



STATE OF NEW YORK  
DEPARTMENT OF HEALTH

Corning Tower The Governor Nelson A. Rockefeller Empire State Plaza Albany, New York 12237

Mark R. Chassin, M.D., M.P.P., M.P.H.  
Commissioner

Paula Wilson  
Executive Deputy Commissioner

October 17, 1994

RECEIVED  
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OFFICE OF PROFESSIONAL  
MEDICAL CONDUCT

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

Catherine Cholakis, Esq.  
Assistant Counsel  
NYS Department of Health  
Corning Tower - Room 2429  
Albany, New York 12237

Moheb Ishak Girgis El-Far, M.D.  
2221 Bayview Road  
Punta Gorda, Florida 33950-5105

**RE: In the Matter of Moheb Ishak Girgis El-Far, M.D.**

Dear Ms. Cholakis and Dr. El-Far :

Enclosed please find the Determination and Order (No. 94-217) 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required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate.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  
Corning Tower - Fourth Floor (Room 438)  
Empire State Plaza  
Albany, New York 12237

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), "(t)he 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 all action 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  
Empire State Plaza  
Corning Tower, Room 2503  
Albany, New York 12237-0030

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

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

Sincerely,



Tyrone T. Butler, Director  
Bureau of Adjudication

TTB:mmn

Enclosure

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

-----X  
IN THE MATTER : DETERMINATION  
OF : AND  
MOHEB ISHAK GIRGIS EL-FAR, M.D. : ORDER  
-----X

NO. BPMC-94-217

A Notice of Referral Proceeding and Statement of Charges, both dated September 9, 1994, were served upon the Respondent, Moheb Ishak Girgis El-Far, M.D. **REV. JAMES H. MILLER (Chair), GERALD J. HAUSLER, D.O., and ROBERT A. MENOTTI, M.D.,** duly designated members of the State Board for Professional Medical Conduct, served as the Hearing Committee in this matter pursuant to Section 230(10)(e) of the Public Health Law. **LARRY G. STORCH, ESQ., ADMINISTRATIVE LAW JUDGE,** served as the Administrative Officer. The Department of Health appeared by Catherine Cholakis, Esq., Assistant Counsel. The Respondent failed to appear in person and was not represented by counsel. A hearing was held on October 5, 1994. 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 §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, Respondent is charged with professional misconduct pursuant to Education Law §6530(9)(a)(i), §6530(9)(a)(ii), §6530(9)(b) and §6530(9)(d). A copy of the Notice of Referral Proceeding and 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. Moheb Ishak Girgis El-Far, M.D. (hereinafter, "Respondent"), was authorized to practice medicine in New York

State on September 16, 1974 by the issuance of license number 121465 by the New York State Education Department. Respondent is not currently registered with the New York State Education Department to practice medicine. (Pet. Ex. #3).

2. The Board of Medicine of the Florida State Department of Professional Regulation (hereinafter the "Florida Board"), by Final Order dated December 21, 1989 found Respondent guilty of professional misconduct. As a result, Respondent's license to practice medicine in Florida was suspended for two years and he was thereafter placed on probation for an additional three years. (Pet. Ex. 4 ).

3. The Florida Board found Respondent guilty of violating Florida Statutes §458.331(1)(t) by failing to practice medicine with the level of care, skill and treatment which is recognized by a reasonably prudent similar physician as being acceptable under the similar conditions and circumstances. The conduct upon which the Florida Board based this finding included his treatment of two patients in an office which was squalid and a possible health risk to his patients, and performing elective obstetrical delivery without adequate equipment, professional assistance and provisions for emergency treatment. Respondent also failed to keep written records sufficient to justify the course of treatment for a patient. The Florida Board further found that Respondent had filed a false report with the Board regarding his continuing medical education, in violation of Florida Statutes §458.331(1)(h) and §455.2275. (Pet. Ex. #4).

4. On or about September 24, 1990, Respondent was

convicted in United States District Court one count of filing false and fraudulent information on an application to the Drug Enforcement Administration (hereinafter "DEA"), in violation of 21 U.S.C. §843(a)(4)(A), and five counts of illegal use of a revoked or suspended DEA registration number for dispensing controlled substances, in violation of 21 U.S.C. §843(a)(2). Respondent was sentenced to serve seven months imprisonment and ordered to participate in psychological counselling. (Pet. Ex. #5).

5. On or about January 9, 1991, Respondent was convicted in Florida State Circuit Court of Medicaid fraud, in violation of Florida Statutes §812.014 [a felony] and grand theft, in violation of §409.325(4)(a) [also a felony]. Respondent was sentenced to serve five days in county jail and ordered to pay \$1,800.00 in restitution, a \$750.00 fine, \$250.00 in court costs and a special cost of \$4,343.26. (Pet. Ex. #6).

6. The Florida Board, by Final Order dated April 15, 1992, found guilty of professional misconduct by virtue of the criminal convictions set forth in Paragraphs 4 and 5, above. As a result of these findings, Respondent's license to practice medicine in the State of Florida was revoked. (Pet. Ex. #7).

#### CONCLUSIONS OF LAW

The following conclusions were made pursuant to the Findings of Fact listed above. All conclusions resulted from a unanimous vote of the Hearing Committee unless noted otherwise.

The Hearing Committee concluded that the Department has

sustained its burden of proof in this matter. The preponderance of the evidence clearly demonstrates that Respondent was twice disciplined by the Florida Board, in 1989 and 1992, and that his Florida medical license was revoked in 1992. The conduct which resulted in the 1989 disciplinary action would, if committed in New York State, have constituted professional misconduct in violation of New York Education Law §6530(2) [practicing the profession fraudulently], § 6530(3) [negligence on more than one occasion], §6530(21) [wilfully making or filing a false report], and §6530(32) [failure to maintain accurate records].

Moreover, Respondent was convicted of multiple crimes under Federal law as well as crimes under the laws of the state of Florida. The conduct resulting in the Florida criminal conviction would, if committed in New York State, also have constituted a crime under New York law. Based upon the foregoing, the Hearing Committee concluded that the First through Fourth Specifications of professional misconduct should be sustained.

#### DETERMINATION AS TO PENALTY

The Hearing Committee, pursuant to the Findings of Fact and Conclusions of Law set forth above, unanimously determined that Respondent's license to practice medicine in New York State should be revoked. This determination was reached upon due consideration of the full spectrum of penalties available pursuant to statute, including revocation, suspension and/or probation, censure and reprimand, and the imposition of monetary

penalties.

The record clearly established the fact that Respondent is a disgrace to the medical profession. He was found guilty of professional misconduct by the Florida Board for practicing in squalid offices and for performing elective obstetrical deliveries without adequate equipment, professional assistance and provisions for emergency treatment. He was also convicted of filing false and fraudulent information with the DEA and of illegal use of a revoked or suspended DEA registration number, in violation of Federal law. Respondent was also convicted of grand theft and Medicaid fraud, both crimes under Florida law. Any of these misdeeds, considered alone, would justify revocation of Respondent's New York license. Taken as a whole, Respondent's record presents a compelling case for revocation.

Respondent failed to appear at the hearing and presented no evidence which would tend to mitigate the sanction to be imposed by this Hearing Committee. Respondent did send a letter to counsel for Petitioner (See, Petitioner's Exhibit #8), in which he seems to imply that his Florida license has been reinstated. However, Respondent presented no evidence to the Committee which might substantiate that claim. In any event, this Committee has an independent responsibility to determine the sanction to imposed upon Respondent's New York medical license due to his misconduct, irrespective of the sanction imposed by the Florida Board. Under the totality of the circumstances, the Hearing Committee unanimously determined that revocation was the only appropriate sanction.

ORDER

Based upon the foregoing, **IT IS HEREBY ORDERED THAT:**

1. The Specification of professional misconduct, as set forth in the Statement of Charges (Petitioner's Exhibit # 1) is **SUSTAINED**;

2. Respondent's license to practice medicine in New York State be and hereby is **REVOKED**.

DATED: Albany, New York  
October 14 , 1994

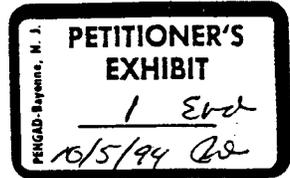
  
\_\_\_\_\_  
REV. JAMES H. MILLER (CHAIR)

GERALD J. HAUSLER, D.O.  
ROBERT A. MENOTTI, M.D.

TO: Catherine Cholakis, Esq.  
Assistant Counsel  
New York State Department of Health  
Tower Building - Room 2429  
Albany, New York 12237

Moheb Ishak Girgis El-Far  
2221 Bayview Road  
Punta Gorda, Florida 33950-5105

APPENDIX I



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

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IN THE MATTER : NOTICE OF  
OF : REFERRAL  
MOHEB ISHAK GIRGIS EL-FAR, M.D. : PROCEEDING

-----X

TO: MOHEB ISHAK GIRGIS EL-FAR, M.D.  
2221 Bayview Road  
Punta Gorda, Florida 33950-5105

PLEASE TAKE NOTICE THAT:

An adjudicatory proceeding will be held pursuant to the provisions of N.Y. Pub. Health Law Section 230(10)(p) (McKinney Supp. 1994) and N.Y. State Admin. Proc. Act Sections 301-307 and 401 (McKinney 1984 and Supp. 1994). The proceeding will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct (Committee) on the 5th day of October, 1994 at 10:00 a.m. in the forenoon of that day at Conference Room E, Cultural Education Building, Concourse Level, Empire State Plaza, Albany, New York 12237.

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, Corning Tower Building, 25th Floor, Empire State Plaza, Albany, New York 12237, 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 September 26, 1994.

You may file a written answer, brief, and affidavits with the Committee. Six copies of all papers you wish to submit must be filed with the Bureau of Adjudication at the address indicated above on or before September 26, 1994 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  
*September 9*, 1994



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

Inquiries should be addressed to:

Catherine Cholakis  
Assistant Counsel

NYS Department of Health  
Division of Legal Affairs  
Corning Tower Building  
Room 2429  
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  
MOHEB ISHAK GIRGIS EL-FAR, M.D. : CHARGES

-----X

MOHEB ISHAK GIRGIS EL-FAR, the Respondent, was authorized to practice medicine in New York State on September 16 1974, by the issuance of license number 121465 by the New York State Education Department. The Respondent is not currently registered. Respondent's last known address is 2221 Bayview Road, Punta Gorda, Florida 33950-5105.

FACTUAL ALLEGATIONS

- A. The Board of Medicine of the Florida State Department of Professional Regulation (hereinafter the "Florida Board"), by Final Order dated December 21, 1989 found Respondent guilty of violating Florida Statutes as set forth below. As a result, Respondent's license to practice medicine in Florida was suspended for two years and he was thereafter placed on probation for an additional three years.
1. The Florida Board found Respondent guilty of violating Florida Statutes section 458.331(1)(t), by failing to practice medicine with the level of

care, skill, and treatment which is recognized by a reasonably prudent similar physician as being acceptable under the similar conditions and circumstances. The conduct upon which the Florida Board found Respondent guilty of this violation included his treatment of Patient #1 and Patient #2 in an office which is squalid and a possible health risk to his patients, and performing elective obstetrical delivery without adequate equipment, professional assistance and provisions for emergency treatment. Respondent also failed to keep written records sufficient to justify the course of treatment of a patient. Among other things, Respondent's records did not document an emergency situation which arose during the course of treatment of Patient-2 and how it was handled.

2. The Florida Board further found that Respondent had filed a false report with the Board of Medicine regarding his continuing medical education, this in violation of sections 458.331(1)(h) and 455.2275 of Florida Statutes.

B. The conduct upon which the Florida Board found Respondent guilty would, if committed in New York State, constitute professional misconduct under N.Y. Educ. Law §6530(2) (McKinney Supp. 1994) [practicing the profession fraudulently] and/or N.Y. Educ. Law

§6530(3) (McKinney Supp. 1994) [practicing the profession with negligence on more than one occasion] and/or N.Y. Educ. Law §6530(21) (McKinney Supp. 1994) [wilfully making or filing a false report] and/or N.Y. Educ. Law §6530(32) (McKinney Supp. 1994) [failing to maintain a record for each patient which accurately reflects the evaluation and treatment of the patient].

C. On or about September 24, 1990, Respondent was convicted in U.S. District Court of one count of filing false and fraudulent information on an application to the Drug Enforcement Administration, a violation of 21 U.S.C. 843(a)(4)(A), and five counts of illegal use of a revoked or suspended Drug enforcement administration registration number for dispensing controlled substances, a violation of 21 U.S.C. 843(a)(2). Respondent was sentenced to serve seven months imprisonment and participate in psychological counseling.

D. On or About January 9, 1991, Respondent was convicted in Florida State Circuit Court of Medicaid fraud, in violation of Florida State Statute §812.014, a felony, and grand theft, a violation of Florida State Statute §409.325(4)(a), also a felony. Respondent was sentenced to serve five days in county jail and ordered to pay eighteen hundred dollars in restitution, a seven hundred and fifty dollar fine, two-hundred-and-fifty

dollars in court costs and a special cost of four-thousand-three hundred-forty-three dollars and twenty-six cents to the state of Florida.

- E. The Florida Board, by Final Order dated April 15, 1992, found Respondent guilty crimes set forth in paragraphs C and D. As a result of these findings Respondent's license to practice medicine in the State of Florida was revoked.

FIRST SPECIFICATION

HAVING BEEN FOUND GUILTY OF IMPROPER  
PROFESSIONAL PRACTICE OR PROFESSIONAL MISCONDUCT

Respondent is charged with professional misconduct under N.Y. Educ. Law §6530(9)(b) (McKinney Supp. 1994) by reason of his having been found guilty of 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 facts in paragraphs A, A1, A2 and B.

SECOND SPECIFICATION

CONVICTED OF FEDERAL CRIME

Respondent is charged with professional misconduct under N.Y.

Educ. Law §6530(9)(a)(ii) (McKinney Supp. 1994) by reason of his having been convicted of committing an act constituting a crime under federal law in that Petitioner charges facts in paragraph C.

THIRD SPECIFICATION

CONVICTED OF CRIME IN ANOTHER JURISDICTION

Respondent is charged with professional misconduct under N.Y. Educ. Law §6530(9)(a)(i) (McKinney Supp. 1994) by reason of his having been convicted of committing an act constituting a crime under the laws of another jurisdiction and which, if committed within this state, would have constituted a crime under New York State law, in that Petitioner charges facts in paragraph D.

FOURTH SPECIFICATION

HAVING LICENSE TO PRACTICE MEDICINE

REVOKED IN ANOTHER STATE

Respondent is charged with professional misconduct under N.Y. Educ. Law §6530(9)(d) (McKinney Supp. 1994) by reason of his having his license to practice medicine revoked by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the revocation would, if committed in New York State, constitute professional misconduct under the

laws of New York State, in that Petitioner charges the facts paragraphs C, D and E.

DATED: *September 9,* 1994  
Albany, New York



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