



STATE OF NEW YORK
DEPARTMENT OF HEALTH

433 River Street, Suite 303

Troy, New York 12180-2299

Public

January 26, 2007

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Tarek L. A. Haw, M.D.
Aka Tarek Lotfi Aly-Elhaw
2048 East Goodman Street
Boise, Idaho 83712

Tarek L. A. Haw, M.D.
aka Tarek Lotfi Aly-Elhaw
1025 Ironwood Drive – Suite 100W
Coeur D Alene, Idaho 83814

Robert Bogan, Esq.
NYS Department of Health
Hedley Building – 4th Floor
433 River Street
Troy, New York 12180

**RE: In the Matter of Tarek L.A. Haw, M.D.
a/k/a Tarek Lotfi Aly-Elhaw**

Dear Parties:

Enclosed please find the Determination and Order (No. 07-20) of the Hearing Committee in the above referenced matter. This Determination and Order shall be deemed effective upon the receipt or seven (7) days after mailing by certified mail as per the provisions of §230, subdivision 10, paragraph (h) of the New York State Public Health Law.

As prescribed by the New York State Public Health Law §230, subdivision 10, paragraph (i), and §230-c subdivisions 1 through 5, (McKinney Supp. 1992), "the determination of a committee on professional medical conduct may be reviewed by the Administrative Review Board for professional medical conduct." Either the Respondent or the Department may seek a review of a committee determination.

All notices of review must be served, by certified mail, upon the Administrative Review Board and the adverse party within fourteen (14) days of service and receipt of the enclosed Determination and Order.

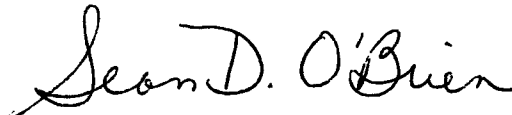
The notice of review served on the Administrative Review Board should be forwarded to:

James F. Horan, Esq., Administrative Law Judge
New York State Department of Health
Bureau of Adjudication
Hedley Park Place
433 River Street, Fifth Floor
Troy, New York 12180

The parties shall have 30 days from the notice of appeal in which to file their briefs to the Administrative Review Board. Six copies of all papers must also be sent to the attention of Mr. Horan at the above address and one copy to the other party. The stipulated record in this matter shall consist of the official hearing transcript(s) and all documents in evidence.

Parties will be notified by mail of the Administrative Review Board's Determination and Order.

Sincerely,

A handwritten signature in cursive script that reads "Sean D. O'Brien".

Sean D. O'Brien, Director
Bureau of Adjudication

SDO:cah

Enclosure

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

IN THE MATTER

OF

TAREK L. A. HAW, M.D.
aka
TAREK LOTFI ALY-ELHAW, M.D.

DETERMINATION

AND

ORDER

BPMC #07-20

COPY

A hearing was held on January 17, 2007, regarding the Respondent, **Tarek L. A. Haw, M.D., aka Tarek Lotfi Aly-Elhaw, M.D.**, at the offices of the New York State Department of Health ("the Petitioner"), pursuant to a Notice of Referral Proceeding and a Statement of Charges, both dated December 21, 2006. Pursuant to Section 230(10)(e) of the Public Health Law, **Donald Cherr, M.D.**, Chairperson, **Edmund A. Egan, II, M.D.**, and **Mr. Henry M. Sloma**, duly designated members of the State Board for Professional Medical Conduct, served as the Hearing Committee in this matter. **John Wiley, Esq.**, Administrative Law Judge, served as the Administrative Officer.

The Petitioner appeared by **Donald P. Berens, Jr., Esq.**, General Counsel, by **Robert Bogan, Esq.**, of Counsel. The Respondent did not appear at the hearing, either in person or by counsel.

Evidence was received and transcripts of these proceedings were made.

After consideration of the entire record, the Hearing Committee issues this Determination and Order.

BACKGROUND

This case was brought pursuant to Public Health Law Section 230(10)(p). The statute provides for an expedited hearing when a licensee is charged solely with a violation of Education Law Section 6530(9). In such cases, a licensee is charged with misconduct based upon a prior criminal conviction in New York State or another jurisdiction, or upon a prior administrative adjudication regarding conduct that would amount to professional misconduct, if committed in New York. The scope of an expedited hearing is limited to a determination of the nature and severity of the penalty to be imposed upon the licensee.

In the instant case, the Respondent is charged with professional misconduct pursuant to Education Law Section 6530(9)(b) and (d). Copies of the Notice of Referral Proceeding and the Statement of Charges are attached to this Determination and Order as Appendix 1.

WITNESSES

For the Petitioner: None

For the Respondent: None

FINDINGS OF FACT

The following Findings of Fact were made after a review of the entire record in this matter. Numbers below in parentheses refer to exhibits, denoted by the prefix "Ex." These citations refer to evidence found persuasive by the Hearing Committee in arriving at a particular finding. Conflicting evidence, if any, was considered and rejected in favor of the cited evidence. All Hearing Committee findings were unanimous.

1. Tarek L. A. Haw, M.D., aka Tarek Lotfi Aly-Elhaw, M.D., the Respondent, was authorized to practice medicine in New York State on October 30, 1981, by the

issuance of license number 148036 by the New York State Education Department (Petitioner's Ex. 4).

2. On May 23, 2006, the Idaho State Board of Medicine ("Idaho Board"), by a Findings of Fact, Conclusions of Law and Final Order ("Idaho Order"), revoked the Respondent's license to practice medicine, based on repeated violations of the applicable community standard of care, repeated abandonment of patients, repeated fraudulent and abusive insurance practices, and repeated abuse and violation of patients' trust (Petitioner's Ex. 5).

HEARING COMMITTEE CONCLUSIONS

The Hearing Committee concludes that the conduct of the Respondent would constitute professional misconduct under the laws of New York State, had the conduct occurred in New York State, pursuant to:

- New York Education Law Section 6530(2) - "Practicing the profession fraudulently or beyond its authorized scope;"
- New York Education Law Section 6530(3) - "Practicing the profession with negligence on more than one occasion;"
- New York Education Law Section 6530(4) - "Practicing the profession with gross negligence on a particular occasion;"
- New York Education Law Section 6530(20) - "Conduct in the practice of medicine which evidences moral unfitness to practice medicine;"
- New York Education Law Section 6530(30) - "Abandoning or neglecting a patient under and in need of immediate professional care, without making reasonable arrangements for the continuation of such care, or abandoning a professional employment by a group practice, hospital, clinic or other health care facility, without

reasonable notice and under circumstances which seriously impair the delivery of professional care to patients or clients;" and

- New York Education Law Section 6530(32) - "Failing to maintain a record for each patient which accurately reflects the evaluation and treatment of the patient. Unless otherwise provided by law, all patient records must be retained for at least six years. Obstetrical records and records of minor patients must be retained for at least six years, and until one year after the minor patient reaches the age of eighteen years..."

VOTE OF THE HEARING COMMITTEE

FIRST SPECIFICATION

"Respondent violated New York Education Law Section 6530(9)(b) by having been found guilty of improper professional practice or professional misconduct by a duly authorized professional disciplinary agency of another state where the conduct upon which the finding was based would, if committed in New York state, constitute professional misconduct under the laws of New York state..."

VOTE: Sustained (3-0)

SECOND SPECIFICATION

"Respondent violated New York Education Law Section 6530(9)(d) by having his license to practice medicine revoked and/or having other disciplinary action taken by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the license revocation would, if committed in New York state, constitute professional misconduct under the laws of New York state..."

VOTE: Sustained (3-0)

HEARING COMMITTEE DETERMINATION

The Respondent did not appear at the hearing, either in person or by counsel. The Petitioner acknowledged that the Notice of Referral Proceeding and the Statement of

Charges were not served on the Respondent. The hearing record discloses that the Petitioner attempted to serve these papers on the Respondent, both in person and by certified mail, at his last two known addresses, but that he no longer lived at either address (Petitioner's Ex. 2[a], 2[b] and 3). The Respondent's current address is unknown to the Petitioner. The Administrative Law Judge ruled that the Respondent had a legal duty to inform the New York State Department of Education of address changes, that the Respondent had not performed this duty, and that, therefore, the failure of the Petitioner to serve the Notice of Referral Proceeding and the Statement of Charges was the fault of the Respondent, not the Petitioner. The Administrative Law Judge ruled that the Petitioner had met the requirements of law regarding service of these papers and that the hearing could proceed on the merits despite the absence of the Respondent.

In the Idaho Order, the Idaho Board summarized its findings as follows:

The gravity of Respondent's conduct in violating the community standard of health care relative to his egregious abuse and exploitation of patients; inappropriate and excessive prescribing of medications that were not medically indicated; failing to diagnosis [sic] or treat primary or underlying medical conditions; and failing to prepare, produce or make medical records available is exacerbated by the fact that it was not an isolated event but a continuous practice...

The evidence and testimony in this case demonstrate repeated violations by Respondent of the applicable community standard of care, repeated abandonment of patients, repeated fraudulent and abusive insurance practices and consistent abuse and violations of patients' trust. (Petitioner's Ex. 5).

Because the Respondent did not appear at the hearing, there is no evidence in the record that helps his case. There is no evidence of mitigating circumstances, rehabilitation or remorse. The Petitioner recommended that the Respondent's license to practice medicine be revoked. This recommendation will be adopted because there is no other penalty available that will adequately protect the public from the Respondent's irresponsible and dangerous practice of medicine.

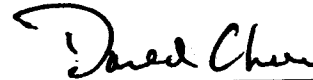
ORDER

IT IS HEREBY ORDERED THAT:

1. The Respondent's license to practice medicine in New York State is revoked.
2. This Order shall be effective upon service on the Respondent in accordance with the requirements of Public Health Law Section 230(10)(h).

DATED: Rochester, New York

January 25, 2007



Donald Cherr, M.D.
Chairperson

Edmund A. Egan, II, M.D.
Henry M. Sloma

APPENDIX I

ORIGINAL



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

IN THE MATTER

OF

TAREK L.A. HAW, M.D, aka TAREK LOTFI ALY-ELHAW
C0-06-06-3487-A

NOTICE OF
REFERRAL
PROCEEDING

TO: TAREK L.A. HAW, M.D.,
aka TAREK LOTFI ALY-ELHAW
2048 East Goodman Street
Boise, ID 83712

TAREK L. A. HAW, M.D.
aka TAREK LOTFI ALY-ELHAW
1025 Ironwood Drive, Suite 100W
Coeur D Alene, ID 83814

PLEASE TAKE NOTICE THAT:

An adjudicatory proceeding will be held pursuant to the provisions of New York Public Health Law §§230(10)(p) and New York State Administrative Procedures Act §§301-307 and 401. The proceeding will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct (Committee) on the 17th day of January, 2007, at 10:00 a.m., at the offices of the New York State Department of Health, Hedley Park Place, 433 River Street, 5th Floor, Troy, NY 12180.

At the proceeding, evidence will be received concerning the allegations set forth in the Statement of Charges, which is attached. A stenographic record of the proceeding will be made and the witnesses at the proceeding will be sworn and examined.

You may appear in person at the proceeding and may be represented by counsel. You may produce evidence or sworn testimony on your behalf. Such evidence or sworn testimony shall be strictly limited to evidence and testimony relating to the nature and severity of the penalty to be imposed upon the licensee. Where the charges are based on the conviction of state law crimes in other jurisdictions, evidence may be offered which would show that the conviction would not be a crime in New York State. The Committee also may limit the number of witnesses whose testimony will be received, as well as the length of time any witness will be permitted to testify.

If you intend to present sworn testimony, the number of witnesses and an estimate of the time necessary for their direct examination must be submitted to the New York State Department of Health, Division of Legal Affairs, Bureau of Adjudication, Hedley Park Place, 433 River Street, Fifth Floor South, Troy, NY 12180, ATTENTION: HON. SEAN D. O'BRIEN, DIRECTOR, BUREAU OF ADJUDICATION (Telephone: (518-402-0748), (henceforth "Bureau of Adjudication") as well as the Department of Health attorney indicated below, no later than ten days prior to the scheduled date of the Referral Proceeding, as indicated above.

Pursuant to the provisions of New York Public Health Law §230(10)(p), you shall file a written answer to each of the charges and allegations in the Statement of Charges not less than ten days prior to the date of the hearing. Any charge or allegation not so answered shall be deemed admitted. You may wish to seek the advice of counsel prior to filing such answer. The answer shall be filed with the Bureau of Adjudication, at the address indicated above, and a copy shall be forwarded to the attorney for the Department of Health whose name appears below. You may file a written brief and affidavits with the Committee. Six copies of all papers you submit must be filed with the Bureau of Adjudication at the address indicated above, no later than fourteen days prior to the scheduled date of the Referral Proceeding, and a copy of all papers must be served on the same date on the Department of Health attorney indicated below. Pursuant to §301(5) of the State Administrative Procedure Act, the Department, upon reasonable notice, will provide at no charge a qualified interpreter of the deaf to interpret the proceedings to, and the testimony of, any deaf person. Pursuant to the terms of New York State Administrative Procedure Act §401 and 10 N.Y.C.R.R. §51.8(b), the Petitioner hereby demands disclosure of the evidence that the Respondent intends to introduce at the hearing, including the names of witnesses, a list of and copies of documentary evidence and a description of physical or other evidence which cannot be photocopied.

The proceeding may be held whether or not you appear. Please note that requests for adjournments must be made in writing to the Bureau of Adjudication, at the address indicated above, with a copy of the request to the attorney for the Department of Health, whose name appears below, at least five days prior to the scheduled date of the proceeding. Adjournment requests are not routinely granted. Claims of court engagement will require detailed affidavits of actual engagement. Claims of illness will require medical documentation. Failure to obtain an attorney within a reasonable period of time prior to the proceeding will not be grounds for an adjournment.

The Committee will make a written report of its findings, conclusions as to guilt, and a determination. Such determination may be reviewed by the administrative review board for professional medical conduct.

SINCE THESE PROCEEDINGS MAY RESULT IN A DETERMINATION THAT SUSPENDS OR REVOKES YOUR LICENSE TO PRACTICE MEDICINE IN NEW YORK STATE AND/OR IMPOSES A FINE FOR EACH OFFENSE CHARGED, YOU ARE URGED TO OBTAIN AN ATTORNEY TO REPRESENT YOU IN THIS MATTER.

DATED: Albany, New York

Dec. 21, 2006



PETER D. VAN BUREN
Deputy Counsel
Bureau of Professional Medical Conduct

Inquiries should be addressed to:

Robert Bogan
Associate Counsel
New York State Department of Health
Office of Professional Medical Conduct
433 River Street – Suite 303
Troy, New York 12180
(518) 402-0828

STATE OF NEW YORK

DEPARTMENT OF HEALTH

STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

IN THE MATTER

OF

TAREK L. A. HAW, M.D., aka TAREK LOTFI ALY-ELHAW
CO-06-06-3487-A

STATEMENT

OF

CHARGES

TAREK L. A. HAW, M.D., aka TAREK LOTFI ALY-ELHAW, M.D., the Respondent, was authorized to practice medicine in New York state on October 30, 1981, by the issuance of license number 148036 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about May 23, 2006, the Idaho State Board of Medicine, (hereinafter "Idaho Board"), by a Findings of Fact, Conclusions of Law and Final Order (hereinafter "Idaho Order"), revoked Respondent's license to practice medicine, based on repeated violations of the applicable community standard of care, repeated abandonment of patients, repeated fraudulent and abusive insurance practices and consistent abuse and violations of patients' trust.

B. The conduct resulting in the Idaho Medical Board disciplinary action against Respondent would constitute misconduct under the laws of New York State, pursuant to the following sections of New York State law:

1. New York Education Law §6530(2) (practicing the profession fraudulently);
2. New York Education Law §6530(3) (negligence on more than one occasion);
3. New York Education Law §6530(4) (gross negligence);
4. New York Education Law §6530(20) (moral unfitness);
5. New York Education Law §6530(30) (abandoning or neglecting a patient under and in need of immediate professional care, without making reasonable arrangements for the continuation of such care, or abandoning a professional employment by a group practice, hospital, clinic or other health care facility, without reasonable notice and under circumstances which seriously impair the delivery of professional care to patients or clients); and/or

6. New York Education Law §6530(32) (failure to maintain a record for each patient which accurately reflects the evaluation and treatment of the patient).

SPECIFICATIONS
FIRST SPECIFICATION

Respondent violated New York Education Law §6530(9)(b) by having been found guilty of improper professional practice or professional misconduct by a duly authorized professional disciplinary agency of another state where the conduct upon which the findings was based would, if committed in New York state, constitute professional misconduct under the laws of New York state, in that Petitioner charges:


1. The facts in Paragraphs A and/or B.

SECOND SPECIFICATION

Respondent violated New York Education Law §6530(9)(d) by having his license to practice medicine revoked and/or having other disciplinary action taken by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the license revocation and/or other disciplinary action would, if committed in New York state, constitute professional misconduct under the laws New York state, in that Petitioner charges:

2. The facts in Paragraphs A and/or B.

DATED: *Dec. 21*, 2006
Albany, New York


PETER D. VAN BUREN
Deputy Counsel
Bureau of Professional Medical Conduct