



STATE OF NEW YORK DEPARTMENT OF HEALTH

Corning Tower The Governor Nelson A. Rockefeller Empire State Plaza Albany, New York 12237

January 31, 1995

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Moheb Ishak Girgis El-Far, M.D.
2221 Bayview Road
Punta Gorda, Florida 33950-5105

RECEIVED

JAN 31 1995

PROFESSIONAL
MEDICAL CONDUCT

Catherine Cholakis, Esq
NYS Dept. of Health
Rm. 2429 Corning Tower
Empire State Plaza
Albany, New York 12237

RE: In the Matter of Moheb Ishak Girgis El-Far, M.D.

Effective Date: 2/07/95

Dear Dr. El-Far and Ms. Cholakis:

Enclosed please find the Determination and Order (No. 94-217) of the Professional Medical Conduct Administrative Review Board in the above referenced matter. This Determination and Order shall be deemed effective upon 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.

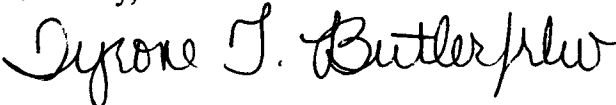
Five days after receipt of this Order, you will be required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate. Delivery shall be by either **certified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

Office of Professional Medical Conduct
New York State Department of Health
Empire State Plaza
Corning Tower, Room 438
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.

This exhausts all administrative remedies in this matter [PHL §230-c(5)].

Sincerely,

A handwritten signature in black ink that reads "Tyrone T. Butler" followed by a stylized flourish.

Tyrone T. Butler, Director
Bureau of Adjudication

TTB:

Enclosure

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

IN THE MATTER

OF

MOHEB ISHAK GIRGIS EL-FAR, M.D.

**ADMINISTRATIVE
REVIEW BOARD
DECISION AND
ORDER NUMBER
BPMC 94-217**

The Administrative Review Board for Professional Medical Conduct (hereinafter the "Review Board"), consisting of **ROBERT M. BRIBER, SUMNER SHAPIRO, WINSTON S. PRICE, M.D., EDWARD C. SINNOTT, M.D. and WILLIAM A. STEWART, M.D.** held deliberations by telephone conference on December 30, 1994 to review the Hearing Committee on Professional Medical Conduct's (Hearing Committee) October 17, 1994 Determination finding Dr. Moheb Ishak Girgis El-Far (Respondent) guilty of professional misconduct. The Respondent requested the Review through a Notice which the Board received on November 3, 1994. James F. Horan served as Administrative Officer to the Review Board. The Respondent filed a brief on his own behalf on November 17, 1994. Catherine Cholakis, Esq. filed a reply brief for the Office of Professional Medical Conduct (Petitioner) on December 5, 1994.

SCOPE OF REVIEW

New York Public Health Law (PHL) §230(10)(i), §230-c(1) and §230-c(4)(b) provide that the Review Board shall review:

- whether or not a hearing committee determination and penalty are consistent with the hearing committee's findings of fact and conclusions of law; and
- whether or not the penalty is appropriate and within the scope of penalties permitted by PHL §230-a.

Public Health Law §230-c(4)(b) permits the Review Board to remand a case to the Hearing Committee for further consideration.

Public Health Law §230-c(4)(c) provides that the Review Board's Determinations shall be based upon a majority concurrence of the Review Board.

HEARING COMMITTEE DETERMINATION

The Petitioner brought this case pursuant to Public Health Law Section 230(10)(p) and Education Law section 6530(9)(a)(i), which provide an expedited hearing in cases in which professional misconduct charges against a Respondent are based upon a prior criminal conviction in New York or another jurisdiction or upon a prior administrative adjudication which would amount to misconduct if committed in New York State. The expedited hearing determines the nature and severity of the penalty which the Hearing Committee will impose upon the criminal conviction or prior administrative adjudication.

The Hearing Committee in this case found that the Petitioner had met its burden of proof in establishing that the Florida Board of Medicine disciplined the Respondent in 1989 and 1992, and revoked the Respondent's Florida medical license in 1992 for conduct which would constitute misconduct in New York.

The Hearing Committee determined that the Florida Board had found that the Respondent had failed to practice medicine at the level of care, skill and treatment which is recognized as acceptable by a reasonably prudent physician. The Florida action arose from the Respondent's performing elective obstetrical deliveries on two patients in a squalid office, without professional assistance or provisions for emergency treatment. The Florida Board also found that the Respondent failed to maintain adequate records and that the Respondent had filed a false report with the Board concerning his continuing medical education. On April 15, 1992 the Florida Board revoked the Respondent's medical license.

The Committee also found that the Respondent was convicted in September, 1990 in United States District Court for filing false and fraudulent information with the Drug Enforcement Administration (DEA) and on five counts of illegal use of a revoked or suspended DEA number. The District Court sentenced the Respondent to seven months imprisonment and ordered the Respondent to participate in Psychological counselling. In January, 1991 the Respondent was found guilty in Florida State Circuit Court for Medicaid fraud and grand theft, both felonies. The Respondent was sentenced to five days in jail and ordered to pay restitution, fines and costs.

The Hearing Committee concluded that the actions for which the Florida Board disciplined the Respondent would constitute fraud, negligence on more than one occasion, failure to maintain adequate records and wilfully making a false report. The Committee also found that the actions for which the Respondent was convicted in Florida State and the United States District Court constitute crimes under the laws of New York.

The Hearing Committee voted to revoke the Respondent's license to practice medicine in New York. The Committee characterized the Respondent as a disgrace to the Medical profession and concluded that any of the Respondent's misdeeds, the treatment of the two patients, the DEA violations or the Florida theft and Medicaid fraud convictions, would standing alone constitute grounds to revoke the Respondent's license. The Committee found that the Respondent had presented no evidence that would mitigate the sanction the Committee imposed. The Committee also found no validity in the Respondent's claim that Florida had restored his medical license and the Committee noted that regardless of the sanction Florida imposed, the Committee has an independent responsibility to impose a sanction on the Respondent's New York Medical license due to his misconduct.

REQUESTS FOR REVIEW

The Respondent submitted a brief, which he had apparently submitted previously in Florida, in which he challenged the findings of the Florida Board in the two patient cases in which the Florida Board found the Respondent guilty of misconduct. The Respondent offered his version of the facts

surrounding the DEA case and tax problems with the Internal Revenue Service and the State of Florida. The Respondent asserts that all his problems resulted from the Florida Board's action and that the Florida Department of Professional Regulation action was premeditated, exaggerated and unfair. The Respondent, in an October 28, 1994 letter also stated that Florida had reinstated his medical license and asked that New York do the same.

The Petitioner asks that the Review Board refuse to accept the Respondent's Notice of Review, because the Respondent failed to serve the Notice upon the Petitioner as required by Public Health Law Section 230-c(4)(b). In the event that the Review Board does accept the case for Review, the Petitioner submitted documents to demonstrate that the State of Florida has not reinstated the Respondent's license. The Petitioner contends that the Committee's penalty is consistent with its findings and is appropriate in light of the Respondent's conduct in Florida.

REVIEW BOARD DETERMINATION

The Review Board has considered the entire record below and the briefs which counsel have submitted.

The Review Board denies the Petitioner's request to reject the Respondent's Notice of Appeal. The Respondent is acting pro se. His failure to provide a copy of his Notice to the Petitioner's attorney did not prejudice the Petitioner. The Petitioner received actual notice of the review when she received our Administrative Officer's letter advising the parties of the dates for submitting briefs.

The Review Board sustains the Hearing Committee's Determination finding the Respondent guilty of professional misconduct based upon the findings of the Florida Board of Medicine and upon the Respondent's conviction in Florida State Court and the United States District Court. The Respondent's brief is an attempt to relitigate the Florida cases. Neither the Hearing Committee nor the Review Board can overturn the Florida Board's findings or the Federal and State Court convictions.

The Review Board votes to sustain the Hearing Committee's Determination to revoke the Respondent's license to practice medicine in New York. The Committee's Penalty is consistent with

the Committee's findings and is appropriate in view of the Respondent's repeated instances of misconduct in Florida. We agree with the Committee, that any of the Respondent's misdeeds in Florida, standing alone , would be grounds for revocation. The Respondent's negligence in treating the two Florida patients, coupled with his convictions in Federal and State Court make a compelling case for revocation. The Committee is also correct that, even if Florida had restored the Respondent's license, the New York Hearing Committee has an independent responsibility to punish misconduct and protect the people of New York.

ORDER

NOW, based upon this Determination, the Review Board issues the following **ORDER**:

1. The Review Board **denies** the Petitioner's motion that the Board refuse to accept the Respondent's Notice of Review.

2. the Review Board **sustains** the Hearing Committee on Professional Medical Conduct's October 17, 1994 Determination finding Dr. Moheb Ishak Girgis El-Far guilty of professional misconduct.

3. The Review Board **sustains** the Hearing Committee's Determination to revoke the Respondent's license to practice medicine in New York State.

ROBERT M. BRIBER

SUMNER SHAPIRO

WINSTON S. PRICE, M.D.

EDWARD SINNOTT, M.D.

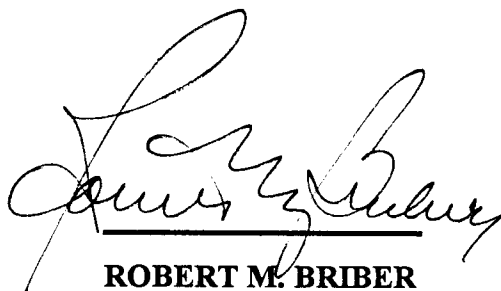
WILLIAM A. STEWART, M.D.

IN THE MATTER OF MOHEB EL-FAR, M.D.

ROBERT M. BRIBER, a member of the Administrative Review Board for Professional Medical Conduct, concurs in the Determination and Order in the Matter of Dr. El-Far.

DATED: Albany, New York

January 9, 1995

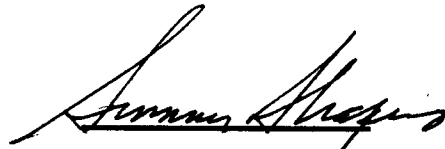

ROBERT M. BRIBER

IN THE MATTER OF MOHEB EL-FAR, M.D.

SUMNER SHAPIRO, a member of the Administrative Review Board for Professional Medical Conduct, concurs in the Determination and Order in the Matter of Dr. El-Far.

DATED: Delmar, New York

January 7, 1995

A handwritten signature in cursive script, appearing to read "Sumner Shapiro".

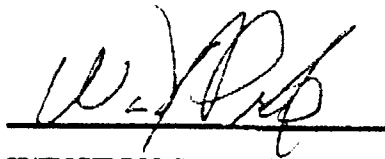
SUMNER SHAPIRO

IN THE MATTER OF MOHEB EL-FAR, M.D.

WINSTON S. PRICE, M.D., a member of the Administrative Review Board for Professional Medical Conduct, concurs in the Determination and Order in the Matter of Dr. El-Far.

DATED: Brooklyn, New York

_____, 1995

A handwritten signature in dark ink, appearing to read 'W. S. Price', is written over a solid horizontal line.

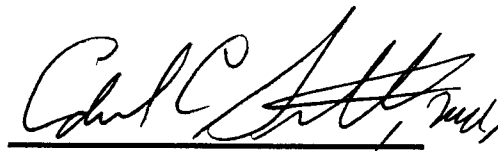
WINSTON S. PRICE, M.D.

IN THE MATTER OF MOHEB EL-FAR, M.D.

EDWARD C. SINNOTT, M.D., a member of the Administrative Review Board for Professional Medical Conduct, concurs in the Determination and Order in the Matter of Dr. El-Far.

DATED: Roslyn, New York

January 5, 1995

A handwritten signature in cursive script, appearing to read "Edward C. Sinnott, M.D.", written over a horizontal line.

EDWARD C. SINNOTT, M.D.

IN THE MATTER OF MOHEB EL-FAR, M.D.

WILLIAM A. STEWART, M.D., a member of the Administrative Review Board for Professional Medical Conduct, concurs in the Determination and Order in the Matter of Dr. El-Far.

DATED: Syracuse, New York

6 Jan., 1995

A handwritten signature in cursive script, reading "William A. Stewart". The signature is written in dark ink and is positioned above a horizontal line.

WILLIAM A. STEWART, M.D.