



**STATE OF NEW YORK  
DEPARTMENT OF HEALTH**

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

Mark R. Chassin, M.D., M.P.P., M.P.H.  
Commissioner

Paula Wilson  
Executive Deputy Commissioner

December 31, 1993

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

Samir Mostafa, M.D.

REDACTED

Raymond W. Belair, Esq.

Belair & Evans

61 Broadway

New York, New York 10006

Kevin C. Roe, Esq.  
NYS Department of Health  
Empire State Plaza  
Corning Tower - Room 2438  
Albany, New York 12237

**RE: In the Matter of Samir Mostafa, M.D.**

Dear Dr. Mostafa, Mr. Belair and Mr. Roe:

Enclosed please find the Determination and Order (No. 93-45-R) 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required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate.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  
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 than 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)].

Very truly yours,

REDACTED

Tyrone T. Butler, Director  
Bureau of Adjudication

TTB:crc  
Enclosure



# STATE OF NEW YORK DEPARTMENT OF HEALTH

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

Mark R. Chassin, M.D., M.P.P., M.P.H.  
Commissioner

Paula Wilson  
Executive Deputy Commissioner

January 10, 1994

Samir Mostafa, M.D.

REDACTED

Raymond W. Belair, Esq.  
Belair & Evans  
61 Broadway  
New York, New York 10006

Kevin C. Roe, Esq.  
NYS Department of Health  
Empire State Plaza  
Corning Tower - Room 2438  
Albany, New York 12237

RE: In the Matter of Samir Mostafa, M.D.

Dear Dr. Mostafa, Mr. Belair and Mr. Roe:

This letter is to advise you of a correction in the Administrative Review Board's December 31, 1993 Determination in this case. On the top of page 8 of the Determination, the second word should read "anesthesiology" not "surgery".

Very truly yours,

REDACTED

Tyrone T. Butler  
Bureau of Adjudication

TTB:mmn

RECEIVED  
JAN 11 1994  
OFFICE OF PROFESSIONAL  
MEDICAL CONDUCT

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

-----X

IN THE MATTER	:	<u>ADMINISTRATIVE</u>
	:	<u>REVIEW BOARD</u>
OF	:	<u>DETERMINATION</u>
	:	<u>AND ORDER</u>
SAMIR MOSTAFA, M.D.	:	<u>ARB NO. 93-45-R</u>

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Following initial deliberations in this case on June 1, 1993, the Administrative Review Board for Professional Medical Conduct (Review Board) remanded this case to the original Hearing Committee for Professional Medical Conduct (Hearing Committee) and instructed the Committee to issue a Supplemental Determination following their review of an evaluation of Dr. Samir Mostafa (Respondent) by the Physician Prescribed Education Program (PPEP) in Syracuse. The Hearing Committee had ordered that Dr. Mostafa undergo the PPEP Evaluation as part of the penalty which the Hearing Committee imposed after finding Dr. Mostafa guilty of professional misconduct. The Hearing Committee issued its Supplemental Determination on August 18, 1993. The Office of Professional Medical Conduct (Petitioner) now asks the Review Board to overturn that Supplemental Determination or in the alternative, to remand the case to the Hearing Committee for further proceedings.

The Review Board, consisting of ROBERT M. BRIBER, MARYCLAIRE B. SHERWIN, WINSTON S. PRICE, M.D., EDWARD C. SINNOTT, M.D. and WILLIAM A. STEWART, M.D. held additional deliberations on November 10, 1993 to review the Hearing Committee's

Supplemental Determination finding Dr. Samir Mostafa fit to practice general medicine, but limiting his license to prohibit Dr. Mostafa from practicing anesthesiology. The Petitioner requested the review through a Notice which the Review Board received on August 31, 1993. James F. Horan served as Administrative Officer to the Review Board. Kevin C. Roe, Esq. submitted a brief for the Petitioner. Raymond W. Relair, Esq. and Joshua R. Cohen, Esq. submitted a brief and a reply brief for Dr. Mostafa.

#### 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.

#### INITIAL HEARING COMMITTEE DETERMINATION

The Hearing Committee found the Respondent had committed gross negligence and negligence on more than one occasion in practicing anesthesiology. The Committee noted that throughout

the hearing there were repeated references to the severe emotional distress which the respondent experienced at the time that he provided the care which was at issue in the hearing. The Committee noted that the Respondent's emotional distress continued to show during the hearing. The Committee found that the degree of stress exhibited by the Respondent throughout the hearing constituted a potential hazard both for the patients and the Respondent.

The Hearing Committee voted to suspend the Respondent's license indefinitely and refer him for an evaluation of his fitness and competency at the Physician Prescribed Education Program (PPEP) in Syracuse. The Committee provided that the suspension would be lifted upon certification from PPEP that the Respondent was fit and competent to practice medicine. The Committee determined further that the Respondent could not return to the practice of anesthesiology until he has completed a one year training fellowship in anesthesiology and obtained from the fellowship program's chief, the chief's approval and recommendation that the Respondent is ready emotionally and clinically to resume anesthesia practice.

Both parties filed Notices of Review following the Committee's Initial Determination. The Respondent asked that the Review Board overturn and vacate the findings of the Hearing Committee that the Respondent was guilty of gross negligence and of negligence on more than one occasion. The Respondent did not contest the order of the Committee that the Respondent undergo the PPEP evaluation. The Petitioner asked that the Review Board

overturn the Hearing Committee's penalty and revoke the Respondent's license to practice medicine in New York State. In the alternative, OPMC asked that, if the Review Board did not see fit to revoke the Respondent's license, the Review Board order that the Respondent undergo a one year fellowship in anesthesiology or successfully complete the PPEP retraining at Syracuse.

#### REVIEW BOARD REMAND ORDER

The Review Board sustained the Hearing Committee's Determination that the Respondent was guilty of gross negligence and negligence on more than one occasion. The Board overturned that portion of the Hearing Committee's penalty which allowed the Respondent to return to the practice of anesthesiology following the successful completion of a fellowship and the Board modified that portion of the penalty which ordered that the Respondent undergo the PPEP evaluation. The Board limited the Respondent's license so that the Respondent could no longer practice anesthesiology, because the Board found that the evidence from the hearing and the Committee's findings and conclusions established that the Respondent could not handle the emotional stress associated with the practice of anesthesiology.

The Review Board modified the Hearing Committee's penalty, relating to the PPEP Evaluation, because the Hearing Committee did not indicate what should take place following the Committee's mandated PPEP Evaluation if the evaluation indicated

that the Respondent is not fit to practice general medicine or if the evaluation indicated that the Respondent should not return to practice without some period of retraining. The Review Board remanded to the Hearing Committee following the PPEP Evaluation, so that the Hearing Committee could review the PPEP Evaluation Report and determine whether the Respondent had satisfied the Evaluation portion of the penalty. The Board ordered that the Hearing Committee include their conclusions in a Supplemental Determination. The Board provided that either party could appeal the Hearing Committee's Supplemental Determination to the Review Board.

#### SUPPLEMENTAL DETERMINATION

The Hearing Committee met on July 26, 1993 to review the PPEP Evaluation Report concerning Dr. Mostafa. On August 18, 1993, the Committee issued its Supplemental Order in which it determined that, based upon the PPEP Report, the Respondent was competent to practice general medicine. The Committee voted to lift any further suspension of the Respondent's license and concurred in the Review Board's Determination to limit the Respondent license to forbid that he practice anesthesiology.

The Petitioner has filed a brief with the Review Board challenging the Hearing Committee's Supplemental Determination. The Petitioner again argues that the Hearing Committee's Determination was inappropriate and inconsistent with the Hearing Committee's findings of fact following the hearing. The Petitioner again asks that the Review Board revoke Dr. Mostafa's license to



practice. The Petitioner also argues that to the extent that the Hearing Committee relied upon the PPEP Report or upon a telephone conversation between the Committee and the Director of PPEP, the Hearing Committee's decision was improper because the Committee relied on material outside the record. The Petitioner argues that this procedure violated the State Administrative Procedure Act, the Health Department hearing Regulations and the minimal notions of due process and fairness, because neither party had the opportunity to object to the PPEP report, examine the PPEP Director, offer evidence in rebuttal or participate in the communication with the PPEP Director. The Petitioner also attacks the adequacy of the PPEP report and appended documents relating to the PPEP Report as part of the Petitioner's brief. The Petitioner asks, that if the Review Board does not Overturn the Hearing Committee's Determination and revoke the Respondent's license, that the Review Board remand the case to the Hearing Committee for a hearing on the PPEP Report.

In his brief, the Respondent asks that the Review Board sustain that portion of the Hearing Committee's Supplemental Determination that restored Dr. Mostafa's license to practice, but overturn that portion which limited the Respondent's license to prohibit the practice of anesthesiology. In the Respondent's reply to the Petitioner's brief, the Respondent objects to the inclusion in the Petitioner's brief of the supporting documents concerning the PPEP Evaluation. The Respondent requested that the Review Board not consider any of the additional material appended to the

Petitioner's brief.

**SUPPLEMENTAL REVIEW BOARD DETERMINATION**

The Review Board has considered the Hearing Committee's Supplemental Determination, the briefs by the parties and the prior record in this case. The Board votes unanimously to sustain the Hearing Committee's Determination that Dr. Mostafa is fit to return to practice.

The Review Board remanded this case to the Hearing Committee on very limited grounds. The Board ordered that, at the time that PPEP issued its Report on Dr. Mostafa, the matter would be remanded to the Hearing Committee to determine if, based on the Report, the Respondent was fit to return to practice. The Board remanded because the Hearing Committee had left no provisions in their penalty to address what the status of the Respondent's license should be if the PPEP Report indicated that the Respondent needed retraining or to address what would happen if the PPEP Report indicated that the Respondent was not a candidate for PPEP Retraining.

Through our initial Determination in this case, the Review Board already sustained the Hearing Committee's Determination finding Dr. Mostafa guilty of misconduct, their Determination that Dr. Mostafa's misconduct was not of a nature that required the revocation of his license and their Determination to refer Dr. Mostafa to the PPEP in Syracuse for an evaluation. The Review Board also made a Final Determination that Dr. Mostafa's license should be limited to prohibit the practice

of surgery. The Review Board did not remand this case for an additional hearing or for any additional determination as to whether or not the Respondent is guilty of misconduct, whether or not the Respondent's misconduct requires revocation of his license, whether or not the Respondent's license should be limited, whether or not the Respondent should undergo an evaluation in addition to the PPEP Evaluation or whether or not the Respondent should incur any other penalties in addition to the limited license and the PPEP Evaluation.

The Review Board denies the Petitioner's request that we remand this case to the Hearing Committee to provide the parties a hearing on the PPEP Evaluation Report. Public Health Law Section 230-a(2) and (8) allow Hearing Committee's to impose penalties for misconduct that require Respondent's to undergo retraining or treatment. The statute does not require a hearing at the conclusion of the retraining or treatment to determine whether a Respondent has fulfilled the terms of the penalty. Usually when such penalties are involved, the Director of the Office of Professional Medical Conduct determines whether a Respondent has satisfied retraining or treatment requirements, and the parties to the case do not have the right to a hearing on the issue. In this case the Review Board remanded the case to the Hearing Committee so that the Committee could decide whether the Evaluation portion of their penalty had been satisfied. The Board also offered both parties the opportunity to bring this case back before the Review Board following the Hearing Committee's Supplemental Determination

in the event there were changes to the penalty which the Review Board had already sustained in part and modified in part in our Initial Determination and Remand Order. By offering the parties that opportunity to return to the Review Board, we provided the parties with an opportunity to raise a challenge to any change in the penalty which the Board had reviewed initially.

The Petitioner's argument that the parties are entitled to a full hearing on the PPEP Report's conclusion is inconsistent with the Petitioner's position from the initial review of this case. In the Petitioner's brief to the Review Board for the initial review in this case, the Petitioner requested that if the Board chose not to revoke the Respondent's license, the Board should refer the Respondent either for a fellowship or for PPEP retraining. The Petitioner's brief at page 5 suggested that if the Board ordered PPEP retraining, the Board should modify the Hearing Committee's Determination to provide that:

..."Successful completion of the program shall be determined by the written certification of the director of the Physician Prescribed Educational Program that the Respondent is fit and competent to practice medicine."

The Petitioner did not request at that time that the parties have the opportunity for a hearing concerning whether the PPEP retraining had been successfully completed.

The Review Board's chief concern in remanding this case to the Hearing Committee was that the Committee's Determination on the PPEP Evaluation did not address the status of the Respondent's

license if there was a need for retraining and because the Penalty did not address what would happen if the PPEP Evaluation indicated that Dr. Mostafa was not competent to practice or fit for retraining. Either of those findings by PPEP would have meant that the Committee would have to reconsider their Penalty. In the event that the PPEP Evaluation made either of the above mentioned findings and the Hearing Committee modified their penalty, the Board offered the parties the chance to return to the Board following the Hearing Committee's Supplemental Determination to assure that the parties would have an opportunity to challenge any change in the Respondent's penalty due to the PPEP Evaluation.

There has been no change in the penalty which the Review Board sustained in part and modified in part in our initial review of this case. The Hearing Committee has merely determined that the Evaluation portion of their initial penalty has been completed and the Respondent is fit to resume practice with a limited license. The Review Board sees no grounds on which to remand this case for further proceedings or to upset any findings that the Board made in our initial Determination in this case. The Hearing Committee's Supplemental Determination is sustained.

**ORDER**

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

1. The Hearing Committee's March 24, 1993 Supplemental Determination finding Dr. Samir Mostafa fit to practice general medicine is sustained.
  
2. The Respondent's license is limited to prohibit him from practicing anesthesiology.

ROBERT M. BRIBER

MARYCLAIRE B. SHERWIN

WINSTON S. PRICE, M.D.

EDWARD C. SINNOTT, M.D.

WILLIAM A. STEWART, M.D.

**IN THE MATTER OF SAMIR MOSTAFA, 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. Mostafa.

**DATED: Albany, New York**

**12/6** , 1993

REDACTED

**ROBERT M. BRIBER**

**IN THE MATTER OF SAMIR MOSTAFA, M.D.**

**MARYCLAIRE B. SHERWIN**, a member of the Administrative Review Board for Professional Medical Conduct, concurs in the Determination and Order in the Matter of Dr. Mostafa.

**DATED: Malone, New York**

*December 7, 1993*

REDACTED

~~\_\_\_\_\_  
MARYCLAIRE B. SHERWIN~~



**IN THE MATTER OF SAMIR MOSTAFA, 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. Mostafa.

**DATED: Brooklyn, New York**

*December 9,* 1993

REDACTED

  
**WINSTON S. PRICE**

**IN THE MATTER OF SAMIR MOSTAFA, 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. Mostafa.

**DATED: Albany, New York**

*December 23*, 1993

REDACTED

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**EDWARD C. SINNOTT, M.D.**

**IN THE MATTER OF SAMIR MOSTAFA, 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. Mostafa.

**DATED: Albany, New York**  
**, 1993**

**REDACTED**

~~WILLIAM A. STEWART, M.D.~~  
**WILLIAM A. STEWART, M.D.**



STATE OF NEW YORK  
DEPARTMENT OF HEALTH

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

Mark R. Chassin, M.D., M.P.P., M.P.H.  
*Commissioner*

Paula Wilson  
*Executive Deputy Commissioner*

August 18, 1993

UPS Next Day Air

Mr. Robert M. Briber  
REDACTED

Winston S. Price, M.D.  
REDACTED

Mrs. Maryclaire B. Sherwin  
REDACTED

Edward C. Sinnott, M.D.  
REDACTED

William A. Stewart, M.D.  
REDACTED

RE: In the Matter of Samir Mostafa, M.D.

Dear Review Board Members:

In accordance with the Administrative Review Board's Remand Order No. 93-45, enclosed please find a copy of the Hearing Committee's Supplemental Determination in the above-referenced matter.

Very truly yours,

REDACTED

Tyrone T. Butler, Director  
Bureau of Adjudication

cc: James F. Horan, Esq.  
Samir Mostafa, M.D.  
Joshua R. Cohen, Esq.  
Kevin C. Roe, Esq.

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

-----X  
IN THE MATTER : HEARING  
OF : COMMITTEE  
SAMIR MOSTAFA, M.D., : SUPPLEMENTAL  
Respondent : DETERMINATION  
-----X

By Administrative Review Board Remand Order, ARB NO. 93-45, the Administrative Review Board for Professional Medical Conduct (Review Board) remanded this case to the Hearing Committee. The Review Board ordered that:

"Following an evaluation of the Respondent's medical skills at the Physician Prescribed Education Program in Syracuse, this case is remanded to the Hearing Committee so that they may review the evaluation and determine if the Respondent is fit to return to practice general medicine."

The Hearing Committee, AARON B. STEVENS, M.D., Chairperson, ALBERT L. BARTOLETTI, M.D., and MR. SUMNER SHAPIRO, met for deliberations on the remand on July 26 1993.

FINDINGS OF FACT

1. William D. Grant, Ed.D., "Physicians Prescribed Educational Program", Director, submitted a Phase I:

"Evaluation -- Final Report", dated June 7, 1993. (A copy of said evaluation is attached hereto and made a part hereof)

2. The Report indicates that the Respondent has completed the Phase I: Evaluation and has been found to be not unfit nor incompetent in a way that would preclude his practice of general medicine.

3. Pursuant to a telephone conference with Hearing Committee members at 11:00 AM on July 26, 1993, Dr. Grant stated that he recommends a counseling program, approved by PPEP, for the Respondent regardless of his future medical plans. Dr. Grant further stated that the Respondent expressed his intent to return to the practice of anesthesiology several times during the evaluation process. This is in direct contradiction to statements made by the Respondent during the Hearing Process. (Dr. Grant sent a letter dated July 26, 1993, concerning the telephone conference by fax to the administrative officer. The letter was made available to the Hearing Committee during deliberations. A copy of Dr. Grants letter is attached hereto and made a part hereof).

4. Administrative Review Board Remand Order, ARB NO. 93-45, states:

**"The Review votes to overturn that portion of the Hearing Committee's penalty which would allow the**

Respondent to return to the practice of anesthesiology following a one year fellowship, because we find that portion of the penalty is inconsistent with the Hearing Committee's findings and conclusions concerning the Respondent's negligence and the stress he has suffered associated with practice of anesthesiology. We vote to modify that portion of the penalty which ordered that Respondent undergo the PPEP evaluation.

The Hearing Committee findings and conclusions indicate that the Respondent should no longer practice anesthesiology. The Hearing Committee made that recommendation and the Respondent stated at the hearing that he would not practice anesthesiology again. The evidence from the hearing and the Committee's findings and conclusions established that the Respondent can not handle the emotional stress associated with the practice of anesthesiology. The Respondent's emotional state will not benefit from the one year anesthesiology fellowship which the Hearing Committee ordered that the Respondent undergo in order to return to the practice of anesthesiology. If the Respondent is fit to practice general medicine, the Review Board believes that the Respondent's license should be limited to forbid him to practice anesthesiology."

5. The Review Board then ORDERED that, "the

Respondent's license is limited to prohibit him from practicing anesthesiology."

**DETERMINATION**

The Hearing Committee unanimously determines that the suspension of the Respondent's license to practice general medicine should be lifted. However, the Hearing Committee fully concurs with the Review Board's Remand Order, which provides that the Respondent's license be limited to prohibit him from practicing anesthesiology.

**ORDER**

The Respondent's license to practice general medicine is restored, however, said license is limited to prohibit the Respondent from practicing anesthesiology.

DATED: Cambridge, New York  
July 29, 1993

REDACTED

AARON B. STEVENS, M.D.

ALBERT L. BARTOLETTI, M.D.  
MR. SUMNER SHAPIRO



## Physician Prescribed Educational Program

## PHASE I: EVALUATION -- FINAL REPORT

CANDIDATE Samir Mostafa, MD

BACKGROUND INFORMATION

Dr. Samir Mostafa was processed through the PHASE I: EVALUATION section of the Physician Prescribed Education Program during the period of May 18 - 21, 1993. He had undergone license suspension in the state of New York and was seeking an alternative by which his license to practice medicine could be returned to full status. His goal was to return to a full practice of anesthesiology.

Initial impressions were of a 41 year old, married, Egyptian male who is a medical doctor in private practice in Hoboken, New Jersey in an immediate medical care facility. He is self employed. He received his medical degree from Cairo University in 1976. He practiced family and internal medicine in Cairo until coming to the United States in 1980. He obtained a Master's degree in Public Health from Harvard University and then complete an internship in Internal Medicine at Laguardia Hospital in Queens, New York. He then completed a two year residency in anesthesiology at Albert Einstein, Montefiori Medical Center. This residency was completed in 1985.

Dr. Mostafa began work as an anesthesiologist about 1985 in Oneonta, New York. In 1987, he underwent a hearing at which time his license was suspended for 90 days. The suspension apparently expired and he returned to practice. Subsequent events lead to a suspension of his hospital privileges. He has not practiced medicine in New York since 1989 but is working under a New Jersey License obtained in 1983. He has been unable to obtain in-patient privileges and therefore primarily operates an out-patient practice providing immediate medical care.

The State of New York Department of Health Administrative Review Board for Professional Medical Conduct in its Determination and Order BPMC-93-45 suggested that:

1. Dr. Mostafa demonstrate his fitness and competency in medical practice by participating in the Physician Prescribed Educational Program.
2. That should the Physician Prescribed Educational Program determine that Dr. Mostafa is fit and competent to practice medicine, that the indefinite suspension of his license shall be lifted.
3. That should Dr. Mostafa desire to return to the practice of anesthesiology, that he must first enroll in a one year fellowship program in a formally recognized anesthesia teaching program. The director of this program must be willing to certify at the end of the training program to Dr. Mostafa's clinical and emotional readiness to resume anesthesia practice.

## RESULTS OF EVALUATION ACTIVITIES

The following sections summarized the evaluations and the significant findings of the various components of the PHASE I: EVALUATION of the Physician Prescribed Educational Program.

### INTERACTION ANALYSIS

Dr. Mostafa completed structured interviews with three (3) simulated patients. Each interview was videotaped, with the tapes reviewed by the program director after the simulation. Dr. Mostafa was presented a short sketch of the patient and a presenting complaint and was asked to:

1. Obtain a focused history from the simulated patient.
2. Record the focused history in a simulated patient's chart. The blank "chart" is one that is used in the faculty practice of the Department of Family Medicine of the State University of New York Health Science Center at Syracuse.

The simulated patient cases represented in this group included:

1. A 28 year old divorced female complaining of pain of 18 hours duration in the lower right groin.
2. A 24 year old male complaining of pain in the arm of two (2) days duration and of unknown etiology.
3. A 23 year old housewife requesting an ENT referral due to lack of such referral from her "real" doctor.

Analysis of these interviews indicated that Dr. Mostafa was able to extract information from the patients. He was able to re-question the simulated patient in a constructive manner to verify information gathered. He had good eye contact and used appropriate body language. The simulated patients reported that he was comfortable to talk with and that he had developed good rapport with them by the time of the end of the interview. No interaction difficulties were observed in the interviews.

### DRUG AND ALCOHOL EVALUATION

Dr. Mostafa was evaluated for past use, current use, and susceptibility to the misuse of legal or illegal substances. Dr. Mostafa reports that he does not and has never used alcohol. This is in keeping with his practice of the Islamic faith. He reports using only prescribed legal substances when needed for medical purposes. This evaluation indicates that Dr. Mostafa is found to have no alcohol abuse or dependence. He has no history that would indicate that he ever abused drugs or used drugs illegally. His alcohol/drug evaluation is thus unremarkable. As with any patient, should there be later indications of potential abuse, serial random drug screens would be implemented. However, there is no indicated need for this process at this time.

### ANALYSIS OF PATIENT CHARTS

Twenty five (25) charts from Dr. Mostafa's practice were examined. A structured rating scale was used. This scale is used as a guideline to examine charts of patients whose care ranges from episodic to inpatient. Thus, modifications are made as needed by reviewers to account for the differences in

detail in various charts. All charts reviewed were from Dr. Mostafa's ambulatory care practice. Areas assessed during chart reviews were:

History --	Including Present Illness, Review of Systems, Past Medical History, Family and Social History.
Current Health Status --	Including factors important in current care issues.
Physical Examination --	Total examinations and/or examination appropriate to the case or procedure.
Preoperative Evaluation --	Including appropriate laboratory testing, consults, and timing of procedures.
Operative Procedure --	Operative notes.
Post Operative Care --	Post operative notes.
Management of Complications of Case --	How complications were identified and addressed

[NOTE: if an area is not appropriate for the chart, it is excluded from analysis]:

Dr. Mostafa uses a pre-printed ambulatory care patient chart which includes, in pre-printed spaces, all appropriate sections needed in an ambulatory chart. However, his record keeping ranges from very good and appropriate to minimal. Most are in an acceptable range. There is however, an apparent problem of consistently and completely "telling the story" of what happened through the chart notes.

#### UNDERSTANDING THE MEDICAL LITERATURE

Articles which have appeared in the medical literature over the past year were select for review. Articles were selected from analysis of abstracts generated via computer search from the National Library of Medicine article data base using the Grateful Med searching system.

Dr. Mostafa was given a group of articles from each of two topic areas. He was asked to read all of the articles in the group, select one (1) article and then prepare an extended abstract of that article. Secretarial assistance as well as assistance in conducting supportive literature searches was made available to Dr. Mostafa.

Dr. Mostafa produced abstracts of the following articles:

1. Mayeaux EJ, Harper MB. Loop electrosurgical excisional procedure. *J Fam Prac*, 36 (2): 214-219, 1993.
2. Burney RG. Bradycardia during epidural anesthesia in a patient receiving Guanfacine. *Anesthesiology*, 77:1228-1229, 1992.

Both abstracts were extended and complete. They showed evidence of original thinking and of analysis of the articles rather than a simple restating of the information. The indications from this effort were that Dr. Mostafa is able to extract information from the medical literature, to appropriately summarize that information, and to provide a review of the contents and of the significance of the findings reported.

#### AUDIOMETRIC EVALUATION

A Pure Tone Audiometric evaluation (ANSI 1969) was conducted on May 19, 1993. Air conduction tests at all ANSI 1969 frequencies indicated that Dr. Mostafa's hearing is normal. There is nothing

in these tests to indicate that his hearing is impaired in any manner.

#### ADULT PHYSICAL EXAMINATION

A complete adult physical examination was performed on May 21, 1993 by a Board-Certified Family Physician. Results of this examination indicate that there is nothing unusual in his history, physical examination, or laboratory work that would detract from his ability to practice medicine.

#### OPHTHALMOLOGIC EXAMINATION

An examination was conducted by an ophthalmologist on May 21, 1993. Results indicate that Dr. Mostafa's vision was correctable to 20/20 in each eye and that his examination was completely within normal limits.

#### INVENTORIES

Dr. Mostafa completed a variety of inventories. These inventories are designed to tap areas ranging from the effects on an individual of recent life events to an assessment of learning style preferences. The results of these inventories are useful as current indicators but do not necessarily reflect behavior or attitudes over a longer period of time.

The Duke-UNC Health Profile - The results of this inventory indicate good functioning in measurements of health status in the areas of general symptoms status, physical functioning, emotional self-esteem, and social role performance.

Duke Social Support and Stress Scale - Results indicate good family support with low family stress. Results also indicate very low non-family support. Not surprisingly, non-family stress is reported to be fairly low.

Job Stressors Inventory - This inventory is designed specifically for physicians and is used to determine perceptions of job related stress. Results indicate moderate levels of stress related to patient issues and higher levels of stress related to time issues as well as for business issues. Low levels of stress are reported for competency issues. These findings are not inconsistent with Dr. Mostafa's current status.

Zung Self-Rating Depression Scale - This scale was devised as an attempt to quantitate the symptoms of depression using the diagnostic criteria of presence of a pervasive depression affect and its physiological and psychological concomitant as test items. Dr. Mostafa's scores are moderately elevated indicating some presence of depression; again, not surprising in light of his current situation.

Maslach Burnout Inventory - "Burnout" is a symptom of the emotional exhaustion and cynicism that occurs frequently among individuals who do "people-work." The inventory is used to assess burnout by measuring the frequency and intensity of feelings of emotional exhaustion, depersonalization, and lack of personal accomplishment. Dr. Mostafa's Emotional Exhaustion index (feeling of being emotionally over-extended and exhausted by one's work) indicates moderate scores for both frequency and intensity. Depersonalization (unfeeling and impersonal response towards recipient's of one's services) scores are very low. Personal Accomplishment (feelings of competence and successful achievement in one's work) are moderately high. These scores indicate an individual who is moderately satisfied with

their personal accomplishments, has a feeling and emotional response to patients but who is moderately emotionally exhausted.

Myers-Briggs Type Indicator - Results of this inventory are used to provide information on the manner in which the individual likes to use their perceptions and judgement. The scores help in the design of educational and other activities. Responses here indicate that Dr. Mostafa relates more easily to the outer world of people and things than to the inner world of ideas; that he would rather work with known facts than look for possibilities and relationships; that he bases judgements more on impersonal analysis and logic than on personal values; and that he prefers a planned, decided, orderly way of life rather than a flexible, spontaneous way. The associated characteristics of individuals with this profile are: practical, realistic, matter-of-fact, with a natural head for business or mechanics. They are not interested in subjects they see no use for, but can apply themselves when necessary. They like to organize and run activities and make good administrators, especially when they remember to consider others' feelings and points of view.

Holmes-Rahe Scale - Results of this scale, designed to identify recent stressful life events, are in the low range indicating low stress due to recent life events.

Rotter Locus of Control - Results of this inventory indicate that Dr. Mostafa reports a high sense of internal locus of control. Individuals with high scores on the internal scale tend to attribute their successes and failures to factors within their own direct control. They tend to be more self-reliant in their efforts to achieve success.

Diagnostic Thinking - This inventory measures two aspects of diagnostic thinking. The first, "flexibility in thinking" is the use of a variety of thinking means or processes that can be applied during the diagnostic process. The second "structure in memory" refers to the availability of knowledge, stored in memory, during the diagnostic process. It is assumed that availability is a direct consequence of adequate knowledge organization. Dr. Mostafa's scores are moderately high on both dimensions.

Tolerance-Intolerance of Ambiguity - Tolerance of ambiguity is defined as the tendency to perceive ambiguous situations as desirable. An ambiguous situation may be defined as one which cannot be adequately structured or categorized by the individual because of the lack of sufficient cause upon which to base decisions. Dr. Mostafa's scores indicate an individual who has a moderate tolerance for ambiguity and who would express anxiety and discomfort in situations in which there are not familiar clues vs situations in which there are a great many cues to take into account.

## PSYCHOLOGICAL EVALUATION

A psychological evaluation was undertaken by a Board-Certified Psychologist. This session included a personal history, a clinical interview, and a mental status examination. A variety of psychometric and cognitive tests including the Rorschach Inkblot Test, the Minnesota Multiphasic Personality Inventory - 2, the Derogatis Symptom Checklist - 90, the Guilford-Zimmerman Temperament Survey and other tests of cognitive ability selected from the Wechsler Adult Intelligence Scale - Revised were also administered.

Dr. Mostafa's tests of cognitive ability results in scores which are within the High-Average range of ability. Consistent with other inventories and the impression from interviews, Dr. Mostafa is

experiencing some difficulties directly related to his current situation. He has previously been encouraged to seek the assistance of family and friends and to build a strong supportive network.

This is an individual who is characterized as hard working, dedicated and sincere who has a high degree of potential to succeed. Because of the degree of anxiety and stress that his current situation renders, it would be recommended that a counselling program that would provide nurturance and support during his educational program would be warranted.

### SUMMARY AND RECOMMENDATIONS

Samir Mostafa, MD was processed through the PHASE I: EVALUATION phase of the Physician Prescribed Education Program during the period of May 18-21, 1993. Results of this evaluation have been used to address three issues raised by the State of New York Department of Health Administrative Review Board for Professional Medical Conduct. Responses to each of these issues are given below along with specific recommendations.

#### ISSUE 1:

That Dr. Mostafa demonstrate his fitness and competency in medical practice by participating in the Physician Prescribed Educational Program.

#### CONCLUSION TO ISSUE 1:

Dr. Samir Mostafa participated fully in the Physician Prescribed Education Program PHASE I: EVALUATION activities. He was a full participant, did not refuse to complete any tasks requested and showed sincerity during the evaluations. He was able and willing to accept evaluation feedback during this time period and to use that information in an appropriate manner. There are no indications from this review that Dr. Mostafa is not unfit nor incompetent in a way that would preclude his practice of medicine.

#### ISSUE 2:

That should the Physician Prescribed Educational Program determine that Dr. Mostafa is fit and competent to practice medicine, that the indefinite suspension of his license shall be lifted.

#### CONCLUSION TO ISSUE 2:

Findings of the Phase I: Evaluation of the Physician Prescribed Educational Program indicates that it is appropriate that the Administrative Review Board favorably consider a lifting of the indefinite suspension.

#### ISSUE 3:

That should Dr. Mostafa desire to return to the practice of anesthesiology, he must first enroll in a one year fellowship program in a formally recognized anesthesia teaching program. The director of this program must be willing to certify at the end of the training program to Dr. Mostafa's clinical and emotional readiness to resume anesthesia practice.

**CONCLUSION TO ISSUE 3:**

We would agree with this requirement. Given the time that Dr. Mostafa has been away from the practice of anesthesiology and the need to clearly demonstrate that he is clinically and emotionally ready to return to unrestricted anesthesiology practice, a one year Fellowship in a single training program is appropriate. There is no indication from this evaluation that Dr. Mostafa would be unable to successfully complete such a training program.

If this requirement is mandated, it is recommended that Dr. Mostafa work with the Physician Prescribed Educational Program to identify a suitable anesthesiology training program with which to be affiliated and in which the program director is willing to provide the training certification required. It is recommended that such a program be one which includes an accredited residency program. It is also recommended that during this residency program, the Physician Prescribed Education Program would act as an external evaluator. In this role, the Physician Prescribed Education Program would have monthly contact with the anesthesiology program director to determine Dr. Mostafa's progress, to identify any shortcomings, and to develop remediation programs that may be required.

Because of the requirement that a fellowship program director be willing to certify Dr. Mostafa's clinical and emotional readiness to return to practice, it is recommended that Dr. Mostafa avail himself of a counselling program approved by the Physician Prescribed Educational Program lasting approximately 6 months which would be sensitive to cross-cultural issues that would assist him as needed in these life transitions. We believe that the counselling and future training experiences are both important. It has been our experience that 1) salaries and benefits are often available to physicians participating in Fellowship programs, and 2) that sliding scale fee counselling programs are available in most regions of the state.

Further activities such as training, monitoring, and/or counselling, may result in additional costs to Dr. Mostafa. The results of the evaluation of Samir Mostafa, MD are appropriate as of the time of this report. We believe that these findings are stable for the near future and are accurately reflected in the conclusions and recommendations. Should you need additional information or other details, please do not hesitate to contact me directly.

We appreciated the opportunity to conduct this evaluation.

REDACTED

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William D. Grant, EdD  
PPEP Program Director

Report Dated: June 7, 1993



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July 26, 1993

Hon Michael P. McDermott  
Bureau of Adjudication  
New York State Department of Health  
Tower Building, Room 2509  
Empire State Plaza  
Albany, NY 12237

RE: Samir Mostafa, M.D.

Transmitted Via Fax to: (518) 486-1463

Dear Mr. McDermott:

In response to our telephone conversation today, I would like to reiterate the following regarding the final report from the Physician Prescribed Educational Program regarding Samir Mostafa, M.D.

1. At the time of this evaluation in the Physician Prescribed Educational Program, Dr. Mostafa's stated goal was to return to the full practice of Anesthesiology. It should also be noted that Dr. Mostafa had an opportunity to correct any factual information in the report while it was in the draft state. He did not change or recommend any change in that goal statement.
2. We would endorse a counselling program for Dr. Mostafa. This would serve to provide support to him during this period in his life.
3. Should Dr. Mostafa enter a training program or similar situation, we do not perceive that these are any factors which might preclude his successful completion of such a training program.

If there is any other information that I may provide you, please do not hesitate to contact me.

Sincerely yours,

REDACTED

William D. Grant, Ed.D.  
Vice Chair and Research Associate Professor  
and  
PPEP Director

WDG/pad

Committed to Excellence in Professional Education, Patient Care and Research.