

IN THE MATTER  
OF  
ASIF HUSSAIN CHOUDHURY, M.D.

COMMISSIONER'S  
ORDER OF  
SUMMARY  
ACTION

TO: ASIF HUSSAIN CHOUDHURY, M.D.  


The undersigned, Howard A. Zucker, M.D., J.D., 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, State Board of Medicine, Florida Department of Health, has made a finding substantially equivalent to a finding that the unrestricted practice of medicine by ASIF HUSSAIN CHOUDHURY, M.D. (the Respondent), New York license number 206654, in that jurisdiction constitutes an imminent danger to the health of its people, as is more fully set forth in the "Order of Emergency Restriction of License" (henceforth: "predicate action"), attached hereto as Appendix "A" and made a part hereof.

It is therefore:

ORDERED, pursuant to N.Y. Public Health Law §230(12)(b), that effective immediately, Respondent shall be restricted in the practice medicine in the State of New York, and in any setting under the authority of Respondent's New York license, to preclude the performance of rectal procedures on female patients.

Any practice of medicine in violation of this Order shall constitute Professional Misconduct within the meaning of N.Y. Educ. Law §6530(29) 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 which shall commence within thirty days after the final conclusion of the disciplinary proceeding in the predicate action. The hearing will be held pursuant to the provisions of N.Y. 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 Hearing or Notice of Referral Proceeding to be provided to the Respondent after the final conclusion of the proceeding in the predicate action. 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, Riverview Center, 150 Broadway, Suite 355, Albany, New York 12204-2719 via Certified Mail, Return Receipt Requested, of the final conclusion of the proceeding in the predicate action, immediately upon such conclusion.

THE NEW YORK 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.

DATED: Albany, New York  
October 1, 2018

  
Howard A. Zucker, M.D., J.D.  
Commissioner of Health  
New York State Department of Health

Inquiries should be directed to:

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# APPENDIX A

By: \_\_\_\_\_

STATE OF FLORIDA  
DEPARTMENT OF HEALTH

In Re: The Emergency Restriction of the License of  
Asif Hussain Choudhury, M.D.  
License Number ME 80362  
Case Numbers 2017-10775 and 2017-20571

**ORDER OF EMERGENCY RESTRICTION OF LICENSE**

Celeste Phillp, M.D., M.P.H., State Surgeon General, ORDERS the emergency restriction of the license of Asif Hussain Choudhury, M.D., (Dr. Choudhury) to practice medicine in the State of Florida. Dr. Choudhury holds license number ME 80362. His address of record is 14131 Metropolis Avenue, Suite 101, Fort Myers, Florida 33912. The following Findings of Fact and Conclusions of Law support the emergency restriction of Dr. Choudhury's license to practice medicine in the State of Florida.

**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 (2017). Section 456.073(8), Florida Statutes (2017), authorizes the State Surgeon General to summarily restrict Dr. Choudhury's license to practice as a physician in the state of Florida, in accordance with Section 120.60(6), Florida Statutes (2017).

In Re: The Emergency Restriction of the License of  
Asif Hussain Choudhury, M.D.  
License Number ME 80362  
Case Numbers 2017-10775 / 2017-20571

2. At all times material to this Order, Dr. Choudhury was an employee of Riverwalk Endoscopy and Surgery Center, LLC (Riverwalk), and he also had medical privileges at Lee Memorial Hospital (Lee Health). Both facilities are located in Fort Myers, Florida.

Facts Relating to Patient G.D.

3. On or about May 3, 2017, Dr. Choudhury performed an endoscopic procedure at Lee Health on a 26-year-old female, Patient G.D.

4. Surgical Technician P.E. (Tech. P.E.) assisted Dr. Choudhury during the procedure.

5. During the procedure, Tech. P.E. stood next to Dr. Choudhury on Dr. Choudhury's right side.

6. A Certified Registered Nurse Anesthetist administered medication to Patient G.D. to sedate her for the endoscopic procedure.

7. Tech. P.E. observed that as Dr. Choudhury inserted the scope into Patient G.D.'s rectum, Dr. Choudhury's right index and middle finger were extended.

8. Tech. P.E. then observed that as Dr. Choudhury inserted the scope farther into Patient G.D.'s rectum, Dr. Choudhury simultaneously inserted his extended right index and middle finger into Patient G.D.'s vagina.

9. Later in the procedure, Tech P.E. observed Dr. Choudhury reached

across Patient G.D. underneath her gown in order to palpate Patient G.D.'s abdomen.

10. Once Dr. Choudhury began to remove the scope from Patient G.D.'s rectum, Tech. P.E. again observed Dr. Choudhury put two of his fingers inside Patient G.D.'s vagina.

Facts Relating to Patient V.Q. and Patient D.N.

11. On or about June 15, 2017, Dr. Choudhury performed a colonoscopy at Riverwalk on a 56-year-old woman, Patient V.Q.

12. Nurse Technician M.C. (Tech. M.C.) assisted Dr. Choudhury during the procedure.

13. During the procedure, Tech. M.C. stood next to Dr. Choudhury on Dr. Choudhury's right side.

14. A Certified Registered Nurse Anesthetist administered medication to Patient V.Q. to sedate her for the procedure.

15. During the procedure, Tech M.C. noticed a quick, random movement to her left.

16. When Tech M.C. looked at the patient, Tech M.C. observed Dr. Choudhury insert at least one finger into Patient V.Q.'s vagina and then perform three "quick pumps" in and out of Patient V.Q.'s vagina before returning his hand to the scope.

In Re: The Emergency Restriction of the License of  
Asif Hussain Choudhury, M.D.  
License Number ME 00362  
Case Numbers 2017-10775 / 2017-20571

17. After the procedure, Tech M.C. reported her observations to a supervisor, Nurse A.S.
18. Nurse A.S. joined Tech M.C for the next patient's procedure, and neither Tech M.C. nor Nurse A.S. observed Dr. Choudhury touch or penetrate that patient's vagina.
19. At that point, Nurse A.S. decided to work as the circulating nurse for the next patient so that she could move around the room more freely.
20. The next patient was a 49-year-old woman, Patient D.N.
21. Tech M.C. again stood next to Dr. Choudhury on his right side.
22. Towards the end of the procedure, Nurse A.S. turned her back at one point, and Tech M.C. then observed Dr. Choudhury insert several of his fingers into Patient D.N.'s vagina.
23. Tech M.C. and Nurse A.S. reported Tech M.C.'s observations to their supervisors, who ultimately informed law enforcement.
24. Once law enforcement completed their investigation, they charged Dr. Choudhury on or about January 4, 2018, with three counts of Sexual Battery When Victim Incapacitated. *(See Lee County Case Number 18-CF-000009)*
25. The Court imposed a bond condition on or about January 6, 2018, that Dr. Choudhury is not to perform any colonoscopies while the criminal case is pending. As with all bond conditions, this could be modified based on a motion



by Dr. Choudhury in the future.

Expert Opinion

26. In or about January 2018, an expert in Internal Medicine and Gastroenterology, reviewed the records for these cases.

27. The expert opined that if the allegations are true, Dr. Choudhury did engage in sexual misconduct during these procedures, and Dr. Choudhury's "technique" was contrary to any medical/gastrointestinal guidelines for these patients. There is no medical need for a physician to insert his fingers into a patient's vagina during any of the procedures that the Respondent performed.

28. Physicians hold a position of power within the physician-patient relationship. Section 458.329, Florida Statutes (2017), states that "[t]he physician-patient relationship is founded on mutual trust." Dr. Choudhury abused the physician-patient relationship by engaging in sexual activity with three unconscious female patients. Dr. Choudhury's blatant and repeated inappropriate behavior shows that Dr. Choudhury does not have the judgment or moral character to hold a position of power and trust with female patients. Dr. Choudhury's repeated disregard for the laws and rules regulating his profession indicate that this behavior is likely to continue. Because of this risk, Dr. Choudhury's continued unrestricted practice of medicine represents an immediate, serious danger to patients under his care. Therefore, there are no

less restrictive means than the terms outlined in this Order that will adequately protect the public.

### CONCLUSIONS OF LAW

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

1. The State Surgeon General has jurisdiction over this matter pursuant to Sections 20.43, 456.073(8), Florida Statutes (2016), and Chapter 458, Florida Statutes (2017).

2. Section 458.331(1)(j), Florida Statutes (2017), subjects a physician to discipline, including restriction, for "[e]xercising influence within a patient-physician relationship for purposes of engaging a patient in sexual activity."

3. Dr. Choudhury violated Section 458.331(1)(j), Florida Statutes (2017), by using his position of authority as a physician to take advantage of his patient when he committed one or more of the following behaviors while the patients were sedated:

- a. Touching Patient G.D.'s vagina;
- b. Penetrating Patient G.D.'s vagina with Dr. Choudhury's finger(s);
- c. Touching Patient V.Q.'s vagina;
- d. Penetrating Patient V.Q.'s vagina with Dr. Choudhury's finger(s);
- e. Touching Patient D.N.'s vagina; and

In Re: The Emergency Restriction of the License of  
Asif Hussain Choudhury, M.D.  
License Number ME 80362  
Case Numbers 2017-10775 / 2017-20571

f. Penetrating Patient D.N.'s vagina with Dr. Choudhury's finger(s).

4. Section 456.072(1)(v), Florida Statutes (2017), subjects a physician to discipline, including restriction, for engaging or attempting to engage in sexual misconduct as defined and prohibited in Section 456.063(1), Florida Statutes (2017).

5. Section 456.063(1), Florida Statutes (2017), defines sexual misconduct as a violation of the professional relationship through which the health care practitioner uses such relationship to engage or attempt to engage the patient or client, or an immediate family member, guardian, or representative of the patient or client in, or to induce or attempt to induce such person to engage in, verbal or physical sexual activity outside the scope of the professional practice of such health care profession.

6. Dr. Choudhury violated Section 456.072(1)(v), Florida Statutes (2016), by using the patient-physician relationship to engage in sexual activity when he committed one or more of the following behaviors while the patients were sedated:

- a. Touching Patient G.D.'s vagina;
- b. Penetrating Patient G.D.'s vagina with Dr. Choudhury's finger(s);
- c. Touching Patient V.Q.'s vagina;
- d. Penetrating Patient V.Q.'s vagina with Dr. Choudhury's finger(s);

e. Touching Patient D.N.'s vagina; and

f. Penetrating Patient D.N.'s vagina with Dr. Choudhury's finger(s).

7. Section 120.60(6), Florida Statutes (2017), authorizes the State Surgeon General to restrict a physician's license if the Department finds that the physician presents an immediate, serious danger to the public health, safety, or welfare.

8. Dr. Choudhury's continued unrestricted practice of medicine constitutes an immediate, serious danger to the health, safety, and 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 (2017), it is **ORDERED THAT:**

1. The license of Asif Hussain Choudhury, M.D., license number ME 80362, is hereby immediately restricted to prohibit him from conducting any rectal procedures on female patients.

2. A proceeding seeking formal discipline of the license of Asif Hussain Choudhury, M.D., to practice medicine will be promptly instituted and acted upon in compliance with Sections 120.569 and 120.60(6), Florida Statutes (2017).

In Re: The Emergency Restriction of the License of  
Asif Hussain Choudhury, M.D.  
License Number ME 80362  
Case Numbers 2017-10775 / 2017-20571

DONE and ORDERED this 21 day of Feb, 2018.



*PL*

Celeste Phillip, M.D., M.P.H.  
Surgeon General and Secretary

PREPARED BY:  
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In Re: The Emergency Restriction of the License of  
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License Number ME 80362  
Case Numbers 2017-10775 / 2017-20571

**NOTICE OF RIGHT TO JUDICIAL REVIEW**

Pursuant to Sections 120.60(6) and 120.68, Florida Statutes (2016), this Order is judicially reviewable. Review proceedings are governed by the Florida Rules of Appellate Procedure. Proceedings are commenced by filing a Petition for Review, in accordance with Florida Rule of Appellate Procedure 9.100, with the District Court of Appeal, accompanied by a filing fee prescribed by law, and a copy of the Petition with the Agency Clerk of the Department within 30 days of the date this Order is filed.