

February 29, 2008

Dipak Desai, M.D.
Eladio Carrera, M.D.
Vishvinder Sharma, M.D.
Clifford Carrol, M.D.
GASTROENTEROLOGY CENTER OF NEVADA
f/k/a Endoscopy Center of Southern Nevada, LLC
700 Shadow Lane
Las Vegas, NV 89106

**RE: IMMEDIATE EMERGENCY SUSPENSION OF YOUR CITY BUSINESS
LICENSURE INCLUDING BUT NOT LIMITED TO MEDICAL CLINIC
LICENSE C14-00266-6-091934**

Gentlemen:

Endoscopy Center of Southern Nevada, LLC formerly held City Business License No. C14-367-3-107022. The owners are listed as Dipak Desai, M.D., Vishvinder Sharma, M.D., Eladio Carrera, M.D., and Clifford Carrol, M.D. That license was allowed to lapse for nonpayment of business license fees November 15, 2007. The business location is listed as 700 Shadow Lane, Las Vegas, Nevada, 89106. On February 5, 2002, Dipak Desai, M.D., Eladio Carrera, M.D. and Vishvinder Sharma, M.D. applied for a medical clinic license for Gastroenterology Center of Nevada located at 700 Shadow Lane, Las Vegas, Nevada, 89106. That license was issued and is in effect today. The purpose of this letter is to immediately suspend, under the emergency suspension provisions of Las Vegas Municipal Code 6.02.363, City Business License No. C14-00266-6-091934, as well as any other City licenses having to do with the operation of your business at 700 Shadow Lane, Las Vegas, Nevada.

LAW

The authority for this action is to be found at Las Vegas Municipal Code 6.02.363:

(A) Except as provided in Subsection (B), and independent of any other action, the Director or Metro may issue an emergency order which suspends or conditions a license upon a determination that:

(1) There has been a violation of the provisions of this Title, Title 9 or Title 19; and

(2) Such order is necessary for the immediate preservation of the public peace, health, safety, morals, good order or general welfare within the City.

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(B) This Section does not apply to any business license issued pursuant to Chapter 6.06A or Chapter 6.35.

As well as Las Vegas Municipal Code 6.02.365:

Any emergency order issued pursuant to Section 6.02.363 shall:

(A) Set forth the grounds upon which it is issued, including a statement of facts constituting the emergency which necessitates such order;

(B) Be effective immediately upon the issuance and service thereof on the licensee or its representative or upon the licensed premises; and

(C) Indicate the period of time for which it is effective, which shall be based upon the severity of the violation and the nature of the emergency as determined by the Director or Metro.

Your right of appeal is to be found at Las Vegas Municipal Code 6.02.367:

A licensee who is affected by an emergency order may appeal the order by filing an appropriate action in the State of Nevada District Court to challenge or seek review of the order. Such action to appeal must be filed within ten days after the effective date of the emergency order, or the right to appeal is deemed waived. Nothing in this Section shall be construed to limit any statutory right of the licensee to file an ordinary or emergency petition for extraordinary writ under NRS Chapter 34, where appeal under this Section is an inadequate remedy at law. Where the Director or Metro is alleged to have engaged in censorship of expressive conduct or material rather than addressing or avoiding criminal conduct or other conduct harmful to the public health, safety, welfare, morals and peace, prompt judicial review is

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warranted under *City of Littleton, Colorado v. Z.J. Gifts D-4*,
L.L.C., 541 U.S. 774, 124 S. Ct. 2219, 159 L. Ed. 2d 84 (2004).

In addition, you are entitled to a prompt post-suspension hearing. See page 6 of this letter.

Las Vegas Municipal Code 6.02.330(H) provides:

A licensee may be subject to disciplinary action by the City Council for good cause, which may, without limitation, include the following:

. . . .

(H) The business activity constitutes, promotes, causes, allows, fosters, aids, or otherwise enables a private nuisance, public nuisance or chronic nuisance, or has been or is being conducted in an unlawful, illegal or impermissible manner, including but not limited to causing, allowing, promoting, fostering, aiding, enabling, exercising deliberate ignorance towards or failing to abate a private nuisance, public nuisance or chronic nuisance

Las Vegas Municipal Code 6.02.350 provides:

A licensee under this Chapter shall be subject to disciplinary action not only for acts or omissions done by such licensee but also for acts and omissions done by the principals, managers, agents, representatives, servants or employees of such licensee.

Documents in my possession reveal that the State of Nevada Department of Health and Human Services Health Division Bureau of Licensure and Certification have found that you violated 42 C.F.R. § 416.41 (governing body in management) and 42 C.F.R. § 416.48 (pharmaceutical services).

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42 C.F.R. § 416.41 (dealing with ambulatory surgical centers) provides:

The ASC must have a governing body, that assumes full legal responsibility for determining, implementing, and monitoring policies governing the ASC's total operation and for ensuring that these policies are administered so as to provide quality health care in a safe environment. When services are provided through a contract with an outside resource, the ASC must assure that these services are provided in a safe and effective manner. Standard: Hospitalization. The ASC must have an effective procedure for the immediate transfer to a hospital, of patients requiring emergency medical care beyond the capabilities of the ASC. This hospital must be a local, Medicare participating hospital or a local, nonparticipating hospital that meets the requirements for payment for emergency services under § 482.2 of this chapter. The ASC must have a written transfer agreement with such a hospital, or all physicians performing surgery in the ASC must have admitting privileges at such a hospital.

42 C.F.R. § 416.48 provides:

The ASC must provide drugs and biologicals in a safe and effective manner, in accordance with accepted professional practice, and under the direction of an individual designated responsible for pharmaceutical services.

(a) Standard: Administration of drugs. Drugs must be prepared and administered according to established policies and acceptable standards of practice.

(1) Adverse reactions must be reported to the physician responsible for the patient and must be documented in the record.

(2) Blood and blood products must be administered by only physicians or registered nurses.

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(3) Orders given orally for drugs and biologicals must be followed by a written order, signed by the prescribing physician.

GROUNDS FOR EMERGENCY SUSPENSION

Within the last two days certain facts have come to my attention which bear on your City licensure. I have learned that a "tiger team" comprised of investigators from the Southern Nevada Health District, the State Bureau of Licensure and Certification, and the Center for Disease Control have recently investigated the practices at your clinic. The Southern Nevada Health District found that beginning in March 2004 and continuing through January 11, 2008, you performed 40,000 colonoscopies on patients utilizing techniques that fell well below accepted medical practice. Specifically, you instructed your registered nurses and certified registered nurse anesthetists to reuse syringes when administering anesthesia. In addition, you instructed them to reuse vials of medication. This resulted in cross contamination. As a result of this, it has been initially determined that a patient was infected with Hepatitis C in July 2007 and five other patients were infected with Hepatitis C in September 2007. Forty thousand (40,000) other patients were put at risk of infection with life threatening communicable diseases.

The "tiger team" was told by many of your R.N.s and C.R.N.A.s that they knew this technique fell below accepted medical practice and was dangerous to patients. However, they were ordered by administrators, principally Dr. Desai, to engage in the practice in order to save money. Some R.N.s and C.R.N.A.s said that they followed orders, and risked contaminating patients with life threatening communicable diseases. Other R.N.s and C.R.N.A.s said that they disobeyed Dr. Desai's order, because they were unwilling to risk subjecting patients to life threatening diseases.

A "tiger team" investigator told me, **"It's very hard to believe that they won't do it again."** He was referring to the fact that the technique that Dr. Desai ordered his R.N.s and C.R.N.A.s to engage in so obviously fell below standards of acceptable medical practice that he had willfully chosen, until he was caught, to mortally hazard his patients for profit. The fact that, once caught, you have agreed not to engage in a technique well known to the medical community to subject patients to death or serious illness again does not persuade me that you won't do it again.

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I have been told that an officer of the Center for Disease Control publicly stated that what you did was so obviously dangerous that any R.N., C.R.N.A., or M.D. would know that it was the equivalent of **"driving the wrong way down the freeway."** I do not believe that there is any department of motor vehicles officer in this country that would not immediately revoke the driving license of a driver when given credible evidence that the driver had driven the wrong way down the freeway every day for the last four years.

You have violated the Code of Federal Regulations requiring an ambulatory surgical center to have management that "provide[s] quality health care in a safe environment." Your management has not "assure[d] that these services are provided in a safe and effective manner." In addition, you have violated the Code of Federal Regulations requiring that an ambulatory surgical center "provide drugs and biologicals in a safe and effective manner, in accordance with accepted professional practice." The state made findings such as "certified registered nurse anesthetists (C.R.N.A.) indicated any Propofol left in the bottle after the procedure would be used for the next patient," and "the charge nurse indicated the Propofol was utilized as a multi dose vial to induce sedation during the endoscopic procedure." With reference to endoscopes, findings were made such as "the charge nurse confirmed the enzymatic detergent solution and water rinse was changed after two scopes were cleaned." These techniques, used in the medical treatment of 40,000 patients, fall well below acceptable medical practice.

PROMPT POST-SUSPENSION HEARING

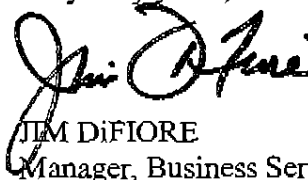
You are entitled to a prompt post-suspension hearing of my decision to immediately suspend your City licensure. Accordingly, you may appear at Las Vegas City Hall, 400 Stewart Avenue, Las Vegas, Nevada, at the hour of 1:30 p.m., Monday, March 3, 2008. Alternatively, if this is not convenient, you may appear at the same location Tuesday, March 4, 2008, at the hour of 1:30 p.m. Failing this, you will be heard at any reasonable time you choose. Please give me reasonable notice of when you wish to be heard. In any event, your prompt post-suspension hearing will be heard by the City business licensing manager, the director of Finance, and the City Manager or his designee in the offices of the City Manager on the Eighth Floor. You may be represented by counsel, and the hearing panel will consider anything you present. Hearsay will be considered, and as is the case with any evidence, it will be given its appropriate weight. The panel will render a decision within one hour after you conclude your presentation. This decision will be given to you personally, if you or your agent waits for it, or promptly delivered in writing to a location and an agent you designate during the hearing.

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PERIOD OF TIME FOR WHICH THE SUSPENSION IS EFFECTIVE

You are ordered to immediately suspend all business operations at your 700 Shadow Lane, Las Vegas, Nevada, location which are conducted under City licensure. This suspension is for an indefinite period of time, or until the City Council hears a disciplinary complaint brought against your licensure.

Very truly yours,



JIM DiFIORE
Manager, Business Services Division
Department of Finance and Business Services
City of Las Vegas

JD/WPH:ck