

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

IN THE MATTER
OF
MAMDOUH BAHNA, M.D.
CO-08-01-0011-A

COMMISSIONER'S
ORDER
AND
NOTICE OF
REFERRAL
PROCEEDING

TO: MAMDOUH BAHNA, M.D.
Inmate No. 27792-112
FCI Terminal Island
Federal Correctional Institution
P.O. Box 3007
San Pedro, CA 90731

The undersigned, Richard F. Daines, M.D., Commissioner of Health, pursuant to New York Public Health Law §230, upon the recommendation of a Committee on Professional Medical Conduct of the State Board for Professional Medical Conduct, has determined that **MAMDOUH BAHNA, M.D.**, Respondent, licensed to practice medicine in the State of New York on October 15, 1975, by license number 125704, has been convicted of committing an act constituting a felony under federal law, in the United States District Court, Central District of California, as is more fully set forth in the Statement of Charges attached, hereto, and made a part, hereof.

It is, therefore:

ORDERED, pursuant to New York Public Health Law §230(12)(b), effective immediately **MAMDOUH BAHNA, M.D.**, shall not practice medicine in the State of New York or in any other jurisdiction where that practice is predicated on a valid New York State license to practice medicine. This Order shall remain in effect unless modified or vacated by the Commissioner of Health pursuant to New York Public Health Law §230(12).

**ANY PRACTICE OF MEDICINE IN THE STATE OF NEW YORK IN
DEFIANCE OF THIS COMMISSIONER'S ORDER SHALL
CONSTITUTE PROFESSIONAL MISCONDUCT WITHIN THE
MEANING OF NEW YORK EDUCATION LAW §6530(29) AND MAY
CONSTITUTE UNAUTHORIZED MEDICAL PRACTICE, A FELONY,
DEFINED BY NEW YORK EDUCATION LAW §6512.**

PLEASE TAKE NOTICE that a hearing will be held pursuant to the provisions of New York Public Health Law §230 and New York State Administrative Procedure Act §§301-307 and 401 . The hearing will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct on the 20th day of August 2008, at 10:00 a.m., at Hedley Park Place, 433 River Street, 5th Floor, Troy, New York 12180, at the offices of the New York State Health Department and at such other adjourned dates, times, and places as the committee may direct. Respondent may file an answer to the Statement of Charges with the below-named attorney for the Department of Health.

At the hearing, evidence will be received concerning the allegations set forth in the Statement of Charges, that is attached. A stenographic record of the hearing will be made and the witnesses at the hearing will be sworn and examined. Respondent shall appear in person at the hearing and may be represented by counsel. Respondent has the right to produce witnesses and evidence on his behalf, to issue or have subpoenas issued on his behalf for the production of witnesses and documents, and to cross-examine witnesses and examine evidence produced against him. A summary of the Department of Health Hearing Rules is enclosed. Pursuant to §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 hearing will proceed whether or not Respondent appears at the hearing. Scheduled hearing dates are considered dates certain and adjournment requests are not, therefore, routinely granted. Requests for adjournments must be made in writing to the New York State Department of Health, Division of Legal Affairs, Bureau of Adjudication, Hedley Park Place, 433 River Street, Fifth Floor South, Troy, NY 12180, ATTENTION: HON. JAMES F. HORAN, ACTING DIRECTOR, BUREAU OF ADJUDICATION, and by telephone (518-402-0748), upon notice to the attorney for the Department of Health whose name appears below, at least five days prior to the scheduled hearing date. Claims of court engagement will require detailed affidavits of actual engagement. Claims of illness will require medical documentation.

At the conclusion of the hearing, the committee shall make findings of fact, conclusions concerning the charges sustained or dismissed, and, in the event any of the charges are sustained, a determination of the penalty or sanction to be imposed or appropriate action to be taken. Such determination may be reviewed by the administrative review board for professional medical conduct.

THESE PROCEEDINGS MAY RESULT IN A DETERMINATION THAT YOUR LICENSE TO PRACTICE MEDICINE IN NEW YORK STATE BE REVOKED OR SUSPENDED AND/OR THAT YOU BE FINED OR SUBJECT TO OTHER SANCTIONS SET FORTH IN NEW YORK PUBLIC HEALTH LAW §230-a. YOU ARE URGED TO OBTAIN AN ATTORNEY TO REPRESENT YOU IN THIS MATTER.

DATED: Albany, New York
July 14, 2008

Redacted Signature

RICHARD F. DAINES, M.D.
Commissioner of Health
New York State Department of Health

Inquires should be addressed to:

Robert Bogan
Associate Counsel
Office of Professional Medical Conduct
433 River Street – Suite 303
Troy, New York 12180
(518) 402-0828

IN THE MATTER
OF
MAMDOUH BAHNA, M.D.
CO-08-01-0011-A

STATEMENT
OF
CHARGES

MAMDOUH BAHNA, M.D., Respondent, was authorized to practice as a Physician New York state on October 15, 1975, by the issuance of license number 125704 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about December 10, 2007, in the United States District Court, Central District of California, Respondent was found guilty, based on a plea of guilty, of Health Care Fraud, in violation of Title 18 USC §1347, a felony, and was sentenced to fifty eight (58) months imprisonment, three (3) years supervised release upon release from imprisonment, \$990,518.54 restitution, and a \$100.00 Special Assessment.

B. On or about March 4, 2008, the Division of Medical Quality, Medical Board of California, Department of Consumer Affairs (hereinafter "California Board"), by a Decision (hereinafter "California Decision"), accepted the surrender of Respondent's Physician and Surgeon Certificate, based on the felony conviction set forth in Paragraph A, above; Corrupt or Dishonest Act; False Representation of Facts; Employment of Runners, Cappers, or Steerers; and Excessive Treatment.

C. The conduct resulting in the California 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(2) (practicing the profession fraudulently);
2. New York Education Law §6530(3) (negligence on more than one occasion);
3. New York Education Law §6530(4) (gross negligence);

4. New York Education Law §6530(9)(a)(ii) (being convicted of committing an act constituting a crime under federal law);
5. New York Education Law §6530(17) (exercising undue influence on the patient);
6. New York Education Law §6530(20) (moral unfitness);
7. New York Education Law §6530(24) (practicing beyond the scope permitted by law);
8. New York Education Law §6530(32) (failing to maintain a record for each patient which accurately reflects the evaluation and treatment of the patient); and/or
9. New York Education Law §6530(35) (ordering of excessive tests, treatment, or use of treatment facilities not warranted by the condition of the patient).

SPECIFICATIONS

FIRST SPECIFICATION

Respondent violated New York Education Law §6530(9)(a)(ii) by having been convicted of committing an act constituting a crime under federal law, in that Petitioner charges:

1. The facts in Paragraph A.

SECOND 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:

2. The facts in Paragraphs A, B, and /or C.

THIRD SPECIFICATION

Respondent violated New York Education Law §6530(9)(d) by having surrendered his license to practice medicine after a disciplinary action was instituted by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the surrender

would, if committed in New York state, constitute professional misconduct under the laws New York state, in that Petitioner charges:

3. The facts in Paragraphs A, B, and/or C.

DATED: *July 14*, 2008
Albany, New York

*REDACTED
SIGNATURE*

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