



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

July 25, 2006

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Ayman Ibrahim, M.D.

REDACTED

Steven J. Questore, Esq.
Steven J. Questore, P.C.
350 Broadway, Suite 1207
New York, New York 10013

Leni S. Klaimitz, Esq.
NYS Department of Health
Department of Legal Affairs
90 Church Street - 4th 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 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,

REDACTED

Sean D. O'Brien, Director
Bureau of Adjudication

SDO:djh

Enclosure

COPY

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

-----X
IN THE MATTER : DETERMINATION
:
OF : AND
:
AYMAN IBRAHIM, M.D. : ORDER
-----X

BPMC NO. 06-177

A Notice of Hearing and Statement of Charges, both dated January 5, 2006, were served upon the Respondent, Ayman Ibrahim, M.D. DAVID HARRIS, M.D., M.P.H. (CHAIR), ROY SCHOEN, M.D., AND WILLIAM McCAFFERTY, ESQ., duly designated members of the State Board for Professional Medical Conduct, served as the Hearing Committee in this matter pursuant to Section 230(10) (Executive) of the Public Health Law. LARRY G. STORCH, ADMINISTRATIVE LAW JUDGE, served as the Administrative Officer. The Department of Health appeared by Leni S. Klaimitz, Esq. The Respondent appeared by Steven J. Questore, Esq. 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.

PROCEDURAL HISTORY

| | |
|---------------------------|---|
| Date of Service: | January 18, 2006 |
| Answer Filed: | January 26, 2006 |
| Pre-Hearing Conference: | January 26, 2006 |
| Hearing Dates: | February 7, 2006 April 6, 2006 April 27, 2006 |
| Witnesses for Petitioner: | Grace R. Langan, R.N. Allan J. Fisher, M.D. |
| Witnesses for Respondent: | Ayman Ibrahim, M.D. Addagada C. Rao, M.D. |
| Deliberations Held: | June 28, 2006 |

STATEMENT OF CASE

Petitioner charged Respondent with seven specifications of professional misconduct.

Therefore, the Hearing Committee has dismissed the first three specifications of professional misconduct.

The remaining specifications of professional misconduct include two specifications of fraudulent practice, in

violation of Education Law §6530(2); one specification of obtaining the license fraudulently, in violation of Education Law §6530(1); and one specification of violating Public Health Law §2805-K, in violation of Education Law §6530(14). These charges revolve around allegations of false and deceptive statements made in applying for a limited permit to practice medicine, and in obtaining employment at Wyckoff Heights Medical Center. Respondent denied the allegations.

A copy of the Statement of Charges is attached to this Determination and Order in Appendix I.

FINDINGS OF FACT

The following Findings of Fact were made after a review of the entire record in this matter. Numbers in parentheses 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.

1. Ayman Ibrahim, M.D. (hereinafter "Respondent"), was granted a limited permit to practice medicine in the State of New York on or about May 20, 2004, by the issuance of permit number P36346, which expires on May 20, 2006. (Ex. #2, p. 2).

2. From on or about July 3, 2002, through on or about March 4, 2003, Respondent was employed as a house physician in the Department of Obstetrics and Gynecology at Lutheran Medical Center (Lutheran) located at 150 55th Street, Brooklyn, New York. (Ex. #4, pp. 4, 9).

3. From on or about May 24, 2004 through the present, Respondent has been employed as a house officer in the Department of Surgery by Wyckoff Heights Medical Center (Wyckoff Heights) located at 374 Stockholm Street, Brooklyn, New York. (Ex. #5, p. 2).

4. At Lutheran Medical Center a house officer is a graduate of medical school, not licensed to practice medicine, who has been hired to perform basic tasks such as obtaining histories, performing simple physical examinations, drawing blood, and placing intravenous lines (IV). House officers do not have ongoing responsibilities for patients. (T. 55-57, 67, 83, 94-95; Ex. #2, p. 4).

5. On February 28, 2003, Allan J. Fisher, M.D., the director of maternal/fetal medicine and chief of obstetrics at Lutheran, received notification that

As Respondent's ultimate supervisor, Dr.

Fisher found Respondent on the floor and brought him to his office. (T. 55-56, 58).

6. After going to the postpartum unit and conferring with Grace Langan, R.N. of the risk management office, Dr. Fisher returned to his office to speak with Respondent. Dr. Fisher informed Respondent of the nature of the allegation made against him, and further told him that he would be removed from the hospital. It was Respondent's understanding that he had been suspended. (T. 58-60, 143).

7. Dr. Fisher accompanied Respondent to his locker, which Respondent emptied. He then turned over his pager, ID badge, and keys to Dr. Fisher. Respondent was then escorted from the building by hospital security personnel. (T. 59-61, 67, 143; Ex. #4, p. 8).

8. On or before March 4, 2003, Respondent left a voice mail message for Dr. Fisher expressing his desire to resign from his position at Lutheran. On Tuesday, March 4, 2003, Respondent had a telephone conversation with Dr. Fisher during which he again communicated his wish to resign immediately. On that date a letter was written accepting Respondent's verbal resignation effective March 4, 2003. The letter was sent to Respondent via both regular U.S. mail and certified/return receipt requested mail. Respondent has

acknowledged signing for, and receiving the latter copy. (T. 61, 89-91, 144-145, 148-151; Ex. #4, pp. 8, 21).

9. Following Respondent's verbal request to resign, and on or before March 6, 2003, Respondent was contacted by the hospital with a request to meet to discuss the patient complaint. Respondent did not comply with the request. (T. 193-196, 236-238).

10. On March 6, 2003, a letter was sent to Respondent by William Myhre, Vice President of Human Resources at Lutheran Medical Center. The letter indicated that it superceded the March 4, 2004 letter. The letter states, in pertinent part, "We tried to schedule a meeting with you... However, you have not kept our requested appointment. Instead you informed us of you intent to resign... Please be advised that... we do not accept your resignation and are hereby terminating your employment as House Physician." This letter was sent to Respondent via regular U.S. mail and UPS next day mail. Respondent denied receiving either copy of the letter. (Ex. #4, p. 9; Ex. #4A; T. 151).

11. The administration of Lutheran has a practice with respect to mail which is not received by the addressee and is returned to the hospital: the envelope is retained in the hospital files. Grace Langan reviewed the files and could

find no evidence that either copy of the March 6, 2003 letter had been returned, nor is there a copy of the March 4, 2003 letter sent by regular mail. (T. 30-31; Ex. #4).

12. When Respondent was hired by Lutheran as a house officer he was told that the period of employment would be one year. Respondent began work on or about July 3, 2002; he expressed his desire to resign on or about March 4, 2003. Respondent testified that his term of employment was almost concluded. However, one third of the employment period remained as of March 4, 2003. (T. 146, 176-178, 221-222).

13. Given the circumstances under which his last day at the hospital concluded, Respondent was concerned about what might happen with his employment at Lutheran, as well as the possibility of a disciplinary hearing. (T. 174-175, 215-216).

14. In or about June, 2003, Respondent applied for a position at Wyckoff Heights Medical Center (Wyckoff). In connection with his application Respondent submitted various documents, including a curriculum vitae (CV) which listed his clinical and work experience. The most current entry in that section is for Respondent's employment at Lutheran. Although the CV was faxed by Respondent on June 24, 2003, the dates of employment as a house physician read "June 2002 - Present".

Respondent had last worked at Lutheran on February 28, 2003. (T. 125, 127; Ex. #5, pp. 11-12).

15. Respondent was interviewed by Addagada C. Rao, M.D. chairman of the department of surgery at Wyckoff, in or around July, 2003. Respondent revealed that, contrary to the information on his CV, he was no longer working at Lutheran. Respondent did not tell Dr. Rao, and Dr. Rao was unaware, that there had been a patient complaint about Respondent at Lutheran, or that he had resigned or been terminated by that hospital. (T. 128-129, 131-132, 136-137).

16. Respondent admitted that he did not inform Dr. Rao of the circumstances under which he left Lutheran. He further testified that he did not feel that he needed to volunteer any information, because Rao did not ask him about the circumstances under which he left. (T. 155-159).

17. Based on the information provided to him, Dr. Rao concluded that Respondent left Lutheran because his position had been eliminated due to budgetary problems. (T. 136-139).

18. Subsequent to the conclusion of his employment by Lutheran, Respondent completed two different Medicine Form 5B forms in connection with his application to the New York State Department of Education for a limited permit to practice medicine. Question number 13 on the form poses the following

query: "Has any hospital or licensed facility restricted or terminated your professional training, employment, or privileges or have you ever voluntarily or involuntarily resigned or withdrawn from such association to avoid imposition of such measures?" On both copies of the form Respondent checked the "No" box. (Ex. #2, p. 3; Ex. #5, p. 78).

19. Question number 18 of the form requested that applicants provide a chronological list of all activities since graduation from professional school to the present, including periods of employment and the name and address of employers. On the copy of the form which Respondent signed and submitted to the Education Department, Respondent omitted the names and addresses of all employers. His last entry on the form is for a "house staff physician" position beginning in July, 2002, but with the ending date left blank. On the other copy of the form, Respondent also omitted the names and addresses of all employers and for the "house physician" position indicated a start date of June, 2002 and an end date of May, 2003. (Ex. #2, p. 5; Ex. #5, P. 80).

20. Respondent submitted a sheet listing his "Post Graduate Medical Education & Work Experience" in connection with his permit application. Although his employment at

Lutheran had been completed, Respondent omitted Lutheran from the list. (Ex. #2, p. 23).

CONCLUSIONS OF LAW

Respondent is charged with seven specifications alleging professional misconduct within the meaning of Education Law §6530¹. This statute sets forth numerous forms of conduct which constitute professional misconduct, but does not provide definitions of the various types of misconduct. During the course of its deliberations on these charges, the Hearing Committee consulted a memorandum prepared by the General Counsel for the Department of Health. This document, entitled "Definitions of Professional Misconduct Under the New York Education Law" sets forth suggested definitions for gross negligence, negligence, gross incompetence, incompetence, and the fraudulent practice of medicine.

The following definition was utilized by the Hearing Committee during its deliberations:

FRAUDULENT PRACTICE: The intentional misrepresentation or concealment of a known fact, made in some connection with the practice of medicine, constitutes the fraudulent practice of medicine. Choudhry v. Sobol, 107 A.D. 2d 893, 566 N.Y.S. 2d 723 (3rd Dept. 1991), citing Brestin v. Commissioner of Education, 116 A.D. 2d 357, 501 N.Y.S. 2d 923 (3rd Dept. 1986). To sustain a charge that a licensee was engaged in the fraudulent practice of medicine, a hearing committee must find (1) a false representation was made by the licensee, whether by words, conduct or concealment of that which should have been disclosed, (2) the licensee knew the representation was false, and (3) the licensee intended to mislead through the false representation. Sherman v. Board of Regents, 24 A.D.2d 315, 266 N.Y.S.2d 39 (3d Dept. 1966), aff'd, 19 N.Y.2d 679 (1967). The licensee's knowledge and intent may properly be inferred from facts found by the hearing committee, but the committee must specifically state the inferences it is drawing regarding knowledge and intent. Choudhry, supra at 894 citing Brestin.

The Hearing Committee first considered the credibility of the various witnesses, and thus the weight to be accorded

their testimony. Petitioner presented two witnesses. Grace Langan, R.N., is the vice president for compliance and regulatory affairs at Lutheran. Allan J. Fisher, M.D., was the chief of obstetrics at Lutheran in 2003. Neither has a stake in the outcome of this case, and both testified in a forthright manner.

Ms. Langan's testimony primarily concerned her search of the hospital's personnel files regarding proof of receipt of the various letters sent to Respondent concerning his purported resignation. Dr. Fisher's testimony was notable because he recalled specifically informing Respondent of the allegation made against him. The Hearing Committee found both Ms. Langan and Dr. Fisher to be credible witnesses.

Respondent presented testimony from Addagada C. Rao, M.D., chairman of the department of surgery at Wyckoff. Dr. Rao testified regarding his employment interview with Respondent. The Committee finds Dr. Rao to be generally credible. However, his testimony was not helpful to Respondent. Dr. Rao testified that Respondent's communications gave Rao the false impression that Respondent left Lutheran because his position had been eliminated for budgetary reasons. (See, T. 136-139).

Lastly, Respondent testified on his own behalf. He has an obvious interest in the outcome of this proceeding, and

the Hearing Committee evaluated his testimony carefully. On direct examination, Respondent testified that he resigned his position at Lutheran because Dr. Fisher's treatment of him was disrespectful, he worked too much unpaid overtime, and was denied a residency. (T. 145-147). His testimony under cross-examination, however, was very evasive. (See, T. 173-176). Under questioning by members of this Committee, Respondent finally admitted that he knew that he faced a serious allegation which might lead to disciplinary action against him. (T. 215-216).

Respondent also claimed that he never received the March 6, 2003 termination letter. He claimed that he had moved to a new address in January, 2003, but did not notify the hospital (his employer) of the change of address until March 10, 2003. He admitted receiving the March 4, 2003 letter acknowledging his resignation, but claimed that this was only due to a chance encounter with a former roommate, who happened to be carrying the certified mail notice in his pocket. (T. 148-150, 192). Quite frankly, this explanation is not believable.

Ms. Langan testified about the hospital's practice of including all returned mail in employee's files. She also testified that she found no evidence that the March 6, 2003

termination letter had been returned as undeliverable. This Hearing Committee finds it more likely that the letter was delivered, and that Respondent's testimony was not truthful.

When Respondent applied for his limited permit to practice medicine, he answered "No" to the following question:

"Has any hospital or licensed facility restricted or terminated your professional training, employment, or privileges or have you ever voluntarily or involuntarily resigned or withdrawn from such association to avoid imposition of such measure?". At the time he was escorted from the hospital by security personnel, Respondent was aware that he faced a serious allegation which might result in disciplinary action. His purported resignation was clearly contrived in an attempt to avoid any negative action by Lutheran. Even if one assumes, *arguendo*, that Respondent did not receive the March 6, 2003 termination letter, his answer to the question on the application was clearly false.

Even more damning was Respondent's failure to provide any information about his employment at Lutheran on the application. He listed employment as a "house staff physician" without identifying the hospital and listing inaccurate dates of employment. His listing of "Post Graduate Medical Education & Work Experience" also failed to mention his time at Lutheran.

The application submitted by Respondent was obviously inaccurate. As noted previously, Respondent was aware that he faced possible disciplinary action as a result of the patient complaint. This Committee therefore infers an intent by Respondent to conceal his untimely departure from Lutheran to avoid scrutiny of the circumstances surrounding it.

Based on the foregoing, this Committee unanimously concluded that Respondent obtained his limited permit to practice medicine through fraud (N.Y. Education Law §6530(1)) and engaged in the fraudulent practice of medicine (N.Y. Education Law §6530(2)). The Committee therefore voted to sustain the Fourth and Sixth specifications of professional misconduct set forth in the Statement of Charges.

Respondent was equally deceitful in his acquisition of his current position at Wyckoff. He admitted not telling Dr. Rao the true circumstances surrounding his departure from Lutheran. Moreover, he created the impression that his leaving Lutheran was due to budgetary constraints. The Committee concluded that Respondent intentionally deceived Dr. Rao in order to obtain employment. This also constituted the fraudulent practice of medicine, in violation of N.Y. Education Law §6530(2). Accordingly, the Committee voted to sustain the Fifth Specification.

The Public Health Law also placed an affirmative duty on Respondent to disclose to Wyckoff the true circumstances surrounding his departure from Lutheran. Public Health Law §2805-k mandates, in pertinent part, that prior to granting professional privileges or association of any physician, said physician shall be required to provide the name of any hospital or facility where the physician had any employment, and where such employment was discontinued, the reasons for its discontinuation. Failure to comply with these provisions constitutes professional misconduct pursuant to Education Law §6530(14). Therefore, the Hearing Committee voted to sustain the Seventh Specification of professional misconduct set forth in the Statement of Charges.

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 limited permit to practice medicine should be revoked, and that there should be a permanent limitation on the issuance of any future permits or license to practice medicine in this state. 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.

The granting of a license to practice medicine is not a right; it is a privilege. By repeatedly engaging in fraudulent behavior in order to obtain his limited permit and employment, Respondent has demonstrated that he lacks the moral character expected of members of the medical profession. Any one of the charges sustained, considered independently, would justify the sanction imposed. Considering the totality of the circumstances, revocation of the existing permit and a permanent ban on the issuance of any further permits or license is the only sanction which adequately protects the public.

ORDER

Based upon the foregoing, IT IS HEREBY ORDERED THAT:

1. The First through Third Specifications of professional misconduct, as set forth in the Statement of Charges, (Petitioner's Exhibit #1) are DISMISSED;
2. The Fourth through Seventh Specifications of professional misconduct are SUSTAINED;
3. Respondent's limited permit to practice medicine is hereby REVOKED and there shall be and hereby is a permanent limitation barring the issuance of any future limited permits or license to practice medicine in New York State;

4. 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

July 22, 2006

REDACTED

DAVID HARRIS, M.D., M.P.H. (CHAIR)

ROY SCHOEN, M.D.

WILLIAM McCAFFERTY, ESQ.

TO: Leni S. Klaimitz, Esq.
Attorney
New York State Department of Health
90 Church Street - 4th Floor
New York, New York 10007-2919

Ayman Ibrahim, M.D.

REDACTED

Steven J. Questore, Esq.
Steven J. Questore, P.C.
350 Broadway - Suite 1207
New York, New York 10013

APPENDIX I

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

IN THE MATTER
OF
AYMAN IBRAHIM, M.D.

STATEMENT
OF
CHARGES

*amended by
Ret. 1/26/06
Peg*

Ayman Ibrahim, M.D., the Respondent is a "licensee" as defined in Public Health Law §230 (7). He was authorized to practice medicine in New York State on or about May 20, 200⁴~~0~~, by the issuance of permit number P36346 by the New York State Department of Education. From on or about July 2, 2002, through on or about February 28, 2003, Respondent was employed as a house physician in the Department of Obstetrics and Gynecology at Lutheran Medical Center located at 150 55th Street, Brooklyn, New York, 11220.

FACTUAL ALLEGATIONS

- B. On or about July 9, 2003, Respondent submitted an application to the New York State Education Department for a limited permit in medicine.
1. Medicine Form 5B, question 13 queried "Has any hospital or licensed facility restricted or terminated your professional training, employment,

or privileges or have you ever voluntarily or involuntarily resigned or withdrawn from such association to avoid imposition of such measure?". Respondent, whose employment at Lutheran Medical Center had been terminated on or about March 6, 2003, falsely answered "No" to the question. Respondent provided this answer knowingly and with intent to deceive.

2. In connection with his application for a permit Respondent submitted a listing of his "Post Graduate Medical Education & Work Experience". Respondent omitted from the list his employment by Lutheran Medical Center. Respondent's failure to disclose was knowing and his intent was to deceive.

C. In or about May 2004 Respondent applied for a position as an active staff member in the surgery department at Wyckoff Heights Medical Center located at 374 Stockholm Street, Brooklyn, New York 11237. Respondent was hired as a House Officer.

1. Respondent failed to disclose that his employment by Lutheran Medical Center had been terminated in March 2003.
 - a. Respondent did this knowingly and with intent to deceive.

SPECIFICATION OF CHARGES

FIRST SPECIFICATION

SECOND SPECIFICATION

THIRD THROUGH FIFTH 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:

4. Paragraph B and its subparagraphs.
5. Paragraph C and its subparagraphs.

SIXTH SPECIFICATION

OBTAINING THE LICENSE FRAUDULENTLY

Respondent is charged with committing professional misconduct as defined by N.Y. Educ. Law §6530(1) by obtaining the license fraudulently as alleged in the

facts of the following:

6. Paragraph B and its subparagraphs.

SEVENTH SPECIFICATION

VIOLATION OF SECTION 2805-k OF THE PUBLIC HEALTH LAW

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(14) by violating section twenty eight hundred five-k of the Public Health Law as alleged in the facts of the following:

7. Paragraph C and C1.

DATED: January 5, 2006,
New York, New York

REDACTED

Roy Nemerson
Deputy Counsel
Bureau of Professional
Medical Conduct