



STATE OF NEW YORK
DEPARTMENT OF HEALTH

Corning Tower

The Governor Nelson A. Rockefeller Empire State Plaza

Albany, New York 12237

Barbara A. DeBuono, M.D., M.P.H.
Commissioner

Karen Schimke
Executive Deputy Commissioner

September 11, 1995

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Dianne Abeloff, Esq.
NYS Department of Health
Metropolitan Regional Office
5 Penn Plaza-Sixth Floor
New York, New York 10001

Tamer J. AlRifai, M.D.
1131 Robey Avenue
Downers Grove, Illinois 60516

RECEIVED
SEP 11 1995
OFFICE OF PROFESSIONAL
MEDICAL CONDUCT

RE: In the Matter of Tamer J. AlRifai, M.D.

Effective Date: 09/18/95

Dear Ms. Abeloff and Dr. AlRifai:

Enclosed please find the Determination and Order (No. 95-215) 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.

Five days after receipt of this Order, you will be required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate. Delivery shall be by either **certified mail or in person** to:

Office of Professional Medical Conduct
New York State Department of Health
Corning Tower - Fourth Floor (Room 438)
Empire State Plaza
Albany, New York 12237

If your license or registration certificate is lost, misplaced or its whereabouts is otherwise unknown, you shall submit an affidavit to that effect. If subsequently you locate the requested items, they must then be delivered to the Office of Professional Medical Conduct in the manner noted above.

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 licensee or the Department may seek a review of a committee determination.

Request for review of the Committee's determination by the Administrative Review Board stays all action until final determination by that Board. Summary orders are not stayed by Administrative Review Board reviews.

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.

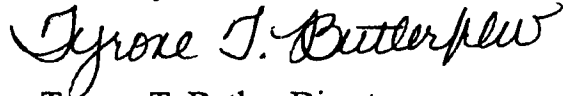
The notice of review served on the Administrative Review Board should be forwarded to:

James F. Horan, Esq., Administrative Law Judge
New York State Department of Health
Bureau of Adjudication
Empire State Plaza
Corning Tower, Room 2503
Albany, New York 12237-0030

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 black ink that reads "Tyrone T. Butler". The signature is written in a cursive style with a large, sweeping initial 'T'.

Tyrone T. Butler, Director
Bureau of Adjudication

TTB:nm
Enclosure

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

IN THE MATTER
OF
TAMER J. ALRIFAI, M.D.

DETERMINATION
AND
ORDER

A Notice of Hearing and Statement of Charges both dated May 12, 1995, were served upon the Respondent, TAMER J. ALRIFAI, M.D. WILLIAM P. DILLON, M.D., (Chair), JAMES B. EISENKRAFT, M.D., and BARRY N. KRIESBERG, duly designated members of the State Board for Professional Medical Conduct, served as the Hearing Committee in this matter pursuant to Section 230(10)(e) of the Public Health Law. CHRISTINE C. TRASKOS, ESQ., Administrative Law Judge, served as the Administrative Officer. A hearing was held on July 6, 1995 at the offices of the NYS Department of Health, Metropolitan Regional Office, 5 Penn Plaza, New York, New York. The Department of Health appeared by DIANNE ABELOFF, ESQ., Associate Counsel. The Respondent did not appear and was not represented by counsel. Evidence was received and witnesses sworn and heard and transcripts of these proceedings were made.

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

STATEMENT OF CASE

This case was brought pursuant to Public Health Law Section 230(10)(p). The statute provides for an expedited hearing where 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 or another jurisdiction, or upon a prior administrative adjudication

regarding conduct which 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, Respondent is charged with professional misconduct pursuant to Education Law Section 6530 (9) (d). A Copy of the Notice of Referral Proceeding and Statement of Charges is attached to this Determination and Order in Appendix I.

FINDINGS OF FACT

The following Findings of Fact were made after a review of the entire record in this matter. Numbers in parentheses refer to transcript page numbers or exhibits. These citations represent 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.

1. Respondent was authorized to practice medicine in New York State on or about January 21, 1983, by issuance of license number ~~1531050~~ ¹⁵³⁰⁵⁰ by the New York State Education Department. (Pet. Ex. 3)
2. On or about January 10, 1991, the State of Illinois, Department of Professional Regulation issued a Notice of Preliminary Hearing and Complaint against Respondent, alleging that at various times during 1986 and 1987, while Respondent was engaged in the practice of medicine, Respondent filed health insurance claim forms seeking payment for the performance of procedures which were not actually performed, and alleging that Respondent made payments to two individuals who were not physicians in exchange for those individuals referring patients to Respondent. The Department's Complaint further alleges that the aforementioned conduct constitutes dishonorable, unethical or unprofessional conduct of a character likely to deceive, defraud or harm the public; receiving fees for

professional services not actually and personally rendered; willfully making or filing false records or reports in his practice as a physician; solicitation of professional patronage by agents of the Respondent; and gross and wilful and continued overcharging for professional services, in violation of Illinois Revised Statutes, (1985), Chapter 111, paragraphs 4433(5), (14), (21), (23) and (24). (Pet. Ex. 4)

3. On or about April 15, 1991, the Department of Professional Regulation of the State of Illinois issued an Order (based upon approval of a Stipulation and recommendation for Settlement between Respondent and the Department of Professional Regulation executed on or about March 13, 1991) by which Respondent's license to practice medicine in Illinois was suspended for 18 months to be followed by 18 months of probation and Respondent was also fined Ten Thousand (\$10,000) Dollars. (Pet. Ex. 4)

CONCLUSIONS OF LAW

The following conclusions were made pursuant to the Findings of Fact listed above. All conclusions resulted from a unanimous vote of the Hearing Committee unless noted otherwise.

The Hearing Committee unanimously concluded that the Department has sustained its burden of proof. The preponderance of the evidence demonstrates that Respondent entered into a Stipulation and Recommendation for Settlement on or about March 13, 1991 that resulted in a Ten Thousand (\$10,000) Dollar fine and an 18 month suspension of his Illinois medical license which was to be followed by 18 months of probation.

Education Law Section 6530(9)(d) defines professional misconduct in part as having disciplinary action taken against his or her license... "after a disciplinary action was instituted by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the revocation, suspension or other disciplinary action involving the license or refusal, revocation or suspension of an application for a license or the surrender of the license would, if committed in New

York State, constitute professional misconduct under the laws of New York State." As a result, the Hearing Committee voted to sustain the First Specification of professional misconduct contained within the Statement of Charges.

DETERMINATION AS TO PENALTY

The Hearing Committee, pursuant to the Findings of Fact and Conclusions of Law set forth above, determined by unanimous vote that Respondent's license to practice medicine in New York State should be revoked. The determination was reached upon due consideration of the full spectrum of penalties available pursuant to statute, including revocation, suspension and/or probation, censure and reprimand, and the imposition of monetary penalties.

Respondent did not appear at the hearing and offered no explanation whatsoever in his defense. The Hearing Committee finds that Respondent's conduct in this instance was criminal in nature. Respondent repeatedly filed false insurance claims for professional services that were never rendered to his patients, grossly overcharged patients and paid several persons money in return for patient referrals. New York State will not tolerate a physician who exhibits such reckless disregard for his patients and the practice of his profession. The Hearing Committee wholly agrees with Petitioner that Respondent should not be permitted to re-apply or maintain a license to practice medicine in New York State. Under the totality of the circumstances, revocation is the appropriate sanction in this instance.

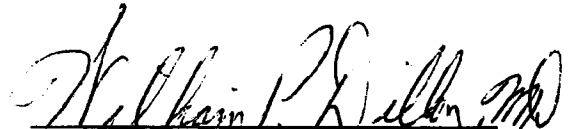
ORDER

Based upon the foregoing, **IT IS HEREBY ORDERED THAT:**

1. The Specification of professional misconduct contained within the Statement of Charges (Petitioner's Exhibit #1) is **SUSTAINED**; and
2. Respondent's license to practice medicine in the State of New York is **REVOKED**.

DATED: Buffalo, New York

9/8 1995


WILLIAM P. DILLON, M.D., (Chair)

**JAMES B. EISENKRAFT, M.D.
BARRY N. KRIESBERG**

**TO: Dianne Abeloff, Esq.
Associate Counsel
NYS Department of Health
Metropolitan Regional Office
5 Penn Plaza-Sixth Floor**

**Tamer J. AIRifai, M.D.
1131 Robey Avenue
Downers Grove, Illinois 60516**

NEW YORK STATE BOARD OF MEDICAL EXAMINERS



APPENDIX I

7/6/95

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

IN THE MATTER
OF
TAMER J. ALRIFAI, M.D.

NOTICE OF
REFERRAL
PROCEEDING

TO: TAMER J. ALRIFAI, M.D.
1131 Robey Avenue
Downers Grove, Illinois 60516

PLEASE TAKE NOTICE THAT:

An adjudicatory proceeding will be held pursuant to the provisions of N.Y. Pub. Health Law §§230(10)(p) (McKinney Supp. 1995) and N.Y. State Admin. Proc. Act §§301-307 and 401 (McKinney 1984 and Supp. 1995). The proceeding will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct (Committee) on July 6, 1995, at 10:00 a.m., at the offices of the New York State Department of Health, 5 Penn Plaza, Sixth Floor, New York, New York 10001.

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

NEW YORK STATE DEPARTMENT OF HEALTH

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, Coming Tower Building, 25th Floor, Empire State Plaza, Albany, New York 12237, ATTENTION: HON. TYRONE BUTLER, DIRECTOR, BUREAU OF ADJUDICATION, (henceforth "Bureau of Adjudication") as well as the Department of Health attorney indicated below, no later than twenty days prior to the scheduled date of the Referral Proceeding, as indicated above.

You may file a written answer, brief, and affidavits with the Committee. Six copies of all papers you wish to 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.

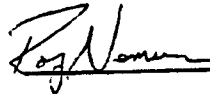
The proceeding may be held whether or not you appear. Please note that requests for adjournments must be made in writing to the Bureau of Adjudication, at the address indicated above, with a copy of the request to the attorney for the Department of Health, whose name appears below, at least five days 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: New York, New York
May 12, 1995



ROY NEMERSON
Deputy Counsel
Bureau of Professional
Medical Conduct

Inquiries should be addressed to:

Dianne Abeloff
Associate Counsel
NYS Department of Health
Division of Legal Affairs
5 Penn Plaza, Suite 601
New York, New York 10001
(212) 613-2615

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

IN THE MATTER
OF
TAMER J. ALRIFAI, M.D.

STATEMENT
OF
CHARGES

TAMER J. ALRIFAI, M.D., the Respondent, was authorized to practice medicine in New York State on or about January 21, 1983, by the issuance of license number ~~1501030~~ **153050** by the New York State Education Department.

FIRST SPECIFICATION

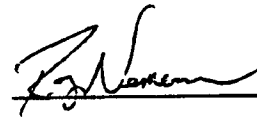
Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(9)(d)(McKinney Supp. 1995) by having his license to practice medicine suspended after a disciplinary action was instituted by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the suspension would, if committed in New York state, constitute professional misconduct under the laws of New York state, as follows:

On or about April 15, 1991, after disciplinary action was instituted by the Illinois Department of Professional Regulation, Respondent's license to practice medicine in Illinois was suspended for 18 months to be followed by a 18 months of probation, and Respondent was

NEW YORK STATE DEPARTMENT OF HEALTH

fined \$10,000 due to Respondent's wilful filing
of insurance claims for services not rendered.
These acts if committed in New York state
would violate §6530 (2)(McKinney Supp.
1995), practicing the profession fraudulently.

DATED: May 12, 1995
New York, New York



ROY NEMERSON
Deputy Counsel
Bureau of Professional
Medical Conduct