

FILED

January 7, 2015

**NEW JERSEY STATE BOARD
OF MEDICAL EXAMINERS**

STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF MEDICAL EXAMINERS

In the matter of:

RONALD RAHMAN, M.D.

ORDER GRANTING MOTION
FOR SUMMARY DECISION AND
REVOKING LICENSE

This matter was initially opened before the New Jersey State Board of Medical Examiners on or about November 9, 2012, upon the filing of an administrative complaint seeking the suspension or revocation of the medical license of respondent Ronald Rahman, M.D. The complaint was predicated on respondent's conviction, by guilty plea, of the crime of the Unlawful Distribution of Controlled Dangerous Substances in violation of 21 U.S.C. §§841(a)(1) and 841(b)(1)(c), and upon the admissions which respondent made under oath when he entered his guilty plea in the United States District Court on January 13, 2012.

On July 9, 2014, the Attorney General of New Jersey filed a notice of motion seeking entry of summary decision on the filed complaint. Respondent failed to appear for a scheduled hearing on August 13, 2014.

It is beyond dispute that respondent was convicted in federal court of the crime of Unlawful Distribution of C.D.S., sentenced to serve twenty-five months in prison and ordered to

forfeit \$2,350. Similarly, it is beyond dispute that, when entering his guilty plea, respondent admitted that he wrote prescriptions for Oxycontin, Roxicodone and Percocet in exchange for cash, knowing he did not hold a medical license and knowing that there was no medical need or basis for the prescriptions he wrote.

We conclude that good cause exists to grant the Attorney General's motion for summary decision, as there are no genuine issues of fact. Further, we unanimously conclude that the uncontested factual record in this case supports -- if not dictates -- the revocation of respondent's medical license, as that record fully evidences that respondent acted not as a physician, but as a drug dealer. We additionally conclude that good cause exists to assess a \$10,000 monetary penalty, and assess costs in the amount of \$24,288.10. We set forth below additional detail outlining the procedural history of this matter, the findings that we make to support our grant of summary decision, and the basis for our penalty determinations.

Procedural History

As noted above, this matter was initially opened before the Board on November 9, 2012, upon the filing of an administrative complaint seeking the entry of an Order suspending or revoking the license of respondent Ronald Rahman, M.D. to practice medicine and surgery in the State of New Jersey and the imposition of any other

penalties and/or cost assessments deemed appropriate by the Board. Within the complaint, the Attorney General alleged that respondent had been convicted of a crime involving moral turpitude and relating adversely to the practice of medicine -- namely, the Unlawful Distribution of C.D.S. -- and that the conviction provided a basis for disciplinary sanction pursuant to N.J.S.A. 45:1-21(f). The Attorney General further alleged, based on facts established by respondent's conviction and admissions that respondent made when he entered his guilty plea on January 13, 2012, that independent grounds for disciplinary action against respondent existed pursuant to N.J.S.A. 45:9-6 (both for engaging in the unlicensed practice of medicine and for failing to meet the continuing requirement of good moral character), 45:1-21(e) (for engaging in professional misconduct), 45:1-21(h) (for failing to comply with Board statutory and/or regulatory requirements) and 45:1-21(m) (for indiscriminate prescribing of C.D.S.).

On September 3, 2013, respondent filed a written answer to the Complaint. Therein, he repeatedly objected to "the form and substance" of "statements" made in the complaint. Notwithstanding said objections, respondent admitted that he pled guilty to the crime of Unlawful Distribution of C.D.S., that he was sentenced to a 25 month term of imprisonment and that a Judgment of Conviction was filed on January 13, 2012. At the conclusion of his written answer, respondent urged that the Board not revoke his license, but

instead enter an Order suspending his medical license in New Jersey for a period of ten years (without any additional terms or penalties).

On June 20, 2014, the Attorney General filed a notice of motion for entry of summary decision. The motion was supported by a Certification of Deputy Attorney General Labinot A. BerlaJolli dated June 20, 2014 and a letter brief. The Attorney General argued that the Board should conclude that the facts alleged in the complaint were undisputed, and that disposition of the case by summary decision was therefore appropriate.

The parties were notified, by way of a letter dated August 7, 2014 from William V. Roeder, Executive Director of the Board, that a hearing on the motion for summary decision would be held before the full Board on August 13, 2014. The parties were additionally notified that, in the event the Board decided to grant the motion for summary decision, the Board would immediately proceed to hold a hearing on the issue of penalty to be assessed, at which hearing respondent could present evidence and/or offer testimony in mitigation of penalty.¹ Respondent thereafter did not submit any written response to the Board opposing the motion for summary decision.

¹ In addition to Mr. Roeder's letter, DAG BerlaJolli forwarded Dr. Rahman a letter dated July 9, 2014, enclosing the filed motion papers, advising Dr. Rahman that any written response papers were due not later than July 28, 2014, and providing notice that the matter would be heard before the Board on August 13, 2014.

On August 13, 2014, Deputy Attorney General Berlajolli appeared for Complainant Attorney General. Respondent failed to appear at said hearing. The Attorney General initially presented evidence demonstrating that notice of the hearing was in fact delivered to respondent's address, 835 Oglethorpe Avenue, Unit 501, Atlanta, Georgia 30310 and demonstrating that the notice had in fact been received by respondent. Based thereon, we concluded that respondent was notified of this proceeding and granted the Attorney General's motion to find respondent in default.

Deputy Attorney General Berlajolli then offered evidence and presented oral argument in support of the filed motion for summary decision. Specifically, the Attorney General moved the following documents into evidence:

S-4: Judgment of Conviction in United States of America v. Rahman, Case Number 1:10-CR-00138(01), dated January 13, 2012.

S-5: Transcript of Plea/Sentencing Hearing, dated January 13, 2012, in United States of America v. Ronald Rahman, Criminal N. 10-138 (RBK).

S-6: Sworn Statement of Special Agent Kirk S. Eleazer, dated November 13, 2009, offered in support of Criminal Complaint filed against Ronald Rahman, M.D. in United States of America v. Ronald Rahman.

S-7: Indictment in United States of America v. Ronald Rahman, Criminal No. 10-138-RBK, filed in the United States District Court for the District of New Jersey on March 3, 2010.

S-8: Plea Agreement entered between United States Attorney, District of New Jersey and Dr. Ronald Rahman, dated January 12, 2012.

Upon review of the evidence supporting the Attorney General's motion, we unanimously found that all of the allegations within the filed Complaint were unequivocally and conclusively established (see analysis below), and we therefore unanimously voted to grant the motion for summary decision. We then proceeded to consider the issue of penalty. DAG Berlajolli urged the Board to revoke respondent's license, pointing out that respondent in essence elected to become a drug dealer, selling prescriptions for addictive drugs out of his car, without any semblance of medical need for the prescriptions and without any relation whatsoever to a legitimate medical practice. Following consideration of the record, we unanimously voted to revoke respondent's license, assess a monetary penalty and award costs.

Legal Analysis of Basis for Grant of Summary Decision

The administrative procedure rules provide that summary decision may be rendered "if the papers and discovery which have been filed, together with the affidavits, if any, show that there is no genuine issue as to any material fact challenged and that the moving party is entitled to prevail as a matter of law." N.J.A.C. 1:1-12.5 see Contini v. Board of Educ. of Newark, 286 N.J. Super. 106, 121 (App. Div. 1995), certif. denied 145 N.J. 372 (1996). The standards for entry of summary decision mirror those for entry of summary judgment under R.4:46 in civil litigation. Id. Succinctly stated, summary decision is appropriate when "the competent

evidential materials presented, when viewed in the light most favorable to the non-moving party in consideration of the applicable evidentiary standard, are sufficient to permit a rational fact-finder to resolve the alleged disputed issue in favor of the non-moving party." Contini, 286 N.J. Super. At 121, quoting Brill v. Guardian Life Ins. Co., 142 N.J. 520, 523 (1995). Summary decision is appropriate if "there exists a single, unavoidable resolution of the alleged disputed issue of fact." Contini, 286 N.J. Super. 121, quoting Brill, 142 N.J. at 540.

In this case, there are, simply put, no genuine issues of material fact. Respondent's license to practice medicine and surgery in the State of New Jersey was summarily suspended, by Order of this Board filed on June 26, 2009, after respondent allowed his license to lapse on June 30, 2005. It is clear and beyond reasonable dispute that respondent was arrested in Camden County, New Jersey on June 12, 2009, after he met with a confidential source and issued 12 prescriptions, in 10 different names, for Roxycodone and Percocet tablets, in exchange for \$1500 cash (Exhibit S-6). That meeting was the third of three meetings between the confidential source and Dr. Rahman, and the evidence establishes that, on each occasion, Dr. Rahman wrote prescriptions for Schedule II C.D.S. (to include prescriptions for Roxycodone, Percocet and Oxycontin) for individuals who respondent was not

treating and did not know, and that he did so in each case in exchange for cash payments. (Exhibit S-6)

It is also clear and beyond any reasonable dispute that respondent was thereafter indicted on three counts of knowingly and intentionally distributing, dispensing and possessing with intent to distribute and dispense a mixture and substance containing a detectable amount of oxycodone (in the form of Oxycontin, Roxicodone and Percocet prescriptions), a Schedule II controlled substance, without a legitimate medical purpose and outside the usual course of professional practice, in violation of Title 21 U.S.C., §§841(a)(1) and 841(b)(1)(c) (Exhibit S-7). Respondent entered a plea agreement, in which he agreed to plead guilty to Count 1 of the three Count indictment, in exchange for the United States Attorney's agreement not to initiate any further criminal charges against Dr. Rahman and to move to dismiss Counts 2 and 3 of the Indictment (Exhibit S-7). Thereafter, respondent entered a guilty plea on January 13, 2012, before the Honorable Robert B. Kugler (Exhibit S-5), and Judge Kugler entered a Judgment of Conviction wherein he found respondent guilty of Count 1 of the indictment (and wherein Counts 2 and 3 of the Indictment were dismissed). Respondent was ordered imprisoned for a term of 25 months, placed on supervised release following imprisonment for a

term of 3 years, and ordered to forfeit to the United States the sum of \$2350. (Exhibit S-4).²

Not only are there no genuine issues of fact regarding respondent's conviction and sentencing, but also there are no issues of fact regarding the conduct which respondent engaged in, as those facts are uncontested and established in detail both within the sworn statement of Special Agent Kirk S. Eleazer (S-6) and within the transcript of respondent's guilty plea entry (S-5). Specifically, when entering his guilty plea, respondent admitted that between April 2009 and June 2009:

(1) he knew that his license to practice medicine in New Jersey had lapsed,

(2) that he wrote a series of prescriptions for oxycodone, and

(3) that the prescriptions were written solely for cash and not for any legitimate medical purpose.³

² We find it significant that, in deciding to impose a sentence at the bottom end of federal sentencing guidelines, Judge Kugler specifically considered and factored into his decision the fact that Dr. Rahman was "no longer a licensed physician" and thus was "not going to be in a position to commit a similar crime in the future." [Sentencing Transcript, 30:13-18].

³ Specifically, respondent made the following admissions at his sentencing hearing on January , 2012:

THE COURT: Now, I'm going to ask you a few questions because I need to be satisfied that you are guilty. Between April 2009 and June 2009, were you a medical doctor whose license to practice in the State of New Jersey had in fact lapsed?

THE DEFENDANT: That's correct.

Based on the above evidence, it is clear that an overwhelming predicate exists to support entry of summary decision. *Penalty*

Determination

We unanimously conclude that respondent's conviction, and the conduct underlying that conviction support the entry of an Order revoking respondent's medical license. Respondent did

THE COURT: And during that timeframe were you registered with the Drug Enforcement Administration as a practitioner authorized to handle and prescribe controlled substances for legitimate medical purposes?

THE DEFENDANT: Yes sir, I was.

. . . .

THE COURT: Do you acknowledge that between April 2009 and June 2009 you wrote a series of prescriptions for oxycodone, which were not issued in the course of usual professional practice and which had no legitimate medical purpose?

THE DEFENDANT: That's correct.

THE COURT: And did you write these prescriptions or scripts in Camden County in New Jersey?

THE DEFENDANT: Yes, sir.

THE COURT: Do you acknowledge that you were either paid money for these scripts or promised that you would be paid money in return for these scripts?

THE DEFENDANT: That's correct.

THE COURT: And do you acknowledge that the amount of oxycodone which you unlawfully distributed in this way was at least 13 grams?

THE DEFENDANT: Yes, sir.

THE COURT: And when you wrote these prescriptions you did so knowingly and intentionally; is that correct?

THE DEFENDANT: That's correct.

THE COURT: And when you wrote these prescriptions you knew to do so would be illegal, didn't you?

THE DEFENDANT: That's correct.

Sentencing Transcript; 19:10 - 20:22.

nothing more than sell prescriptions, which he wrote for individuals he did not know. In doing so, respondent chose to use the authorization to prescribe narcotics attendant to his medical license not to alleviate pain and suffering, but rather as a conduit to facilitate his receipt of illegal cash payments. He abrogated his basic duties and responsibilities as a licensed physician, to include the fundamental precept of the Hippocratic Oath -- first, do no harm. Indeed, respondent acted not as a physician but as a street level drug dealer, with the notable exception that respondent (unlike the street dealer) had the medical training and background to fully understand the pain, harm and devastation that the use and abuse of illegal drugs causes, but chose to ignore that training.

In addition to revoking respondent's license, we conclude that good cause exists to support the assessment of both a monetary penalty and of the costs incurred in the prosecution of this matter. Respondent's conduct in this matter was clearly egregious, and supports a penalty assessment of \$10,000.

Turning to costs, the Attorney General sought an award of \$28,088.35 in costs, to include \$15,641.35 in investigative costs and \$12,447 in attorneys' fees. We have carefully reviewed the documentation offered by the Attorney General in support of the application for costs, to include attorney time sheets detailing the legal work performed in this matter. While we find that good

cause exists to award all sought investigative costs, we noted that the attorneys' fee application sought full reimbursement for the legal services of two Deputy Attorneys General - William Lim, who billed a total of 56.3 hours of time for legal work performed between February 23, 2009 and December 27, 2012, and Labinot Berlajolli, who billed a total of 35.9 hours of time for legal work between April 11, 2013 and August 8, 2014. While we found that the timesheets offered to detail the work performed by DASG Lim and Berlajolli supported all of the hours claimed, it appeared that there may have been some overlap of services that were occasioned as a result of DAG Lim's having handled the case exclusively through December 27, 2012 and DAG Berlajolli's having handled the case exclusively thereafter, which overlap should not in fairness be billed to respondent. In order to address that concern, we have decided to disallow 50% of the total hours billed by DAG Lim in this matter (for a total reduction of 28.15 hours of attorneys' time, which in turn reduces aggregate attorney's fees to \$8,646.75)⁴, and thus reduce the aggregate cost award to \$24,288.10.

WHEREFORE, it is on this 7th day of January, 2015

ORDERED:

⁴ We find the hourly rate of \$135/hour sought for the legal services of the Deputy Attorneys General who pursued this matter to be entirely reasonable, and thus allow that rate in full.

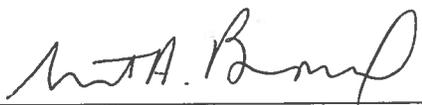
1. The Attorney General's motion for entry of summary decision on the Administrative Complaint filed November 9, 2012 is granted in full.

2. The license of respondent Ronald Rahman, M.D., to practice medicine and surgery in the State of New Jersey is hereby revoked.

3. Respondent is assessed a civil penalty in the amount of \$10,000 and costs in the amount of \$24,288.10. Payment of \$34,288.10 shall be made within thirty days of the entry of this Order (on or before February 6, 2015) by certified check or money order payable to the State of New Jersey (or any other form of payment that may be explicitly approved by the Board) and forwarded to the attention of Bill Roeder, Executive Director, Board of Medical Examiners, 140 East Front Street, 2nd Floor, Trenton New Jersey, 08608, unless installment payments are sought from and approved by the Board prior to the date due. Failure to make timely payment of penalties and costs under this Order shall result in the filing of a certificate of debt, and such other proceedings as are permitted by law.

NEW JERSEY STATE BOARD OF
MEDICAL EXAMINERS

By:



Stewart Berkowitz, M.D.
Board President

**NOTICE OF REPORTING PRACTICES OF BOARD
REGARDING DISCIPLINARY ACTIONS**

Pursuant to N.J.S.A. 52:14B-3(3), all orders of the New Jersey State Board of Medical Examiners are available for public inspection. Should any inquiry be made concerning the status of a licensee, the inquirer will be informed of the existence of the order and a copy will be provided if requested. All evidentiary hearings, proceedings on motions or other applications which are conducted as public hearings and the record, including the transcript and documents marked in evidence, are available for public inspection, upon request.

Pursuant to 45 CFR Subtitle A 60.8, the Board is obligated to report to the National Practitioners Data Bank any action relating to a physician which is based on reasons relating to professional competence or professional conduct:

- (1) Which revokes or suspends (or otherwise restricts) a license,
- (2) Which censures, reprimands or places on probation,
- (3) Under which a license is surrendered.

Pursuant to 45 CFR Section 61.7, the Board is obligated to report to the Healthcare Integrity and Protection (HIP) Data Bank, any formal or official actions, such as revocation or suspension of a license (and the length of any such suspension), reprimand, censure or probation or any other loss of license or the right to apply for, or renew, a license of the provider, supplier, or practitioner, whether by operation of law, voluntary surrender, non-renewability, or otherwise, or any other negative action or finding by such Federal or State agency that is publicly available information.

Pursuant to N.J.S.A. 45:9-19.13, if the Board refuses to issue, suspends, revokes or otherwise places conditions on a license or permit, it is obligated to notify each licensed health care facility and health maintenance organization with which a licensee is affiliated and every other board licensee in this state with whom he or she is directly associated in private medical practice.

In accordance with an agreement with the Federation of State Medical Boards of the United States, a list of all disciplinary orders are provided to that organization on a monthly basis.

Within the month following entry of an order, a summary of the order will appear on the public agenda for the next monthly Board meeting and is forwarded to those members of the public requesting a copy. In addition, the same summary will appear in the minutes of that Board meeting, which are also made available to those requesting a copy.

Within the month following entry of an order, a summary of the order will appear in a Monthly Disciplinary Action Listing which is made available to those members of the public requesting a copy.

On a periodic basis the Board disseminates to its licensees a newsletter which includes a brief description of all of the orders entered by the Board.

From time to time, the Press Office of the Division of Consumer Affairs may issue releases including the summaries of the content of public orders.

Nothing herein is intended in any way to limit the Board, the Division or the Attorney General from disclosing any public document.