



STATE OF NEW YORK
DEPARTMENT OF HEALTH

433 River Street, Suite 303

Troy, New York 12180-2299

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

Dennis P. Whalen
Executive Deputy Commissioner

September 11, 1997

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Mourad Bottros, M.D.
5 Hastings Circle
Pittsford, New York 14534

Mourad Bottros, M.D.
1801 Long Pond
Rochester, New York 14626

Bradley C. Mohr, Esq.
NYS Department of Health
Corning Tower Room 2503
Empire State Plaza
Albany, New York 12237

John R. Parrinello, Esq.
Redmond & Parrinello, LLP
400 Executive Office Building
Rochester, New York 14614

RE: In the Matter of Mourad Ramsey Bottros, M.D.

Dear Parties:

Enclosed please find the Determination and Order (No. 97-218) of the Hearing Committee in the above referenced matter. This Determination and Order shall be deemed effective upon the receipt or seven (7) days after mailing by certified mail as per the provisions of §230, subdivision 10, paragraph (h) of the New York State Public Health Law.

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required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate.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

Office of Professional Medical Conduct
New York State Department of Health
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.

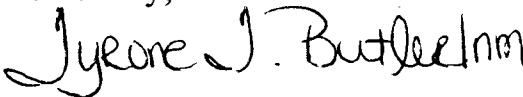
The notice of review served on the Administrative Review Board should be forwarded to:

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,

A handwritten signature in black ink that reads "Tyrone T. Butler". The signature is written in a cursive style with a large initial "T" and a long horizontal stroke at the end.

Tyrone T. Butler, Director
Bureau of Adjudication

TTB:nm
Enclosure

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

COPY

**IN THE MATTER
OF
MOURAD RAMSEY BOTTROS, M.D.
Respondent**

**DETERMINATION
AND
ORDER**

BPMC-97-218

A Notice of Referral Proceedings and Statement of Charges, both dated May 29, 1997 were served upon the Respondent, **MOURAD RAMSEY BOTTROS, M.D.**

JERRY WAISMAN, M.D., Chairperson, **MOHAMMAD GHAZI-MOGHADAM, M.D.** and **MS. NANCY J. MORRISON** 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. **MICHAEL P. MCDERMOTT, ESQ.**, Administrative Law Judge, served as the Administrative Officer.

A hearing was held on August 20, 1997, at the Offices of the New York State Department of Health, Hedley Park Place, 43 River Street, Troy, New York. The Department appeared by **HENRY M. GREENBERG, ESQ.**, General Counsel, by **BRADLEY MOHR, ESQ.**, of Counsel. The Respondent appeared in person and was represented by **REDMOND & PARRINELLO, LLP**, 400 Executive Office Building, Rochester, New York 14614, by **JOHN R. PARRINELLO, ESQ.**, of Counsel.

Evidence was received and transcripts of these proceedings were made.

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

STATEMENT OF CASE

This case was brought pursuant to Public Health Law Section 230(10)(p). The statute provides for an expedited hearing where a licensee is charged solely with a violation of Education Law Section 6530(9). In such case, a licensee is charged with misconduct based upon a prior criminal conviction in New York or another jurisdiction, or upon a prior administrative adjudication regarding conduct which would amount to professional misconduct, if committed in New York. The scope of an expedited hearing is limited to a determination of the nature and severity of the penalty to be imposed upon the licensee.

In the instant case, the Respondent is charged with professional misconduct pursuant to Education Law Section 6530(9)(b) and (d). A copy of the Notice of Referral Proceeding and Statement of Charges is attached to this Determination and Order as Appendix I.

WITNESSES

For the Respondent:

1. Mourad Ramsey Bottros, M.D., the Respondent
2. James O. Roberson, M.D.

FINDINGS OF FACT

The following Findings of Fact were made after a review of the entire record in this matter. Numbers in parenthesis refer to transcript page numbers or exhibits. These citations represent evidence found persuasive by the Hearing Committee in arriving at a particular finding. Conflicting evidence, if any, was considered and rejected in favor of the cited evidence. All Hearing Committee findings were unanimous unless otherwise stated.

1. **MOURAD RAMSEY BOTTROS, M.D.**, the Respondent, was authorized to practice medicine in New York State on February 29, 1980 by the issuance of license number 141288 by the New York State Education Department. The Respondent is currently registered to practice

medicine with the New York State Education Department (Pet's. Exs. 1 and 2).

2. By **CONSENT ORDER**, No. 11085, dated August 6, 1990, the Respondent's license to practice medicine in New York State was **SUSPENDED** for a period of two years. **SUSPENSION STAYED**, and the Respondent was placed on **PROBATION** for a period of two years. (Pet's. Ex. 3).

3. By letter, dated August 27, 1996, William C. McPeck, Assistant Executive Director, State of Maine, Board of Licensure in Medicine, advised the Respondent that:

"At its meeting on August 14, 1996, the Board voted unanimously to preliminarily deny your requests for renewal subject to a request from you for an Adjudicatory Hearing by the Board of the facts.

The basis for this denial is evidence of fraud or deceit in obtaining a license pursuant to 32 MRSA Section 3282-A(2)(A). On your applications for renewal, the Board has reason to believe you falsely answered the question as whether or not you had ever been disciplined by another state licensing board. By answering "no", you did not report to Maine the action taken against you by New York State.

You may, within 30 days of the delivery of this notice to you or your agent, request an Adjudicatory Hearing and it will be scheduled at the earliest possible date permitted by the Board's calendar and consistent with your right to be prepared and represented by counsel.

Should you, or your attorney acting for you, fail to request an Adjudicatory Hearing by letter to the Board at the above address within 30 days of your receipt of this notice, the Board's denial of your application for license renewal will become final without further notice or action by the Board." (Pet's. Ex. 4).

4. In a second letter, also dated August 27, 1997, and addressed to Judy M. Norman, Esq., who was the Respondent's attorney at the time, Mr. McPeck stated:

"Enclosed please find a copy of the Board's notice to Dr. Bottros regarding the preliminary denial of his applications to renew his Maine medical license. The Board's action will become final within 30 days of his receipt of the notice unless either you or he waive the 30 day period or request, in writing, a hearing.

I have been in communication with the Board's attorney, Ruth McNiff, regarding your request concerning the wording of the Board's mandatory disciplinary action reports. While I do not agree exactly with your suggested wording, I do agree in principle to not include the words fraud or deceit in the fact statement. I would state something to the effect that in applications to renew his Maine medical license Dr. Bottros answered "no" to the question that asked if he had ever been disciplined

by another state. By answering "no", Dr. Bottros did not report the action taken against him by New York State.

I think this language satisfies your concerns." (Resp's. Ex. A).

5. The Respondent did not request an Adjudicatory Hearing before the Maine Board regarding this matter, and the Board's denial of his application for license renewal became final without further notice or action by the Board (Pet's. Ex. 4).

6. The National Practitioner Data Bank Report on the Maine Board's disciplinary action against the Respondent does not include any reference to fraud or deceit (Resp's. Ex. B).

VOTE OF THE HEARING COMMITTEE

(All votes were unanimous unless otherwise specified)

SPECIFICATION

FIRST SPECIFICATION

GUILTY OF MISCONDUCT IN ANOTHER STATE

The Respondent is charged with having been found guilty of improper professional practice or professional misconduct by a duly authorized professional disciplinary agency of another state where the conduct upon which the findings were based would, if committed in New York State, constitute misconduct under the laws of New York State in violation of New York Education Law §6530(9)(b).

VOTE: SUSTAINED (2-1)

SECOND SPECIFICATION
DISCIPLINARY ACTION ANOTHER STATE

Respondent is charged with having a disciplinary action taken against him by a duly authorized professional disciplinary agency of another state where the conduct resulting in the disciplinary action would, if committed in New York State, constitute misconduct under the laws of New York State in violation of New York Education Law §6530(9)(d).

VOTE: SUSTAINED (2-1)

DETERMINATION OF THE HEARING COMMITTEE

A main source of contention between the parties was the issue as to whether or not Mr. McPeck's first letter, addressed to the Respondent, advising him that the basis for the denial in renewing his Maine license was evidence of fraud or deceit, was modified by his second letter addressed to Ms. Norman, in which he stated "**** I do agree in principle to not include the words fraud or deceit in the fact statement" (Pet's. Ex. 4' Resp's. Ex. A).

The Petitioner took the position that Mr. McPeck's second letter referred only to the wording to be used in reporting the incident to the National Data Bank and did not in any way modify the Maine Board's basis for denying licensure renewal, namely, evidence of fraud or deceit.

The Respondent took the position that Mr. Peck's second letter modified the Board's position as stated in the first letter, and that fraud or deceit were no longer an issue in this case.

The Hearing Committee was divided on this issue and voted (2-1) to Sustain the First and Second Specifications against the Respondent.

The Hearing Committee is aware of its mandate under Sec. 230(10)(p) of the Public Health Law. However, given the evidence and the particular circumstances of this case the Hearing Committee was unanimous in its determination that the record is not fully convincing on

the issue of intent, and that mitigating factors militate against imposing the severe sanction of **REVOCAION** requested by the Petitioner.

1. The Respondent testified that he did not pursue an adjudicatory hearing in Maine because he and his then attorney believed that "fraud or deceit" were no longer an issue and he had no practical reason for continuing his Maine licensure. He testified that he had never practiced medicine in the State of Maine nor has he even visited that state since taking his medical boards there in 1979.

There is no apparent reason for the Respondent to have intentionally made a false statement on his renewal application. There is absolutely no evidence that he had anything to gain by doing so.

2. It was also apparent to the Hearing Committee that the Respondent tended to be somewhat unconcerned and lacking an appreciation of the responsibilities in signing forms, due to language difficulties and the pressures of his busy practice.

The Respondent was born and educated in Egypt, graduating from the Cairo University Medical School in 1967.

The Hearing Committee has had the opportunity to observe the Respondent, to ask him questions, and to listen to his responses during the course of the hearing and concludes that the Respondent has some difficulty with the subtleties of the English Language. An example of this was his misunderstanding of the effective date of the New York Order (Pet's. Ex. 3). The Respondent testified that he believed that the Order was effective as of May 3, 1990, the date on which he signed the Application for Consent Order, rather than a later date in August as stated in the Order. The Hearing Committee accepted his testimony as reasonable and credible.

Also, the language in the Maine application, item 6, regarding disciplinary actions, is sufficiently ambiguous to have made it difficult for the Respondent to have understood the applicable time periods involved.

3. The charges in this case do not reflect on the Respondent's competence as a practicing physician.

Respondent's Exhibit C, is an affidavit from Dr. Marvin S. Amesty, who acted as the Respondent's monitor during his two year New York probation, attesting to the fact that the Respondent fulfilled his probationary requirements and is a competent surgeon.

Respondent's Exhibits D, E, F and G are affidavits from four other physician's, who are aware of the Respondent's New York probation, attesting that the Respondent is a skilled and competent physician and of good character.

Dr. James O. Roberson, testified very positively on behalf of the Respondent at the hearing. He described the Respondent as a dedicated and skilled physician and a religious person of high moral character. Dr. Roberson is a member of the New York State Board for Professional Medical Conduct.

Considering the entire circumstances of this case the Hearing Committee determines that the Respondent should be **CENSURED** and **REPRIMANDED**.

ORDER

IT IS HEREBY ORDERED THAT:

1. The Respondent is **CENSURED AND REPRIMANDED.**
2. This Order shall be effective upon service on the Respondent or the Respondent's attorney by personal or by certified or registered mail.

DATED: New York, New York
9/9, 1997


JERRY WAISMAN, M.D., Chairperson

MOHAMMAD GHAZI-MOGHDAM, M.D.
MS. NANCY J. MORRISON



**TO: Mourad Bottros, M.D.
5 Hastings Circle
Pittsford, New York 14534**

**Mourad Bottros, M.D.
1801 Long Pond
Rochester, New York 14626**

**Bradley Mohr, Esq.
New York State Department of Health
Division of Legal Affairs
Empire State Plaza
Corning Tower - Room 2503
Albany, New York 12237**

**John R. Parrinello, Esq.
Redmond & Parrinello, LLP
400 Executive Office Building
Rochester, New York 14614**

APPENDIX ONE

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

-----X

IN THE MATTER : NOTICE OF
OF : REFERRAL
MOURAD RAMSEY BOTTROS, M.D. : PROCEEDING

-----X

TO: MOURAD BOTTROS, M.D.
5 Hastings Circle
Pittsford, N.Y. 14534

1801 Long Pond
Rochester, N.Y. 14626

PLEASE TAKE NOTICE THAT:

An adjudicatory proceeding will be held pursuant to the provisions of N.Y. Pub. Health Law Section 230(10)(p) and N.Y. State Admin. Proc. Act Sections 301-307 and 401. The proceeding will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct (Committee) on the 23rd day of July, 1997 at 10:00 in the forenoon of that day at the Hedley Park Place, 5th Floor, 433 River Street, Troy, New York 12180.

At the proceeding, evidence will be received concerning the allegations set forth in the Statement of Charges, which is attached. A stenographic record of the proceeding will be made and the witnesses at the proceeding will be sworn and examined.

You may appear in person at the proceeding and may be represented by counsel. You may produce evidence or sworn testimony on your behalf. Such evidence or sworn testimony shall be strictly limited to evidence and testimony relating to the nature and severity of the penalty to be imposed upon the

licensee. Where the charges are based on the conviction of state law crimes in other jurisdictions, evidence may be offered which would show that the conviction would not be a crime in New York State. The Committee also may limit the number of witnesses whose testimony will be received, as well as the length of time any witness will be permitted to testify.

If you intend to present sworn testimony, the number of witnesses and an estimate of the time necessary for their direct examination must be submitted to the New York State Department of Health, Division of Legal Affairs, Bureau of Adjudication, Hedley Park Place, 5th Floor, 433 River Street, Troy, New York 12180, ATTENTION: HON. TYRONE BUTLER, DIRECTOR, BUREAU OF ADJUDICATION, (henceforth "Bureau of Adjudication") as well as the Department of Health attorney indicated below, on or before July 13, 1997.

Pursuant to the provisions of N.Y. Public Health Law §230(10)(p), you shall file a written answer to each of the Charges and Allegations in the Statement of Charges no later than ten days prior to 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 an 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. You may file a brief and affidavits with the Committee. Six copies of all such papers you wish to submit must be filed with the Bureau of Adjudication at the address indicated above on or before July 13, 1997 and a copy of all papers must be served on the same date on the Department of Health attorney indicated below. Pursuant to

Section 301(5) of the State Administrative Procedure Act, the Department, upon reasonable notice, will provide at no charge a qualified interpreter of the deaf to interpret the proceedings to, and the testimony of, any deaf person.

The proceeding may be held whether or not you appear. Please note that requests for adjournments must be made in writing to the Bureau of Adjudication, at the address indicated above, with a copy of the request to the attorney for the Department of Health, whose name appears below, at least five days prior to the scheduled date of the proceeding. Adjournment requests are not routinely granted. Claims of court engagement will require detailed affidavits of actual engagement. Claims of illness will require medical documentation. Failure to obtain an attorney within a reasonable period of time prior to the proceeding will not be grounds for an adjournment.

The Committee will make a written report of its findings, conclusions as to guilt, and a determination. Such determination may be reviewed by the administrative review board for professional medical conduct.

SINCE THESE PROCEEDINGS MAY RESULT IN A DETERMINATION THAT SUSPENDS OR REVOKES YOUR LICENSE TO PRACTICE MEDICINE IN NEW YORK STATE AND/OR IMPOSES A FINE FOR EACH OFFENSE CHARGED, YOU ARE URGED TO OBTAIN AN ATTORNEY TO REPRESENT YOU IN THIS MATTER.

DATED: Albany, New York
May 29, 1997



PETER D. VAN BUREN
Deputy Counsel
Bureau of Professional
Medical Conduct

Inquiries should be addressed to:

Bradley Mohr
Assistant Counsel
NYS Department of Health
Division of Legal Affairs
Corning Tower Building
Room 2503
Empire State Plaza
Albany, New York 12237
(518) 473-4282

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

-----X

IN THE MATTER : STATEMENT
OF : OF
MOURAD RAMSEY BOTTROS, M.D. : CHARGES

-----X

MOURAD RAMSEY BOTTROS, M.D., the Respondent, was authorized to practice medicine in New York State on February 29, 1980 by the issuance of license number 141288 by the New York State Education Department. The Respondent is currently registered to practice medicine with the New York State Education Department.

FACTUAL ALLEGATIONS

1. On or about August 14, 1996, the Board of Licensure in Medicine of the State of Maine, found that Respondent had violated 32 M.R.S.A. §3282-A(2)(A) by obtaining a license through the practice of fraud or deceit. Respondent was denied licensure renewal. The conduct upon which the Maine discipline was based would, if committed in New York State, constitute professional misconduct under New York Education Law §§ 6530(1) (obtaining the license fraudulently).

2. Respondent was disciplined by the Maine Board for failing to disclose that he had been disciplined by New York State in his license renewal application. The State of New York had entered into a Consent Order with Respondent on or about August 6, 1990.

The New York Consent Order, Calendar No. 11085, imposed a 2 year stayed suspension and 2 years of probation.

FIRST SPECIFICATION

GUILTY OF MISCONDUCT IN ANOTHER STATE

The Respondent is charged with having been found guilty of improper professional practice or professional misconduct by a duly authorized professional disciplinary agency of another state where the conduct upon which the findings were based would, if committed in New York State, constitute misconduct under the laws of New York State in violation of New York Education Law §6530(9)(b) in that, Petitioner alleges the facts in paragraphs 1 and/or 2.

SECOND SPECIFICATION

DISCIPLINARY ACTION ANOTHER STATE

Respondent is charged with having a disciplinary action taken against him by a duly authorized professional disciplinary agency of another state where the conduct resulting in the disciplinary action would, if committed in New York State, constitute misconduct under the laws of New York State in violation of New York Education Law §6530(9)(d) in that, Petitioner alleges the facts in paragraphs 1 and/or 2.

DATED: May 29, 1997
Albany, New York

5/29/97

Peter D. Van Buren

PETER D. VAN BUREN
Deputy Counsel
Bureau of Professional
Medical Conduct