



# 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

*Public*

December 28, 2006

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

Ayman Ibrahim, M.D.  
REDACTED

Leni S. Klaimitz, Esq.  
NYS Department of Health  
90 Church Street 4<sup>th</sup> Floor  
New York, New York 10007-2919

**RE: In the Matter of Ayman Ibrahim, M.D.**

Dear Parties:

Enclosed please find the Determination and Order (No. 06-177) 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required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate.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  
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.

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

Sincerely,

REDACTED

Sean D. O'Brien, Director  
Bureau of Adjudication

SDO:cah

Enclosure

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

**In the Matter of**

**Ayman Ibrahim, M.D. (Respondent)**

**A proceeding to review a Determination by a  
Committee (Committee) from the Board for  
Professional Medical Conduct (BPMC)**

**Administrative Review Board (ARB)**

**Determination and Order No. 06-177**

**COPY**

**Before ARB Members Grossman, Lynch, Pellman, Wagle and Briber  
Administrative Law Judge James F. Horan drafted the Determination**

**For the Department of Health (Petitioner):**

**Leni S. Klaimitz, Esq.**

**For the Respondent:**

**Pro Se**

After a hearing below pursuant to New York Public Health Law (PHL) §230(10)(e) (McKinney Supp. 2006), a BPMC Committee determined that the Respondent committed professional misconduct by fraudulently obtaining a limited permit to practice medicine in New York, by practicing medicine fraudulently and by unlawfully withholding information about prior employment from a hospital at which the Respondent sought employment. The Committee voted to revoke the Respondent's limited permit and to place a limitation barring him from ever obtaining a license or permit to practice medicine in New York State. In this proceeding pursuant to PHL § 230-c (4)(a), the Respondent asks the ARB to nullify the Committee's Determination and argues that the Committee erred in making judgments on witness credibility and that the Committee imposed an overly harsh penalty. After reviewing the hearing record and the review submissions from the parties, the ARB affirms the Committee's Determination in full. The ARB also denies the Respondent's request to submit material from outside the hearing record for consideration by the ARB.

### Committee Determination on the Charges

The Committee conducted a hearing into charges that the Respondent violated New York Education Law (EL) §§ 6530(1-2), 6530(14) & 6530(20) (McKinney Supp. 2006) by committing professional misconduct under the following specifications:

- obtaining a limited permit to practice fraudulently,
- practicing medicine fraudulently,
- failing to provide accurate information under the requirements in PHL § 2805-k, and,
- engaging in conduct in practice that evidences moral unfitness.

The Respondent practiced medicine in New York under a limited permit. The charges at the hearing concerned the circumstances under which the Respondent left employment at Lutheran Medical Center (Lutheran) and the representations about leaving Lutheran that the Respondent made on a limited permit application and in applying for a staff position at Wyckoff Heights Medical Center (Wyckoff). The Respondent denied the charges and a hearing followed. No evidence was presented at the hearing on the moral unfitness charge. After that hearing, the Committee rendered the Determination now on review.

The Committee determined that on February 28, 2003, the Respondent's supervisor at Lutheran, Allan J. Fisher, M.D., brought the Respondent to his office to speak about an allegation against the Respondent concerning improper conduct toward a patient. Dr. Fisher informed the Respondent about the allegation and informed the Respondent that he would be removed from the hospital. The Respondent turned over his ID badge, pager and keys to Dr. Fisher and security personnel escorted the Respondent from the building. On March 4, 2003, the Respondent left a voice message for Dr. Fisher indicating the Respondent's intention to resign. Lutheran sent the Respondent a letter the same day accepting the resignation. Also at about that time, Lutheran contacted the Respondent to meet and discuss the patient allegation. The Respondent failed to comply with that request. Lutheran then sent the Respondent a letter on March 6, 2003, rescinding the earlier letter accepting the resignation and terminating the Respondent's employment at Lutheran. At the hearing on the charges, the Respondent admitted

to the Committee that the Respondent knew that he faced a serious allegation, which might lead to disciplinary action against him by Lutheran.

In June 2003, the Respondent applied for a position with Wyckoff. The Respondent interviewed with Addagada C. Rao, M.D., Surgery Department Chair at Wyckoff in July 2003. The Respondent failed to inform Dr. Rao that the Respondent left Lutheran following a patient complaint. Dr. Rao concluded from information that the Respondent left Lutheran due to budgetary problems. The Respondent admitted at hearing that he failed to inform Dr. Rao about the circumstances under which the Respondent left Lutheran. The Committee concluded that the Respondent deceived Dr. Rao intentionally and the Committee sustained the charge that such deceit amounted to fraud in practice. The Committee also found that the Respondent committed further misconduct in violation of PHL § 2805-k, by failing to disclose to Wyckoff the circumstances under which the Respondent left Lutheran.

Subsequent to leaving Lutheran, the Respondent completed two forms for the New York State Department of Education relating to a limited permit to practice medicine. Both forms asked whether the Respondent's employment at a hospital had been restricted or terminated or whether the Respondent had resigned to avoid restriction or termination. The Respondent answered "no" to the questions. The Respondent also failed to mention Lutheran on sections inquiring about employment and work experience. The Committee found that the Respondent submitted deliberately inaccurate forms to the Education Department and the Committee inferred that the Respondent concealed information about Lutheran to avoid scrutiny over the circumstances surrounding his departure. The Committee determined that the Respondent's conduct amounted to obtaining a limited permit fraudulently and practicing fraudulently.

In reaching their conclusions, the Committee found Dr. Fisher and Dr. Rao testified credibly about their interactions with the Respondent. The Committee noted that the Respondent had called Dr. Rao as a witness, but that Dr. Rao's testimony provided the Respondent no benefit. The Committee also credited testimony by Grace Langan, R.N. from the Lutheran risk management office. Nurse Langan testified about her search in files at Lutheran concerning proof that the Respondent received various letters from Lutheran concerning the

resignation/termination. The Committee found the Respondent evasive in discussing his separation from employment at Lutheran and the Committee found the Respondent not believable in his assertions that he never received the March 6, 2003 Lutheran termination letter.

The Committee voted to revoke the Respondent's limited permit and to place a permanent limitation on the issuance of any future license or permit for the Respondent to practice medicine in New York State. The Committee stated that by repeatedly engaging in fraudulent behavior to obtain employment and obtain a limited permit, the Respondent demonstrated that he lacks the moral character of members of the medical profession.

#### Review History and Issues

The Committee rendered their Determination on July 25, 2006. This proceeding commenced on August 10, 2006, when the ARB received the Respondent's Notice requesting a Review. The record for review contained the Committee's Determination, the hearing record, the Respondent's brief and the Petitioner's response brief. The Respondent also sought to provide material to the ARB from outside the hearing record through electronic submissions on October 21, 2006. The Petitioner opposed the submission of any outside material to the ARB.

The Respondent challenges the Committee's Determination crediting the testimony by Dr. Fisher and Nurse Langan. The Respondent also denied that he told Dr. Rao about leaving Lutheran due to budget restraints. The Respondent argues that he never received the Lutheran Termination letter and the Respondent claims that any inaccuracies with his application to the Education Department resulted from the Respondent's problems doing paperwork. The Respondent called the Committee's penalty unfair and asked for cancellation or reduction of the penalty.

In reply, the Petitioner recommends that the ARB should defer to the Committee in their judgment on credibility. The Petitioner also argues that the Committee determined that the Respondent committed multiple fraudulent acts and that such conduct warrants the penalty that the Committee imposed.

### **ARB Authority**

Under PHL §§ 230(10)(i), 230-c(1) and 230-c(4)(b), the ARB may review Determinations by Hearing Committees to determine whether the Determination and Penalty are consistent with the Committee's findings of fact and conclusions of law and whether the Penalty is appropriate and within the scope of penalties which PHL §230-a permits. The ARB may substitute our judgment for that of the Committee, in deciding upon a penalty Matter of Bogdan v. Med. Conduct Bd. 195 A.D.2d 86, 606 N.Y.S.2d 381 (3<sup>rd</sup> Dept. 1993); in determining guilt on the charges, Matter of Spartalis v. State Bd. for Prof. Med. Conduct 205 A.D.2d 940, 613 NYS 2d 759 (3<sup>rd</sup> Dept. 1994); and in determining credibility, Matter of Minielly v. Comm. of Health, 222 A.D.2d 750, 634 N.Y.S.2d 856 (3<sup>rd</sup> Dept. 1995). The ARB may choose to substitute our judgment and impose a more severe sanction than the Committee on our own motion, even without one party requesting the sanction that the ARB finds appropriate, Matter of Kabnick v. Chassin, 89 N.Y.2d 828 (1996). In determining the appropriate penalty in a case, the ARB may consider both aggravating and mitigating circumstances, as well as considering the protection of society, rehabilitation and deterrence, Matter of Brigham v. DeBuono, 228 A.D.2d 870, 644 N.Y.S.2d 413 (1996).

The statute provides no rules as to the form for briefs, but the statute limits the review to only the record below and the briefs [PHL § 230-c(4)(a)], so the ARB will consider no evidence from outside the hearing record, Matter of Ramos v. DeBuono, 243 A.D.2d 847, 663 N.Y.S.2d 361 (3<sup>rd</sup> Dept. 1997).

A party aggrieved by an administrative decision holds no inherent right to an administrative appeal from that decision, and that party may seek administrative review only pursuant to statute or agency rules, Rooney v. New York State Department of Civil Service, 124 Misc. 2d 866, 477 N.Y.S.2d 939 (Westchester Co. Sup. Ct. 1984). The provisions in PHL §230-c provide the only rules on ARB reviews.

#### Determination

The ARB has considered the record and the parties' briefs. We reject the Respondent's attempt to offer additional evidence for consideration by the ARB and we find no ground to remand to the Committee to consider such information. We affirm the Committee's judgment on witness credibility and we affirm the Committee's determination that the Respondent committed professional misconduct. We affirm the Committee's Determination to revoke the Respondent's limited permit to practice medicine and to bar the issuance of any future license or permit to the Respondent.

The Respondent's late submission attempted to introduce before the ARB evidence from outside the hearing record. The sole evidence that the Respondent seeks to submit is an envelope from Lutheran, addressed to the Respondent at 68<sup>th</sup> Street in Brooklyn. The envelope bears a postmark from April 25, 2003. The Respondent states that the envelope contained his final paycheck from Lutheran and that the envelope proves that Lutheran knew that the Respondent



had moved from the old address at which Lutheran had mailed the letters accepting his resignation and then terminating the Respondent. We have noted above that the ARB can not legally accept evidence that did not go before the Committee at hearing, Matter of Ramos v. DeBuono, (supra), so we reject the Respondent's attempt to place such additional information before the ARB for consideration on this review. Under the provisions in PHL 230-c(4)(b), the ARB holds the power to remand a case to the Committee for further proceedings. We considered remanding this matter for the Committee to consider the envelope, but rejected that idea as well. The envelope was supposedly in the Respondent's possession so this is not newly discovered evidence that was in the hands of another party and unavailable to the Respondent. We also see no relevance to the letter. The Committee found that the Respondent informed Lutheran about his change of address on March 10, 2003 [Committee Determination page 13]. This envelope with an April 2003 postmark does nothing to contradict the Committee's finding.

The ARB rejects the Respondent's request that we overturn the Committee's determination on witness credibility. The Committee received the opportunity to observe the witnesses and the ARB defers to the Committee's judgment on credibility. From reviewing the hearing transcripts, we agree that the Respondent testified in an evasive manner. The Respondent also conceded that he knew he faced serious allegations at Lutheran that could lead to disciplinary action, that he received Lutheran's letter accepting his resignation and that he failed to tell Dr. Rao about the circumstances under which the Respondent left Lutheran.

The testimony that the Committee found credible, the Respondent's admissions and the documents in evidence that the Respondent himself prepared [the applications to the Education Department and the CV that Wyckoff received] demonstrate that the Respondent provided inaccurate information and withheld information to both the Education Department and to

Wyckoff. The Committee inferred from the evidence that the Respondent made deliberate misrepresentations with the intent to mislead. A Committee may reject a Respondent's explanation for events and the Committee may make inferences from other evidence, as long as the Committee states specifically the inferences it draws regarding knowledge and intent, Choudhry v. Sobol, 170 A.D.2d 893, 566 N.Y.S.2d 723 (Third Dept. 1991); Brestin v. Comm. of Educ., 116 A.D.2d 357, 501 N.Y.S.2d 923 (Third Dept. 1986). We affirm the Committee's Determination that the Respondent obtained his limited permit fraudulently, that the Respondent practiced fraudulently in his application to the Education Department and in obtaining employment at Wyckoff and that the Respondent violated PHL § 2805-k, by failing to disclose to Wyckoff the circumstances under which the Respondent left Lutheran.

The ARB affirms the Committee's Determination revoking the Respondent's limited permit and imposing a limitation that would bar any future permit or license for the Respondent to practice medicine in New York State. We find the penalty appropriate and consistent with the Committee's Determination on the charges. The Respondent's fraudulent conduct in obtaining his limited permit and in obtaining employment demonstrates the Respondent's unfitness to practice medicine in New York State.

**ORDER**

**NOW**, with this Determination as our basis, the ARB renders the following **ORDER**:

1. The ARB affirms the Committee's Determination that the Respondent committed professional misconduct.
2. The ARB affirms the Committee's Determination to revoke the Respondent's limited practice permit and to place a permanent limitation barring the Respondent from issuance of any future license or permit.
3. The ARB rejects the Respondent attempt to place additional material in the record following the hearing.

Robert M. Briber  
Thea Graves Pellman  
Datta G. Wagle, M.D.  
Stanley L. Grossman, M.D.  
Therese G. Lynch, M.D.

**In the Matter of Ayman Ibrahim, M.D.**

**Robert M. Briber, an ARB Member, concurs in the Determination and Order in the Matter of Dr. Ibrahim.**

**Dated: Deceember 26, 2006**

REDACTED

**Robert M. Briber**

In the Matter of Avman Ibrahim, M.D.

Thea Graves Pellman, an ARB Member concurs in the Determination and Order in the Matter of Dr. Ibrahim.

Dated: Dec 27, 2006

REDACTED

Thea Graves Pellman

In the Matter of Ayman Ibrahim, M.D.

**Datta G. Wagle, M.D.**, an ARB Member concurs in the Determination and Order in the Matter of Dr. Ibrahim.

Dated: 12/23/ 2006

REDACTED

**Datta G. Wagle, M.D.**

**In the Matter of Ayman Ibrahim, M.D.**

Therese G. Lynch, M.D., an ARB Member concurs in the Determination and Order in  
the Matter of Dr. Ibrahim.

Dated: December 23, 2006

REDACTED

Therese G. Lynch, M.D.

In the Matter of Ayman Ibrahim, M.D.

Stanley L. Grossman, an ARB Member concurs in the Determination and Order in the  
Matter of Dr. Ibrahim.

Dated: December 22, 2006

REDACTED

Stanley L Grossman, M.D.