



*New York State Board for Professional Medical Conduct*

433 River Street, Suite 303 • Troy, New York 12180-2299 • (518) 402-0863

Nirav R. Shah, M.D., M.P.H.  
Commissioner  
NYS Department of Health  
James W. Clyne, Jr.  
Executive Deputy Commissioner  
Keith W. Servis, Director  
Office of Professional Medical Conduct

Public

Kendrick A. Sears, M.D.  
Chair  
Carmella Torrelli  
Vice Chair  
Katherine A. Hawkins, M.D., J.D.  
Executive Secretary

January 31, 2011

**CERTIFIED MAIL-RETURN RECEIPT REQUESTED**

Nabil Hassan El-Rafei, M.D.

REDACTED

RE: License No. 105580

Dear Dr. El-Rafei:

Enclosed is a copy of Order BPMC #11-19 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect February 7, 2011.

If the penalty imposed by the Order is a fine, please write the check payable to the New York State Department of Health. Noting the BPMC Order number on your remittance will assist in proper crediting. Payments should be directed to the following address:

Bureau of Accounts Management  
New York State Department of Health  
Corning Tower, Room 1717  
Empire State Plaza  
Albany, New York 12237

Sincerely,

REDACTED

Katherine A. Hawkins, M.D., J.D.  
Executive Secretary  
Board for Professional Medical Conduct

cc: Frederick J. Meagher, Esq.  
Meagher & Meagher  
15 Hawley Street  
Binghamton, NY 13901

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

---

IN THE MATTER  
OF  
NABIL HASSAN EL-RAFEI, M.D.

CONSENT  
ORDER

BPMC No. #11-19

---

Upon the application of **NABIL HASSAN EL-RAFEI, M.D.**, (Respondent), in the attached Consent Agreement, that is made a part of this Consent Order, it is

ORDERED, that the Consent Agreement, and its terms, are adopted and it is further

ORDERED, that this Consent Order shall be effective upon issuance by the Board, either by mailing of a copy of this Consent Order, either by first class mail to Respondent at the address in the attached Consent Agreement or by certified mail to Respondent's attorney, or upon facsimile or email transmission to Respondent or Respondent's attorney, whichever is first.

SO ORDERED.

DATED: 1/28/11

REDACTED

---

KENDRICK A. SEARS, M.D.  
Chair  
State Board for Professional  
Medical Conduct

IN THE MATTER

OF

NABIL HASSAN EL-RAFEI, M.D.  
CO-10-05-2877-A

CONSENT

AGREEMENT

NABIL HASSAN EL-RAFEI, M.D., (Respondent), representing that all of the following statements are true, deposes and says:

That on or about February 26, 1970, I was licensed to practice medicine in the State of New York and issued license number 105580 by the New York State Education Department.

My current address is REDACTED and I will advise the Director (Director) of the Office of Professional Medical Conduct (OPMC) of any change of my address within thirty (30) days, thereof.

I understand that the New York State Board for Professional Medical Conduct (Board) has charged me with two (2) Specifications of professional misconduct.

A copy of the Statement of Charges, marked as Exhibit A, is attached to and part of this Consent Agreement.

I do not contest the two (2) Specifications, and agree to the following sanction:

Censure and Reprimand;

Respondent shall pay a \$20,000.00 fine, to be paid within six (6) months of the effective date of the Consent Order to the NYS Department of Health, Bureau of Accounts Management, Revenue Unit, Empire State Plaza, Corning Tower, Room 1717, Albany, NY 12237-0016.

I agree, further, that the Consent Order shall impose the following conditions:

That Respondent shall remain in continuous compliance with all requirements of New York Education Law § 6502 including, but not limited to, the requirements that a licensee shall register and continue to be registered with the New York State Education Department (except during periods of actual suspension) and that a licensee shall pay

all registration fees. Respondent shall not exercise the option provided in New York Education Law § 6502(4) to avoid registration and payment of fees. This condition shall take effect 30 days after the effective date of the Consent Order and will continue so long as Respondent remains a licensee in New York State; and

That Respondent shall cooperate fully with the OPMC in its administration and enforcement of the Consent Order and in its investigations of matters concerning Respondent. Respondent shall respond in a timely manner to all OPMC requests for written periodic verification of Respondent's compliance with this Consent Agreement. Respondent shall meet with a person designated by the Director, OPMC, as directed. Respondent shall respond promptly and provide all documents and information within Respondent's control, as directed. This condition shall take effect upon the Board's issuance of the Consent Order and will continue so long as Respondent remains licensed in New York State.

I stipulate that my failure to comply with any conditions of the Consent Order shall constitute misconduct as defined by New York Education Law § 6530(29).

I agree that, if I am charged with professional misconduct in future, this Consent Agreement and the Consent Order shall be admitted into evidence in that proceeding.

I ask the Board to adopt this Consent Agreement.

I understand that if the Board does not adopt this Consent Agreement, none of its terms shall bind me or constitute an admission of any of the acts of alleged misconduct; this Consent Agreement shall not be used against me in any way and shall be kept in strict confidence; and the Board's denial shall be without prejudice to the pending disciplinary proceeding and the Board's final determination pursuant to New York Public Health Law.

I agree that, if the Board adopts this Consent Agreement, the Chair of the Board shall issue a Consent Order in accordance with its terms. I agree that the Consent Order shall take effect upon its issuance by the Board, either by mailing of a copy of the Consent Order by first class mail to me at the address in this Consent Agreement, or to my attorney by certified mail, or upon facsimile or email transmission to me or my attorney, whichever is first. The Consent Order, this Consent Agreement, and all attached Exhibits shall be public documents, with only patient identities, if any, redacted. As public documents, they may be posted on the Department of Health website.



The undersigned agree to Respondent's attached Consent Agreement and to its proposed penalty, terms and conditions.

DATE: 1/18, 2011

REDACTED

FREDERICK MEAGHER  
Attorney for Respondent

DATE: 1/21, 2011

REDACTED

MICHAEL G. BASS  
Assistant Counsel  
Bureau of Professional Medical Conduct

DATE: 1/26, 2011

REDACTED

KEITH W. SERVIS  
Director  
Office of Professional Medical Conduct

## EXHIBIT A

**IN THE MATTER**  
**OF**  
**NABIL HASSAN EL-RAFEI, M.D.**  
**CO-10-05-2877-A**

---

**STATEMENT**  
**OF**  
**CHARGES**

**NABIL HASSAN EL-RAFEI, M.D.**, Respondent, was authorized to practice medicine in New York state on February 26, 1970, by the issuance of license number 105580 by the New York State Education Department.

**FACTUAL ALLEGATIONS**

A On or about March 15, 2010, the State of New Jersey, Department of Law & Public safety, Division of Consumer Affairs, board of Medical Examiners, (hereinafter "New Jersey Board"), by Consent Order, (hereinafter "New Jersey Order"), accepted Respondent's voluntary surrender of his medical license with the understanding that Respondent would not seek reinstatement of his license or relicensure in the State of New Jersey. Respondent also agreed to pay a monetary penalty and costs totaling \$35,000. In the New Jersey Order, Respondent admitted to repeated acts of negligence, including the failure to ensure that an employee of his practice was properly licensed as an associate counselor for approximately three years.

B. The conduct resulting in the New Jersey Board disciplinary action 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);  
and/or
2. New York Education Law §6530(11) (permitting, aiding or abetting an unlicensed person to perform activities requiring a license).

**SPECIFICATIONS**

**FIRST SPECIFICATION**

Respondent violated New York Education Law §6530(9)(b) by having been found guilty of improper 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 Paragraphs A and B.

**SECOND SPECIFICATION**

Respondent violated New York Education Law §6530(9)(d) by having disciplinary action taken by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the disciplinary action would, if committed in New York state, constitute professional misconduct under the laws of New York state, in that Petitioner charges:

2. The facts in Paragraphs A and B.

DATED: *November 24*, 2010  
Albany, New York

<sup>^</sup>  
REDACTED

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