



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

April 4, 2001

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Robert Bogan, Esq.
NYS Department of Health
Hedley Park Place -4th Floor
433 River Street
Troy, New York 12180

Mohammed Fathi Ahmad
Abdel-Hameed, M.D.
10150 Brandon Circle
Orlando, Florida 32836

Mohammed Fathi Ahmad
Abdel-Hameed, M.D.
2809 North Powers Drive
Suite D
Orlando, Florida 32818

**RE: In the Matter of Mohammed Fathi Ahmad
Abdel-Hameed, M.D.**

Dear Parties:

Enclosed please find the Determination and Order (No. 01-84) 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.

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.

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, appearing to read "Tyrone T. Butler", written in a cursive style.

Tyrone T. Butler, Director
Bureau of Adjudication

TTB:cah
Enclosure

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

COPY

IN THE MATTER
OF
**MOHAMMED FATHI AHMAD
ABDEL-HAMEED, M.D.**

DETERMINATION

AND

ORDER

BPMC #01-84

A Notice of Referral Proceeding and Statement of Charges, both dated February 27, 2001, were served upon the Respondent, **MOHAMMED FATHI AHMAD ABDEL-HAMEED, M.D.** **RICHARD ASHLEY, M.D.**, Chairperson, **KENDRICK SEARS, M.D.** and **MR. IRVING CAPLAN**, 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. **STEPHEN L. FRY, ESQ.**, Administrative Law Judge, served as the Administrative Officer.

A hearing was held on March 22, 2001, at the Offices of the New York State Department of Health, Hedley Park Place, 433 River Street, Troy, New York. The Department appeared by **DONALD P. BERENS, JR., ESQ.**, General Counsel, by **ROBERT BOGAN, ESQ.**, of Counsel. The Respondent appeared pro se.

On that date, evidence was received and transcripts of these proceedings were made, and the Hearing Committee conducted its deliberations.

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 cases, 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, subdivisions (3), (4), (5), (6) and (32). A copy of the Notice of Referral Proceeding and Statement of Charges is attached to this Determination and Order as Appendix 1.

WITNESSES

For the Petitioner: NONE

For the Respondent: RESPONDENT

FINDINGS OF FACT

The following Findings of Fact were made after a review of the entire record in this matter. Numbers below in parentheses refer to transcript page numbers or exhibits, denoted by the prefixes "Tr." and "Ex.". These citations refer to 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 specified.

1. **MOHAMMED FATHI AHMAD ABDEL-HAMEED, M.D.**, the Respondent, was authorized to practice medicine in New York State on 12/22/87, by the issuance of license number 173309 by the New York State Education Department (Ex. 4).
2. On or about July 27, 1998, the State of Florida, Board of Medicine (hereinafter "Florida Board"), by a Final Order, suspended Respondent's license for one (1) year, stayed the suspension, placed his license on two (2) years probation with terms and conditions, and imposed a \$10,000 fine, based upon various findings of medical misconduct, including violations of Section 458.331(1)(t), Florida Statutes, which sets forth, as grounds for disciplinary action against physicians, the commission of "gross or repeated malpractice or the failure to practice medicine with that level of care, skill, and treatment which is recognized by a reasonably prudent similar physician as being acceptable under similar conditions and circumstances", and violation of subdivision (m) of the same statute, dealing with failure to maintain adequate medical records.

On October 30, 1998, the Florida Board amended the Final Order. On June 22, 2000, the Board, upon the recommendation of the Board's Probation Committee, terminated Respondent's probation and lifted the supervision of his practice.

HEARING COMMITTEE CONCLUSIONS

The hearing Committee concludes that the conduct resulting in the Florida Board's disciplinary actions against Respondent would constitute misconduct under the laws of New York State, pursuant to:

- New York Education Law §6530(3) (negligence on more than one occasion);
- New York Education Law §6530(5) (incompetence on more than one occasion);
and/or
- New York Education Law §6530(32) (record keeping)

VOTE OF THE HEARING COMMITTEE

SPECIFICATIONS

FIRST SPECIFICATION

Respondent violated New York Education Law §6530(9)(b) by 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 finding was based would, if committed in New York state, constitute professional misconduct under the laws of New York state.

VOTE: SUSTAINED (3-0)

SECOND SPECIFICATION

Respondent violated New York State Education Law §6530 (9)(d) by having had his license suspended or having other disciplinary action taken after a disciplinary action was instituted by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the suspension or other disciplinary action would, if committed in New York state, constitute professional misconduct under the laws of New York state.

HEARING COMMITTEE DETERMINATION

The record in this case indicates that on or about July 27, 1998, the State of Florida, Board of Medicine (hereinafter "Florida Board"), by a Final Order, suspended Respondent's license for one (1) year, stayed the suspension, placed his license on two (2) years probation with terms and conditions, and imposed a \$10,000 fine, based upon various findings of medical misconduct, including violations of Section 458.331(1)(t), Florida Statutes, which sets forth, as grounds for disciplinary action against physicians, the commission of "gross or repeated malpractice or the failure to practice medicine with that level of care, skill, and treatment which is recognized by a reasonably prudent similar physician as being acceptable under similar conditions and circumstances", and violation of subdivision (m) of the same statute, dealing with failure to maintain adequate medical records. The Final Order was amended by the Board on October 30, 1998.

The conduct proscribed by Section 458.331(1)(t) of the Florida Statutes is comparable to that proscribed by New York Education Law §6530, subdivisions (3), (4), (5) and (6). However, the Florida order does not differentiate, in its statements of the violations of which Respondent was found guilty, between the different levels of conduct proscribed by Section 458.331(1)(t) of the Florida Statutes. The hearing committee concludes that none of the acts of which Respondent was found guilty in the Florida Order, as amended, would have constituted gross negligence or gross incompetence if committed in New York State, but that they did constitute negligence or incompetence on more than one occasion (New York Education Law §6530, subdivisions (3) and (5)). In addition, the recordkeeping

violations cited in the Florida Order would have also been violations of New York Education Law §6530 (32), if they had been committed in New York.

The Hearing Committee considered the following factors to weigh in Respondent's favor in assessing the nature and severity of the sanction to be imposed for the misconduct which led to the Florida orders:

- Respondent's successful completion of his one-year Florida probation, which included extensive and stringent terms, including monitoring of his practice and review of his charts, the obtaining of mandatory second opinions prior to institution of elective surgical procedures, and completion of the University of Florida's remedial course program for OB/GYN (see Ex. 5, pp 3-9);
- The early lifting by the Florida Board of the probation imposed in its Final Order, as amended (Ex. 5, pp. 78-79);
- Favorable Letters of reference from clinical supervisors and colleagues attesting to the current quality of Respondent's clinical skills, integrity and professionalism (Ex.'s C-G);
- Respondent's candid expressions at the hearing of recognition of, and remorse for, mistakes he made in the past and of intent to avoid making those mistakes in the future.

The Committee feels that no revocation or suspension of Respondent's license is called for in this situation, and that the actions of the Florida board have been sufficient to impress upon Respondent the necessity for diligence in adhering to the principles of good medical practice, and to ensure that he understands the nature of the conduct expected of him.

However, the Committee is of the opinion that the residents of New York State would best be served if Respondent were to undergo a suitable period of probation should he commence practice in this state in the future. Accordingly, the Committee hereby imposes a period of probation of one year, under terms set forth in the Order, below.

ORDER

IT IS HEREBY ORDERED THAT:

- 1). No action should be taken against Respondent's New York State medical license based on the Final Order, as amended, of the State of Florida Board of Medicine.
- 2). If, at some future date, the Respondent chooses to return to practice in New York, he must apply to the New York State Education Department to reactivate his medical license, and provide that agency with all requested information and documentation.
- 3). Respondent must provide ninety (90) days prior written notice concerning his intention to resume practice in New York State to the Office of Professional Medical Conduct (OPMC), Hedley Park Place, 433 River Street Suite 303, Troy, New York 12180-2299, and provide OPMC with verification of the reactivation of his license prior to resuming practice in New York State. Said notice is to include a full description of any employment and practice since the date of this hearing, as well as a listing of professional and residential addresses and telephone numbers within or without New York State. The notification must also list any and all investigations, charges, convictions or disciplinary actions by any local, state or federal agency, institution or facility since the date of this hearing.
- 4). OPMC will monitor Respondent's completion of a one-year probationary period, to commence upon the resumption of lawful medical practice in New York State.
- 5). The terms of Respondent's probation are as follows:
 - Respondent shall conduct himself in all ways in a manner befitting his professional status, and shall conform fully to the moral and professional standards of conduct and obligations imposed by law and by his profession. Respondent acknowledges that if he commits professional misconduct as enumerated in New York State Education Law '6530 or '6531, those acts shall be deemed to be a violation of

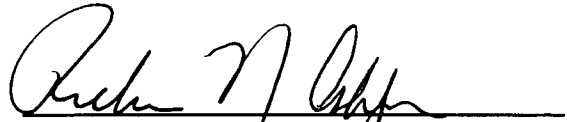
probation and that an action may be taken against Respondent's license pursuant to New York State Public Health Law §230(19);

- Respondent shall submit written descriptive notification to OPMC at the address listed above, of any changes in employment and practice, professional and residential addresses or telephone numbers within or without New York State, and any and all investigations, charges, convictions or disciplinary actions by any local, state or federal agency, institution or facility during the probationary period, within 30 days of each event;
- Respondent shall fully cooperate with and respond in a timely manner to requests from OPMC to provide written periodic verification of Respondent's compliance with the terms of this Order. Respondent shall personally meet with a person designated by the Director of OPMC as requested by the Director.
- The period of probation shall be tolled during periods in which Respondent is not engaged in the active practice of medicine in New York State. Respondent shall notify the Director of OPMC, in writing, if he ceases to be engaged in or intends to leave the active practice of medicine in New York State for a period of thirty (30) consecutive days or more. Respondent shall again notify the Director prior to any change in that status. The period of probation shall resume and any terms of probation which were not fulfilled shall be fulfilled upon Respondent's return to practice in New York State.
- Respondent's professional performance may be reviewed by the Director of OPMC. This review may include, but shall not be limited to, a review of office records, patient records and/or hospital charts, interviews with or periodic visits with Respondent and his/her staff at practice locations or OPMC offices.
- Respondent shall maintain legible and complete medical records which accurately reflect the evaluation and treatment of patients.
- Respondent shall have quarterly meetings with a monitoring physician who shall review his practice. This monitoring physician shall review randomly selected medical records and evaluate whether Respondent's practice comports with generally accepted standards of medical practice. This monitoring physician shall be selected by Respondent and is subject to the approval of the Director of the Office of Professional Medical Conduct. Respondent shall not practice medicine until an acceptable monitoring physician is approved by the Director.
- Respondent shall comply with all terms, conditions, and restrictions to which he is subject pursuant to the Order and shall assume and bear all costs related to compliance. Upon receipt of evidence of noncompliance with, or any violation of these terms, the Director of OPMC and/or the Board may initiate a violation of probation proceeding and/or any such other proceeding against Respondent as may be authorized pursuant to the law.
- OPMC may, in its discretion, and upon request by Respondent, relieve him of any uncompleted term of his probation if it is satisfied that Respondent's continued unsupervised practice of medicine in New York State would not be contrary to the best interests of New York State residents.

The **ORDER** shall be effective upon service on the Respondent or the Respondent's attorney by personal service or by certified or registered mail.

DATED: Rockville Center, New York

April 2, 2001


Richard N. Ashley, M.D.
Chairperson

Kendrick Sears, M.D.
Mr. Irving Caplan

APPENDIX 1

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

IN THE MATTER

OF

MOHAMMED FATHI AHMAD ABDEL-HAMEED, M.D.
CO-00-09-4202-A

NOTICE OF

REFERRAL

PROCEEDING

TO: MOHAMMED FATHI AHMAD ABDEL-HAMEED, M.D.
10150 Brandon Circle
Orlando, FL 32836

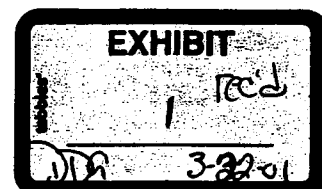
MOHAMMED FATHI AHMAD ABDEL-HAMEED, M.D.
2809 N. Powers Dr.
Suite D
Orlando, FL 32818

PLEASE TAKE NOTICE THAT:

An adjudicatory proceeding will be held pursuant to the provisions of N.Y. Pub. Health Law § 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 22nd day of March 2001, 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 attached Statement of Charges. 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 that 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, ATTENTION: HON. TYRONE BUTLER, DIRECTOR, BUREAU OF ADJUDICATION, (hereinafter "Bureau of Adjudication") as well as the Department of Health attorney indicated below, on or before March 12, 2001.

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 of 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 March 12, 2001, 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

February 21, 2001



PETER D. VAN BUREN

Deputy Counsel

Bureau of Professional Medical Conduct

Inquiries should be addressed to:

Robert Bogan
Associate Counsel
New York State Department of Health
Office of Professional Medical Conduct
433 River Street – Suite 303
Troy, New York 12180
(518) 402-0820

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

**IN THE MATTER
OF
MOHAMMED FATHI AHMAD ABDEL-HAMEED, M.D.
CO-00-09-4202-A**

**STATEMENT
OF
CHARGES**

MOHAMMED FATHI AHMAD ABDEL-HAMEED, M.D., the Respondent, was authorized to practice medicine in New York state on December 22, 1987, by the issuance of license number 173309 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about July 27, 1998, the State of Florida, Board of Medicine (hereinafter "Florida Board"), by a Final Order (hereinafter "Florida Order I"), suspended Respondent's license for one (1) year, stayed the suspension, placed his license on two (2) years probation with terms and conditions, and imposed a \$10,000 fine, based on negligence on more than one occasion, gross negligence, and failure to practice medicine with that level of care, skill, and treatment which is recognized by a reasonably prudent similar physician as being acceptable under similar conditions and circumstances, and failure to maintain adequate medical records.

B. On or about October 30, 1998, the Florida Board by an Amended Final Order (hereinafter "Florida Order II"), amended Florida Order I described in Paragraph A above.

C. On or about June 23, 2000, the Florida Board, by an Order Terminating Probation and Lifting Suspension (hereinafter "Florida Order III"), terminated the probation and lifted the suspension described in paragraph A above.

D. The conduct resulting in the Florida Board's disciplinary actions against Respondent would constitute misconduct under the laws of New York state, pursuant to the following sections of New York state law:

1. New York Education Law §6530(3) (negligence on more than one occasion);
2. New York Education Law §6530(4) (gross negligence);
3. New York Education Law §6530(5) (incompetence one more than one occasion);
4. New York Education Law §6530(6) (gross incompetence); and/or
5. New York Education Law §6530(32) (record keeping).

SPECIFICATIONS

FIRST SPECIFICATION

Respondent violated New York Education Law §6530(9)(b) by 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 finding was based would, if committed in New York state, constitute professional misconduct under the laws of New York state, in that Petitioner charges:

1. The facts in paragraph A and/or D.

SECOND SPECIFICATION

Respondent violated New York State Education Law §6530 (9)(d) by having had his license suspended or having other disciplinary action taken after a disciplinary action was instituted by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the suspension or other disciplinary action would, if committed in New York state, constitute professional misconduct under the laws of New York state, in that Petitioner charges:

2. The facts in paragraphs A and/or D.

DATED: *February 7*, 2001
Albany, New York


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