. Said supervising physician shall submit to OPMC quarterly reports regarding the quality of Licensee's medical practice, any unexplained absences from work and certifying Licensee's compliance or detailing Licensee's failure to comply with each condition imposed.
2. Said supervising physician shall report any suspected impairment, inappropriate behavior, questionable medical practices or possible misconduct to OPMC.
5. Licensee shall continue in treatment with a health care professional, proposed by Licensee and approved, in writing, by the Director of OPMC, for as long as the health care professional determines it is necessary.
 1. Licensee's treating health care professional or program shall submit to OPMC quarterly reports certifying that Licensee is complying with the treatment.
 2. Said treating health care professional shall report to OPMC immediately if Licensee is noncompliant with Licensee's treatment plan or if Licensee demonstrates any significant pattern of absences.
 3. Said treating health care professional shall acknowledge his/her willingness to comply with the above-mentioned reporting by executing the acknowledgement provided by OPMC.
6. The costs of complying with all such terms will be Licensee's responsibility.