



STATE OF NEW YORK
DEPARTMENT OF HEALTH

433 River Street, Suite 303

Troy, New York 12180-2299

Antonia C. Novello, M.D., M.P.H., Dr.P.H.
Commissioner

Dennis P. Whalen
Executive Deputy Commissioner

January 15, 2003

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Pankaj T. Desai, M.D.
114 Danberry Circle
New Hartford, New York 13413

T. Lawrence Tabak, Esq.
Tabak & Stimpfl
190 EAB Plaza
East Tower, 15th Floor
Uniondale, New York 11556-0190

Kevin P. Donovan, Esq.
NYS Department of Health
Empire State Plaza
Corning Tower, Room 2512
Albany, New York 12237-0032

RE: In the Matter of Pankaj T. Desai, M.D.

Dear Parties:

Enclosed please the Interim Order of the Hearing Committee in the above referenced matter. This Interim Order shall be deemed effective upon the receipt or seven (7) days after mailing by certified mail as per the provisions of §230, subdivision 12, paragraph (a) of the New York State Public Health Law.

Sincerely,

Tyrone T. Butler, Director
Bureau of Adjudication

TTB:djh
Enclosure

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

**IN THE MATTER
OF
PANKAJ T. DESAI, M.D.**

**COPY
INTERIM ORDER**

I have reviewed the attached transcript pages constituting the Report of the Hearing Committee in the issue of Imminent Danger in this matter, the Committee's finding that **PANKAJ T. DESAI, M.D.**, Respondent, does present an imminent danger to the health of the people of the State of New York, and the Hearing Committee's recommended action that the Summary Order prohibiting **PANKAJ T. DESAI, M.D.**, from practicing medicine in the State of New York remain in effect.


Now, upon reading and filing the transcript of the hearing, the exhibits, and other evidence introduced at the hearing, the conclusions and recommendations of the Hearing Committee as set forth in the hearing transcript dated December 30, 2002,

I HEREBY ORDER THAT:

The Summary Order, dated October 9, 2002, imposed upon Respondent, **PANKAJ T. DESAI, M.D.** shall remain in effect, pending the final resolution of this matter.

DATED: Albany, New York

Jan. 9, 2003


ANTONIA C. NOVELLO, M.D., M.P.H., Dr. P.H.
Commissioner of Health
State of New York

TO: KEVIN P. DONOVAN, ESQ.
New York State Department of Health
Empire State Plaza
Corning Tower, Room 2512
Albany, New York 12237-0032

T. LAWRENCE TABAK, ESQ.
Tabak & Stimpfl
190 EAB Plaza
East Tower, 15th Floor
Uniondale, New York 11556-0190

PANKAJ T. DESAI, M.D.
114 Danberry Circle
New Hartford, New York 13413

there had to be no authority to make a recommendation once the order expired.

Having said that --

MR. TABAK: Having said that, may I just take exception with that ruling --

JUDGE ARMON: Yes.

MR. TABAK: -- and still state that respondent should be given an opportunity to call additional witnesses with regard to this imminent danger part of the case, just as Mr. Donovan stated something in his closing remarks that the respondent has the burden of coming forward with regard to issues with respect to imminent danger. And other than for Dr. Desai, we have not had an opportunity to call additional witnesses, not only the expert, but additional witnesses with respect to that issue.

JUDGE ARMON: Your exception is

PROCEEDINGS

5

1
2 noted for the record.

3 Dr. Major will announce the
4 determination of the committee.

5 DR. MAJOR: The committee has
6 deliberated and taken into account
7 all of the evidence that has been
8 presented to-date, and recognizing
9 the need for the board to balance the
10 interests of the public's safety with
11 the Respondent's interests, the
12 committee has voted unanimously to
13 continue the summary suspension.

14 JUDGE ARMON: What that means is
15 that the order continues, Doctor, and
16 you are to remain out of practice,
17 not practicing, until this case is
18 concluded. That's a recommendation,
19 and it will go to the commissioner
20 and an order will be served on you as
21 to her final decision within the next
22 two weeks, I would guess, as soon as
23 she gets the materials from us. I'll
24 handle that; that's my understanding.
25 I'll have to refresh myself as to

PROCEEDINGS

6

1 what the procedure is, but I'll
2 clarify that..

3
4 At this stage, what we need to
5 address then is additional hearing
6 dates so we can conclude the hearing
7 as quickly as possible, and I talked
8 to the committee about additional
9 dates as we spoke of, the attorneys
10 spoke of with me.

11 Mr. Tabak, we understand that it's
12 your desire not to go ahead on the
13 17th.

14 MR. TABAK: That's what I was doing
15 while the panel was deliberating, was
16 going over with Dr. Desai the
17 witnesses to be called. I think
18 perhaps the 17th we should go forward
19 with.

20 JUDGE ARMON: All right.

21 MR. TABAK: Mr. Donovan wanted to
22 go forward that day as well, and I
23 think that might be the better way.

24 JUDGE ARMON: The committee is
25 still available on January 17th. All