



***New York State Board for Professional Medical Conduct***

*433 River Street, Suite 303 • Troy, New York 12180-2299 • (518) 402-0863*

Antonia C. Novello, M.D., M.P.H., Dr. P.H.  
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NYS Department of Health*

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*Executive Deputy Commissioner  
NYS Department of Health*

Dennis J. Graziano, Director  
*Office of Professional Medical Conduct*

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*Chair*

Denise M. Bolan, R.P.A.  
*Vice Chair*

Ansel R. Marks, M.D., J.D.  
*Executive Secretary*

December 17, 2001

***REGISTERED MAIL***

Hussain R. El Kadi, M.D.  
P.O. Box 2366  
Domman, Saudi Arabia 31451

RE: License No. 145414

Dear Dr. ElKadi:

Enclosed please find Order #BPMC 01-305 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect December 17, 2001.

If the penalty imposed by the Order is a surrender, revocation or suspension of this license, you are required to deliver to the Board the license and registration within five (5) days of receipt of the Order to Board for Professional Medical Conduct, New York State Department of Health, Hedley Park Place, Suite 303, 433 River Street, Troy, New York 12180.

Sincerely,

Ansel R. Marks, M.D., J.D.  
Executive Secretary  
Board for Professional Medical Conduct

Enclosure

cc: Robert J. Portin, Esq.  
Damon and Morey LLP  
1000 Cathedral Place, 298 Main Street  
Buffalo, New York 14202-4096

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

IN THE MATTER  
OF  
HUSSAIN R. EL KADI, M.D.

CONSENT  
ORDER  
BPMC No. 01-305

Upon the proposed agreement of HUSSAIN R. EL KADI, M.D.  
(Respondent) for Consent Order, which application is made a part hereof, it is  
agreed to and

ORDERED, that the application and the provisions thereof are hereby  
adopted and so ORDERED, and it is further

ORDERED, that this order shall be effective upon issuance by the  
Board, which may be accomplished by mailing, by first class mail, a copy of the  
Consent Order to Respondent at the address set forth in this agreement or to  
Respondent's attorney by certified mail, or upon transmission via facsimile to  
Respondent or Respondent's attorney, whichever is earliest.

SO ORDERED.

DATED: 12/11/01

*William P. Dillon, M.D.*

WILLIAM P. DILLON, M.D.  
Chair  
State Board for Professional  
Medical Conduct

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

IN THE MATTER  
OF  
HUSSAIN R. EL KADI, M.D.

CONSENT  
AGREEMENT  
AND  
ORDER

HUSSAIN R. EL KADI, M.D., (Respondent) says:

That on or about April 3, 1981, I was licensed to practice as a physician in the State of New York, having been issued License No. 145414 by the New York State Education Department.

My current address is P.O. Box 2366, Damman, Kingdom of Saudi Arabia 31451, and I will advise the Director of the Office of Professional Medical Conduct of any change of my address.

I understand that the New York State Board for Professional Medical Conduct has charged me with twenty-four specifications of professional misconduct.

A copy of the Statement of Charges is annexed hereto, made a part hereof, and marked as Exhibit "A".

In order to resolve this matter, I agree not to contest the allegations against me and I agree to the following penalty:

1. A Censure and Reprimand.
2. A period of probation of five years, during which I must fully comply with the Terms of Probation attached hereto as Exhibit "B".
3. A permanent restriction on my license that my surgical practice be restricted to a New York Public Health Law

Article 28 facility.

I further agree that the Consent Order for which I hereby apply shall impose the following conditions:

That, except during periods of actual suspension, Respondent shall maintain active registration of Respondent's license with the New York State Education Department Division of Professional Licensing Services, and pay all registration fees.

This condition shall be in effect beginning thirty days after the effective date of the Consent Order and will continue while the licensee possesses his license; and

That Respondent shall fully cooperate in every respect with the Office of Professional Medical Conduct (OPMC) in its administration and enforcement of this Order and in its investigation of all matters regarding Respondent.

Respondent shall respond in a timely manner to each and every request by OPMC to provide written periodic verification of Respondent's compliance with the terms of this Order. Respondent shall meet with a person designated by the Director of OPMC as directed.

Respondent shall respond promptly and provide any and all documents and information within Respondent's control upon the direction of OPMC. This condition shall be in effect beginning upon the effective date of the Consent

Order and will continue while the licensee possesses his license.

I hereby stipulate that any failure by me to comply with such conditions shall constitute misconduct as defined by New York State Education Law §6530(29).

I agree that in the event I am charged with professional misconduct in the future, this agreement and order shall be admitted into evidence in that proceeding.

I hereby make this Application to the State Board for Professional Medical Conduct (the Board) and request that it be granted.

I understand that, in the event that this Application is not granted by the Board, nothing contained herein shall be binding upon me or construed to be an admission of any act of misconduct alleged or charged against me, such Application shall not be used against me in any way and shall be kept in strict confidence during the pendency of the professional misconduct disciplinary proceeding; and such denial by the Board shall be made without prejudice to the continuance of any disciplinary proceeding and the final determination by the Board pursuant to the provisions of the Public Health Law.

I agree that, in the event the Board grants my Application, as set forth herein, an order of the Chairperson of the Board shall be issued in accordance with same. I agree that such order shall be effective upon issuance by the Board, which may be accomplished by mailing, by first class mail, a copy of the Consent Order to me at the address set forth in this agreement, or to my attorney, or upon transmission via facsimile to me or my attorney, whichever is earliest.

Nothing contained herein shall be deemed an admission that I have

engaged in conduct alleged by the plaintiffs in any of the malpractice claims referred to in the aforesaid Statement of Charges.

I am making this Application of my own free will and accord and not under duress, compulsion or restraint of any kind or manner. In consideration of the value to me of the acceptance by the Board of this Application, allowing me to resolve this matter without the various risks and burdens of a hearing on the merits, I knowingly waive any right I may have to contest the Consent Order for which I hereby apply, whether administratively or judicially, and ask that the Application be granted.

11-21-01  
DATED \_\_\_\_\_

*Russain R. Et RADI*  
RUSSAIN R. ET RADI, M.D.  
Respondent

Att. Mr Robert Portin esq.

The undersigned agree to the attached application of the Respondent and to the proposed penalty based on the terms and conditions thereof.

DATE: 11/26/01



ROBERT J. PORTIN, ESQ.  
Attorney for Respondent

DATE: 11/26/01

Valerie B. Donovan  
VALERIE B. DONOVAN  
Assistant Counsel  
Bureau of Professional  
Medical Conduct

DATE: 12/04/01

  
DENNIS J. GRAZIANO  
Director  
Office of Professional  
Medical Conduct

## Exhibit "A"

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

-----X

IN THE MATTER : STATEMENT  
 OF : OF  
 HUSSAIN EL KADI, M.D. : CHARGES

-----X

HUSSAIN EL KADI, M.D., the Respondent, was authorized to practice medicine in New York State on April 3, 1981 by the issuance of license number 145414 by the New York State Education Department.

**FACTUAL ALLEGATIONS**

A. On or about April 2, 1991, a forty two year old, female patient, Pauline Johnson, died consequent to a tonsillectomy performed by Respondent at his office, the Cornwell Medical and Surgical Center, Inc., Yukon, Oklahoma.

B. In a letter dated April 18, 1991, the Park View Hospital, El Reno, Oklahoma, advised Respondent that his medical staff privileges were withdrawn due to his lack of professional liability coverage.

C. In or about the Spring of 1991, Respondent left the United States. Respondent's Oklahoma medical license expired on or about June 30, 1991 for failure to renew.



D. From approximately August, 1991, through February, 1992, Respondent was treated for moderately severe depressive illness by a psychiatrist in Cairo, Egypt. Respondent was treated for relapses of depression in 1994 and 1996.

E. On or about October 29, 1991, Physician's Liability Insurance Company, Oklahoma City, Oklahoma, made a payment of \$92,500 to settle a malpractice claim brought against Respondent regarding surgery he performed on or about March 26, 1990.

F. On or about November 5, 1991, Physician's Liability Insurance Company, Oklahoma City, Oklahoma, made a payment of \$55,000 to settle a malpractice claim brought against Respondent regarding surgery he performed on or about August 12, 1987.

G. On or about January 22, 1997, the District Court of Canadian County, Oklahoma, entered a Judgment against Respondent for seven million dollars (\$7,000,000) in the matter of The Estate of Pauline Johnson v. Hussain R. El Kadi, M.D.. The judgment was based on Respondent's negligent and reckless acts during the April 2, 1991 tonsillectomy surgery, which caused Pauline Johnson's death, as noted in paragraph A, above.

H. On or about December 12, 1998, Respondent signed a Registration Application with the New York State Education

Department and fraudulently responded "No" to the question, "Since you last registered, has any hospital . . . terminated your . . . privileges?", when in fact Park View Hospital, El Reno, Oklahoma had withdrawn Respondent's medical staff privileges on or about April 10, 1991, as noted in paragraph B, above.

I. On or about January 6, 1999, Respondent signed an application request form with the WCA Hospital, Jamestown, New York, and fraudulently responded "No" to question G., "Have you ever discontinued practice for any reason?", when he knew that between approximately Spring, 1991, through the Winter of 1992 he had discontinued his practice of medicine in Oklahoma, and had moved to Egypt where he was treated for depression, as noted in paragraphs C and D, above.

J. On or about May 18, 1999, Respondent signed an application for appointment with the Westfield Memorial Hospital, Westfield, New York. Respondent responded fraudulently to the following questions on the application:

1. Under "Affiliations", Respondent failed to list his affiliation with Pine View Hospital, El Reno, Oklahoma.
2. Respondent answered "No" to the question, "Have any judgments, settlements, or legal actions been made against you in professional liability cases?", when in fact two malpractice claims brought against

Respondent were settled in 1991, as indicated in paragraphs E and F, above; and a Judgment was entered against him in Oklahoma in 1997, as noted in paragraph G, above.

3. Respondent answered "No" to the question, "Have your surgical/medical privileges ever been suspended or revoked in any facility?", when in fact Park View Hospital, El Reno, Oklahoma, had withdrawn Respondent's medical staff privileges on or about April 10, 1991.
4. Respondent answered "No" to the question, "Have you had any major medical, emotional or surgical illnesses?", when in fact he had been treated for depression from approximately August, 1991, through February, 1992, and had suffered relapses of depression in 1994 and 1996.

K. On or about June 6, 1999, Respondent signed an application for participation with Community Blue, the HMO of Blue Cross and Blue Shield of Western New York. Respondent responded fraudulently to the following questions on the application:

1. Respondent answered "No" to the question, "Has any hospital . . . ever limited, denied, revoked or restricted your professional privileges?", when in fact Park View Hospital, El Reno, Oklahoma, had withdrawn Respondent's medical staff privileges on or about April 10, 1991.

2. Respondent answered "No" to the question, "To your knowledge, have there been or are there currently any judgments, settlements . . . wherein you were a part [sic] in this state or any other state?", when in fact two malpractice claims brought against Respondent were settled in 1991, as indicated in paragraphs E and F, above; and a Judgment was entered against him in Oklahoma in 1997, as noted in paragraph G, above.

## SPECIFICATIONS

### FIRST THROUGH EIGHTH SPECIFICATIONS

#### FRAUDULENT PRACTICE

Respondent is charged with professional misconduct under N.Y. Educ. Law §6530(2) by reason of having practiced the profession fraudulently, in that Petitioner charges:

1. The facts in Paragraph H.
2. The facts in Paragraph I.
3. The facts in Paragraphs J and J.1.
4. The facts in Paragraphs J and J.2.
5. The facts in Paragraphs J and J.3.
6. The facts in Paragraphs J and J.4.
7. The facts in Paragraphs K and K.1.
8. The facts in Paragraphs K and K.2.

NINTH THROUGH SIXTEENTH SPECIFICATIONS

## WILLFULLY MAKING OR FILING A FALSE REPORT

Respondent is charged with professional misconduct under N.Y. Educ. Law §6530(21) by reason of willfully making or filing a false report, in that Petitioner charges:

9. The facts in Paragraph H.
10. The facts in Paragraph I.
11. The facts in Paragraphs J and J.1.
12. The facts in Paragraphs J and J.2.
13. The facts in Paragraphs J and J.3.
14. The facts in Paragraphs J and J.4.
15. The facts in Paragraphs K and K.1.
16. The facts in Paragraphs K and K.2.

SEVENTEENTH THROUGH TWENTY-FOURTH SPECIFICATIONS

## MORAL UNFITNESS

Respondent is charged with professional misconduct under N.Y. Educ. Law §6530(20) by reason of having engaged in conduct in the practice of medicine which evidences moral unfitness to practice medicine, in that Petitioner charges:

17. The facts in Paragraph H.
18. The facts in Paragraph I.
19. The facts in Paragraphs J and J.1.
20. The facts in Paragraphs J and J.2.
21. The facts in Paragraphs J and J.3.
22. The facts in Paragraphs J and J.4.

- 23. The facts in Paragraphs K and K.1.
- 24. The facts in Paragraphs K and K.2.

DATED: *November 27*, 2001  
Albany, New York

*Peter D. Van Buren*  
PETER D. VAN BUREN  
Deputy Counsel  
Bureau of Professional  
Medical Conduct

## EXHIBIT "B"

### Terms of Probation

1. Respondent shall conduct himself in all ways in a manner befitting his professional status, and shall conform to the moral and professional standards of conduct and obligations imposed by law and by his profession. Respondent acknowledges that if he commits professional misconduct as enumerated in New York State Education Law §6530 or §6531, those acts shall be deemed to be a violation of probation and that an action may be taken against Respondent's license pursuant to New York State Public Health Law §230(19).
2. Respondent shall submit written notification to the New York State Department of Health addressed to the Director of the Office of Professional Medical Conduct, New York State Department of Health, 433 River Street, Suite 303, Troy, NY 12180-2299; said notice is to include a full description of any employment and practice, professional and residential addresses and telephone numbers within or without New York State, and any and all future investigations, charges, convictions or disciplinary actions by any local, state or federal agency, institution or facility, within thirty days of each action.
3. The period of probation shall be tolled during periods in which Respondent is not engaged in the active practice of medicine in New York State. Respondent shall notify the Director of OPMC, in writing, if Respondent is not currently engaged in or intends to leave the active practice of medicine in New York State for a period of thirty (30) consecutive days or more. Respondent shall then notify the Director again prior to any change in that status. The period of probation shall resume and any terms of probation which were not fulfilled shall be fulfilled upon Respondent's return to practice in New York State.
4. Except where practicing in a Public Health Law Article 28 facility, Respondent shall practice medicine only when supervised in his medical practice. The practice supervisor shall be on-site at all office practice locations, unless determined otherwise by the Director of OPMC. The practice supervisor shall be proposed by Respondent and subject to the written approval of the Director. The practice supervisor shall not be a family member or personal friend, or be in a professional relationship which poses conflict with supervision responsibilities.
5. Respondent shall ensure that the practice supervisor is familiar with the Order and terms of probation, and willing to report to OPMC. Respondent shall ensure that the practice supervisor is in a position to regularly observe and assess Respondent's medical practice. Respondent shall cause the practice supervisor to report within 24 hours any suspected impairment, inappropriate behavior, questionable medical practice or possible misconduct to OPMC.
6. Respondent shall authorize the practice supervisor to have access to his patient records and to submit quarterly written reports, to the Director of OPMC, regarding Respondent's practice. These narrative reports shall address all aspects of Respondent's clinical practice including, but not limited to, the evaluation and treatment of patients, general demeanor,

time and attendance, the supervisor's assessment of patient records selected for review and other such on-duty conduct as the supervisor deems appropriate to report.

7. Respondent's professional performance may be reviewed by the Director of OPMC. This review may include, but shall not be limited to, a review of office records, patient records and/or hospital charts, interviews with or periodic visits with Respondent and his staff at practice locations or OPMC offices.
8. Respondent shall maintain legible and complete medical records which accurately reflect the evaluation and treatment of patients. The medical records shall contain all information required by State rules and regulations regarding controlled substances.
9. Respondent shall comply with all terms, conditions, restrictions, limitations and penalties to which he or she is subject pursuant to the Order and shall assume and bear all costs related to compliance. Upon receipt of evidence of noncompliance with, or any violation of these terms, the Director of OPMC and/or the Board may initiate a violation of probation proceeding and/or any such other proceeding against Respondent as may be authorized pursuant to the law.