



STATE OF NEW YORK DEPARTMENT OF HEALTH

433 River Street, Suite 303

Troy, New York 12180-2299

Antonia C. Novello, M.D., M.P.H., Dr.P.H.
Commissioner

Dennis P. Whalen
Executive Deputy Commissioner

March 22, 2002

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Ann Hroncich Gayle, Esq.
NYS Department of Health
5 Penn Plaza – 6th Floor
New York, New York 10001

Adly Anis Bibawy, M.D.
421 Hawthorne Avenue
Staten Island, New York 10314

Richard S. Goldberg, Esq.
Goldbert & Cohn, LLP
16 Court Street – Suite 2304
Brooklyn, New York 11241

RE: In the Matter of Adly Anis Bibawy, M.D.

Dear Parties:

Enclosed please find the Determination and Order (No. 02-86) 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 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
Hedley Park Place
433 River Street - Fourth Floor
Troy, New York 12180

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 penalties other than suspension or revocation 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.

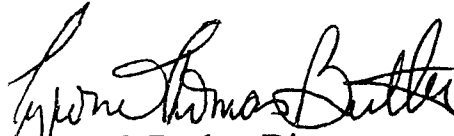
The notice of review served on the Administrative Review Board should be forwarded to:

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

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

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

Sincerely,



Tyrone T. Butler, Director
Bureau of Adjudication

TTB:cah
Enclosure

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

COPY

-----X
IN THE MATTER : DETERMINATION
: :
OF : AND
: :
ADLY ANIS BIBAWY, M.D. : ORDER
-----X

BPMC #02-86

A Notice of Hearing, dated February 7, 2002, and a Statement of Charges, dated October 11, 2001, were served upon the Respondent, Adly Anis Bibawy, M.D. DAVID HARRIS, M.D., M.P.H. (Chair), ANTHONY CLEMENDOR, M.D., and REV. THOMAS KORNMEYER, 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. LARRY G. STORCH, ADMINISTRATIVE LAW JUDGE, served as the Administrative Officer. The Department of Health appeared by Ann Hroncich Gayle, Esq., Associate Counsel. The Respondent appeared by Goldberg & Cohn, LLP, Richard S. Goldberg, Esq., of 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

Petitioner has charged Respondent, a pediatrician, with eleven specifications of professional misconduct concerning his medical care and treatment of three patients, and the mother of an infant patient. More specifically, Respondent has been charged with willfully harassing, abusing or intimidating a patient either physically or verbally, moral unfitness, and the fraudulent practice of medicine. In a Plea to Statement of Charges and Stipulation of Submission to Hearing Committee for Determination of Sanction, dated December 2, 2001, Respondent has admitted each of the charges.

Copies of the Notice of Hearing and Plea are attached to this Determination and Order in Appendix I.

FINDINGS OF FACT

The following Findings of Fact were made based upon the Plea to the Statement of Charges executed by Respondent (Dept. Exhibit #1).

1. Adly Anis Bibawy, M.D., (hereinafter "Respondent"), was authorized to practice medicine in New York State on or about April 20, 1993, by the issuance of license number 191944, by the New York State Education Department.

2. In the course of treating the infant child of Individual A, a then 18 year old mother, at a HIP center located

at 1235 Linden Boulevard, Brooklyn, New York, on or about October 27, 2000, Respondent inappropriately touched Individual A's breasts with his hands and her buttocks with his clothed penis. This inappropriate touching took place in the course of a purported physical examination, but not for a proper medical purpose.

3. Respondent treated Patient B, a then 14 year old female, at Interfaith Medical Center, located at 555 Prospect Place, Brooklyn, New York, on or about December 4, 1990. In the course of a purported physical examination, but not for a proper medical purpose, Respondent inappropriately touched Patient B's breast with his hand, and her back, her hand, and/or her arm with his clothed penis.

4. Respondent treated Patient C, a then 16 year old female, at Interfaith Medical Center, located at 555 Prospect Place, Brooklyn, New York, on or about December 1, 1990. In the course of a purported physical examination, but not for a proper medical purpose, Respondent touched Patient C inappropriately by placing his clothed penis against Patient C's hand; when Patient C moved her hand away, Respondent took her hand and repositioned it so that it was touching his clothed penis.

5. Respondent treated Patient D, a then 13 year old female, at Interfaith Medical Center, located at 555 Prospect Place, Brooklyn, New York, on or about September 29, 1989. In

the course of a purported physical examination, but not for a proper medical purpose, Respondent inappropriately touched Patient D's breasts and genital area, and he placed Patient D's hand on his clothed penis and rubbed her hand on his clothed penis.

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. Respondent is charged with eleven specifications alleging professional misconduct within the meaning of Education Law §6530.

Pursuant to the Plea agreement executed by Respondent (Dept. Exhibit #1), he has admitted each and every charge raised by the Department. Accordingly, the Hearing Committee unanimously concluded that each and every one of the eleven specifications of professional misconduct have been sustained.

DETERMINATION AS TO PENALTY

The Hearing Committee, pursuant to the Findings of Fact and Conclusions of Law set forth above, unanimously determined that Respondent's license to practice medicine as a physician in New York State should be revoked. This 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 has admitted sexually abusing four adolescent females, in separate incidents spanning a period of eleven years. In so doing, he took advantage of a particularly vulnerable group of patients, whether by accident or design. The Hearing Committee considers Respondent's misconduct to be particularly egregious.

Respondent's acceptance of responsibility for his misconduct is commendable. He has also entered into psychotherapy, in an attempt to understand and control his behavior.

Respondent presented testimony from his treating psychologist, Brian J. Sweeney, Ph.D. Dr. Sweeney testified that Respondent suffers from depression, and that his wife suffers from paranoid schizophrenia. Dr. Sweeney further testified that Respondent's abusive conduct occurred in a dissociative state when the pressures of his life became unmanageable. According to Dr. Sweeney, Respondent is deeply remorseful, and ashamed of his behavior towards his victims.

Dr. Sweeney opined that Respondent's prognosis regarding any future sexual abuse is good, because Respondent has acknowledged that he has a problem, and is trying to deal with

it. However, Respondent only began therapy with Dr. Sweeney in January, 2002, and has only had eight therapy sessions to date. Moreover, when pressed on the point, Dr. Sweeney acknowledged that Respondent does not yet have a good understanding of why he abused the patients. The Committee unanimously determined that it is far too early to determine whether Respondent's prognosis is positive.

Respondent chose not to appear at the hearing and testify on his own behalf. Consequently, the Hearing Committee was unable to assess the degree of insight, if any, that Respondent has developed concerning his past behavior. The Committee cannot, in good conscience, allow Respondent to remain in practice when he has demonstrated neither an understanding of his condition, nor the ability to avoid similar misconduct in the future. Under the circumstances, revocation is the only sanction which can adequately protect the public. Respondent may, after three years, petition for the reinstatement of his medical license. At that time, he will have the opportunity to demonstrate that he has fully come to grips with his condition, and that he has embarked on a long-term course of therapy to control his behavior.

ORDER

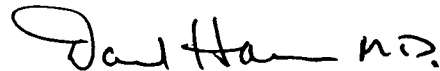
Based upon the foregoing, IT IS HEREBY ORDERED THAT:

1. The First through Eleventh Specifications of professional misconduct, as set forth in the Statement of Charges (Department's Exhibit # 1 are SUSTAINED;

2. Respondent's license to practice medicine as a physician in New York State be and hereby is REVOKED;

3. This Determination and Order shall be effective upon service. Service shall be either by certified mail upon Respondent at Respondent's last known address and such service shall be effective upon receipt or seven days after mailing by certified mail, whichever is earlier, or by personal service and such service shall be effective upon receipt.

DATED: Troy, New York
March 20, 2002



DAVID HARRIS, M.D., M.P.H.

Anthony Clemendor, M.D.
Rev. Thomas Kornmeyer

TO: Ann Hroncich Gayle, Esq.
Associate Counsel
New York State Department of Health
5 Penn Plaza - 6th Floor
New York, New York 10001

Adly Anis Bibawy, M.D.
421 Hawthorne Avenue
Staten Island, New York 10314

Richard S. Goldberg, Esq.
Goldberg & Cohn, LLP
16 Court Street - Suite 2304
Brooklyn, New York 11241

APPENDIX I

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

IN THE MATTER
OF
ADLY ANIS BIBAWY, M.D.

NOTICE
OF
HEARING

TO: Adly Anis Bibawy, M.D.
421 Hawthorne Avenue
Staten Island, NY 10314

PLEASE TAKE NOTICE:

A hearing will be held pursuant to the provisions of N.Y. Pub. Health Law §230 and N.Y. State Admin. Proc. Act §§301-307 and 401. The hearing will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct on March 13, 2002, at 10:00 a.m., at the Offices of the New York State Department of Health, 5 Penn Plaza, 6th Floor, New York, New York 10001, and at such other adjourned dates, times and places as the committee may direct.

At the hearing, evidence will be received concerning the allegations set forth in the Statement of Charges, which is attached to the Plea to Statement of Charges and Stipulation of Submission to Hearing Committee for Determination of Sanction, which is also attached. A stenographic record of the hearing will be made and the witnesses at the hearing will be sworn and examined. You shall appear in person at the hearing and may be represented by counsel. You have the right to produce witnesses and evidence on your behalf, to issue or have subpoenas issued on your behalf in order to require the production of witnesses and documents, and you may cross-examine witnesses and examine evidence produced against you. A summary of the Department of Health Hearing Rules was sent to your Attorney; he will provide you with a copy.

The hearing will proceed whether or not you appear at the hearing. Please note that requests for adjournments must be made in writing and by telephone to the New York State Department of Health, Division of Legal Affairs, Bureau of

Adjudication, Hedley Park Place, 433 River Street, Fifth Floor South, Troy, NY 12180, ATTENTION: HON. TYRONE BUTLER, DIRECTOR, BUREAU OF ADJUDICATION, (henceforth "Bureau of Adjudication"), (Telephone: (518-402-0748), upon notice to the attorney for the Department of Health whose name appears below, and at least five days prior to the scheduled hearing date.

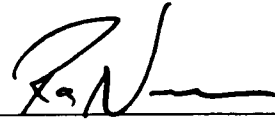
Adjournment requests are not routinely granted as scheduled dates are considered dates certain. Claims of court engagement will require detailed Affidavits of Actual Engagement. Claims of illness will require medical documentation.

Pursuant to the provisions of N.Y. Pub. Health Law §230(10)(c), you shall file a written answer to each of the charges and allegations in the Statement of Charges not less than ten days prior to the date of the hearing. Any charge or allegation not so answered shall be deemed admitted. You may wish to seek the advice of counsel prior to filing such answer. The answer shall be filed with the Bureau of Adjudication, at the address indicated above, and a copy shall be forwarded to the attorney for the Department of Health whose name appears below. Pursuant to §301(5) of the State Administrative Procedure Act, the Department, upon reasonable notice, will provide at no charge a qualified interpreter of the deaf to interpret the proceedings to, and the testimony of, any deaf person. Pursuant to the terms of N.Y. State Admin. Proc. Act §401 (McKinney Supp. 2002) and 10 N.Y.C.R.R. §51.8(b), the Petitioner hereby demands disclosure of the evidence that the Respondent intends to introduce at the hearing, including the names of witnesses, a list of and copies of documentary evidence and a description of physical or other evidence which cannot be photocopied.

At the conclusion of the hearing, the committee shall make findings of fact, conclusions concerning the charges sustained or dismissed, and in the event any of the charges are sustained, a determination of the penalty to be imposed or appropriate action to be taken. Such determination may be reviewed by the Administrative Review Board for Professional Medical Conduct.

THESE PROCEEDINGS MAY RESULT IN A DETERMINATION THAT YOUR LICENSE TO PRACTICE MEDICINE IN NEW YORK STATE BE REVOKED OR SUSPENDED, AND/OR THAT YOU BE FINED OR SUBJECT TO OTHER SANCTIONS SET OUT IN NEW YORK PUBLIC HEALTH LAW §§230-a. YOU ARE URGED TO OBTAIN AN ATTORNEY TO REPRESENT YOU IN THIS MATTER.

DATED: New York, New York
February 7, 2002



Roy Nemerson
Deputy Counsel
Bureau of Professional
Medical Conduct

Inquiries should be directed to: Ann Gayle
Associate Counsel
Bureau of Professional
Medical Conduct
5 Penn Plaza
6th Floor
New York, NY 10001
212-268-6806

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

IN THE MATTER
OF
ADLY ANIS BIBAWY, M.D.

Plea to Statement of
Charges and
Stipulation of
Submission to
Hearing Committee
for Determination of
Sanction

STATE OF NEW YORK)
COUNTY OF **KINGS**) ss.:

Adly Anis Bibawy, M.D., being duly sworn, deposes and says:

That on or about April 20, 1993, I was licensed to practice as a physician in the State of New York, having been issued License No. 191944, by the New York State Education Department.

My current address is 421 Hawthorne Avenue, Staten Island, New York 10314, 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 eleven specifications of professional misconduct.

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

I admit guilt to the charges, in full satisfaction of the charges against me. I hereby agree:


- That a Hearing Committee of the Board for Professional Medical Conduct shall be convened in accordance with Section 230(10) of the Public Health Law; and
- That said Committee shall impose a penalty based on the aforesaid admission; and
- That at such proceeding, evidence will be received concerning the appropriate penalty to be imposed, a stenographic record of the

proceeding will be made and the witnesses at the proceeding will be sworn and examined; and

- That I may appear in person at the proceeding and may be represented by counsel; and
- That I may produce evidence or sworn testimony on my 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 me. The Committee also may limit the number of witnesses whose testimony will be received, as well as the length of time any witness will be permitted to testify; and
- The Committee will make a written report of its findings, conclusions, and a determination. Such determination may be reviewed by the administrative review board for professional medical conduct.

I hereby file this Plea and submission to the State Board for Professional Medical Conduct as my Answer to the Statement of Charges pursuant to N.Y. Pub. Health Law §230(10)(c).

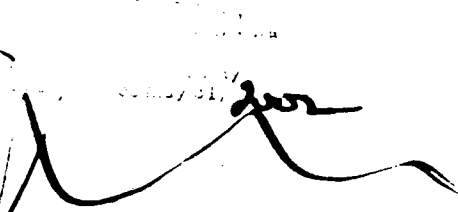
DATED 12/2, 2001


ADLY ANIS BIBAWY, M.D.
RESPONDENT

Sworn to before me this
2nd day of Dec, 2001

NOTARY PUBLIC


WITNESSED
DATE: 12/2, 2001


RICHARD S. GOLDBERG, ESQ.
Attorney for Respondent

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

IN THE MATTER
OF
ADLY ANIS BIBAWY, M.D.

STATEMENT
OF
CHARGES

Adly Anis Bibawy, M.D., the Respondent, was authorized to practice medicine in New York State on or about April 20, 1993, by the issuance of license number 191944, by the New York State Education Department.

FACTUAL ALLEGATIONS

- A. In the course of treating the infant child of Individual A, a then 18 year old mother, at a HIP center located at 1235 Linden Boulevard, Brooklyn, New York, on or about October 27, 2000, Respondent inappropriately touched Individual A's breasts with his hands and her buttocks with his clothed penis. This inappropriate touching took place in the course of a purported physical examination, but not for a proper medical purpose.
- B. Respondent treated Patient B, a then 14 year old female, at Interfaith Medical Center, located at 555 Prospect Place, Brooklyn, New York, on or about December 4, 1990. In the course of a purported physical examination, but not for a proper medical purpose, Respondent inappropriately touched Patient B's breast with his hand, and her back, her hand, and/or her arm with his clothed penis.
- C. Respondent treated Patient C, a then 16 year old female, at Interfaith Medical Center, located at 555 Prospect Place, Brooklyn, New York, on or about

EXHIBIT "A"

December 1, 1990. In the course of a purported physical examination, but not for a proper medical purpose, Respondent touched Patient C inappropriately by placing his clothed penis against Patient C's hand; when Patient C moved her hand away, Respondent took her hand and repositioned it so that it was touching his clothed penis.

- D. Respondent treated Patient D, a then 13 year old female, at Interfaith Medical Center, located at 555 Prospect Place, Brooklyn, New York, on or about September 29, 1989. In the course of a purported physical examination, but not for a proper medical purpose, Respondent inappropriately touched Patient D's breasts and genital area, and he placed Patient D's hand on his clothed penis and rubbed her hand on his clothed penis.

SPECIFICATION OF CHARGES

FIRST THROUGH FOURTH SPECIFICATIONS

FRAUDULENT PRACTICE

Respondent is charged with committing professional misconduct as defined by N.Y. Educ. Law §6530(2) by practicing the profession of medicine fraudulently as alleged in the facts of the following:

- 1. Paragraph A.
- 2. Paragraph B.
- 3. Paragraph C.
- 4. Paragraph D.

FIFTH THROUGH SEVENTH SPECIFICATIONS

WILLFULLY HARASSING, ABUSING OR INTIMIDATING A PATIENT

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(31) by willfully harassing, abusing, or intimidating a patient

either physically or verbally, as alleged in the facts of:

5. Paragraph B.
6. Paragraph C.
7. Paragraph D.

EIGHTH THROUGH ELEVENTH SPECIFICATIONS

MORAL UNFITNESS

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(20) by engaging in conduct in the practice of the profession of medicine that evidences moral unfitness to practice as alleged in the facts of the following:

8. Paragraph A.
9. Paragraph B.
10. Paragraph C.
11. Paragraph D.

DATED: October 11, 2001
New York, New York



ROY NEMERSON
Deputy Counsel
Bureau of Professional
Medical Conduct