

NEW YORK
state department of
HEALTH

Nirav R. Shah, M.D., M.P.H.
Commissioner

Sue Kelly
Executive Deputy Commissioner

December 21, 2012

CERTIFIED MAIL/RETURN RECEIPT

Samir Mostafa, M.D.
REDACTED

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NYS Department of Health
90 Church Street, 4th Floor
New York, New York 10007

**RE: In the Matter of Samir Monir Mostafa, M.D.
a/k/a Mostafa Samir, M.D.**

Dear Parties:

Enclosed please find the Commissioner's Order.

Sincerely,

REDACTED
James F. Horah
Chief Administrative Law Judge
Bureau of Adjudication

JFH:nm
Enclosure

I HEREBY ORDER THAT:

The Summary Order dated September 25, 2012, imposed upon Respondent Samir Monir Mostafa M.D., a/k/a Mostafa Samir, M.D., shall remain in full force and effect until a final decision has been rendered by the committee or, if review is sought, by the administrative review board.

Dated: Albany, New York
December 20, 2012

REDACTED

for _____
NIRAV R. SHAH, M.D., M.P.H.
Commissioner of Health
New York State Health Department

1 Guy - Re-direct - Mostafa
2 thinks it's dealing with the ordering of the
3 medication. I don't think it has anything to do with
4 the ordering of any medication. That was sufficient by
5 the DEA registration.

6 JUDGE LYNCH: It says, "They were dispensed
7 and failed to report them."

8 MR. GUY: That's it?

9 JUDGE LYNCH: Yeah, I mean in terms of the
10 individual patients -- hold on.

11 You have to speak to your attorney.

12 Mr. Guy, do you understand what the issue is?

13 MR. GUY: I understand.

14 JUDGE LYNCH: Okay. We're going to go into
15 executive session now.

16 MR. GUY: Okay.

17 JUDGE LYNCH: We'll resume -- after the
18 executive session, I'd like to know which additional
19 patients that you still want the Respondent to testify
20 further in terms of the care of those patients.

21 MR. GUY: Okay.

22 JUDGE LYNCH: If the parties could step out.

23 (An executive session took place.)

24 JUDGE LYNCH: We're back on the record.

25 We've had an executive session with the hearing

1 Guy - Re-direct - Mostafa
2 committee and we reviewed the Statement of Charges and
3 the specifications. The factual specifications go
4 through Paragraphs A through G and Paragraph A deals
5 basically with reporting of controlled substances and
6 Paragraph B involves the conversation that occurred
7 with the narcotics agent in May 2011.

8 The specifications go through the 1st through
9 the 17th specification. Paragraphs C through G deal
10 with Respondent's care of several patients, and I
11 understand that we're going to receive further
12 testimony and perhaps certain documentary evidence
13 regarding his care of those patients. At this point
14 the hearing committee had a discussion in terms of
15 whether the Respondent presented an imminent danger.
16 They considered, in particular, at this point the 10th
17 specification. The 10th specification is that the
18 Respondent was willfully or grossly, negligently
19 failing to comply with substantial laws governing the
20 practice. In that subparagraph it lists Paragraphs A
21 through G. The hearing committee just considering
22 Paragraphs A and B felt that that specification is
23 sustained and so they do consider at this point that
24 the Respondent presents an imminent danger in the
25 practice of medicine so, therefore, they're

1 Guy - Re-direct - Mostafa
2 recommending to the commissioner that the license of
3 the Respondent be suspended pending the completion of
4 this hearing.

5 I understand we may need to come back for an
6 additional day to take further evidence in regard to
7 the patient care of the individual patients, and we can
8 do that in conclusion of whatever testimony the
9 Respondent wants to give today. We'll schedule another
10 hearing date. At this point, the committee's
11 conclusion that the 10th specification is sustained to
12 the extent that Paragraphs A and B have been sustained
13 and that their recommendation on the record to the
14 commissioner is that the Respondent's license remain
15 suspended pending the completion of this hearing and
16 any subsequent appeals.

17 Chairperson, if you could just -- if the
18 panel members could state those findings.

19 CHAIR IAQUINTA: Yes, I believe each of the
20 panel members can state it themselves; but yes.

21 JUDGE LYNCH: Is there anything further they
22 would like to add, Dr. Iaquinta, in that regard?

23 DR. HOSKINS: I agree.

24 JUDGE LYNCH: Okay.

25 You agree?

1 Guy - Re-direct - Mostafa

2 MS. GROGAN: I agree.

3 MR. GUY: May I ask the panel members some
4 questions?

5 JUDGE LYNCH: You can't ask any questions
6 now.

7 MR. GUY: I do have something in substantial
8 revisions of federal law. What federal law did he not
9 comply with?

10 JUDGE LYNCH: I'm sorry. You can't ask any
11 questions now of the panel. You can ask questions of
12 the witness but not of the panel. If you would like to
13 ask the Respondent any questions about his care of the
14 other patients, you can continue with those questions
15 now.

16 RE-DIRECT-EXAMINATION BY

17 MR. GUY:

18 Q. Doctor, you just heard what the panel --

19 A. Can we talk for a second outside?

20 JUDGE LYNCH: Okay.

21 You can go off the record.

22 (A discussion was held off the record.)

23 MR. GUY: Dr. Mostafa when we went outside
24 was overwhelmed by hearing the panel's recommendation
25 before completion of the hearing. He really can't go

1 Guy - Re-direct - Mostafa
2 forward today because of this affect on him.

3 JUDGE LYNCH: Okay. I think under the
4 circumstances, I think a continuance is appropriate.
5 What we'll do is we'll come up with new dates. We can
6 go off the record for a few minutes and decide on the
7 hearing date.

8 (A discussion was held off the record.)

9 JUDGE LYNCH: We're back on the record.
10 Since there's been a request for continuance, we
11 scheduled two dates next month, January 10th which is a
12 Thursday and January 23rd which is a Wednesday and
13 they're both here at ten o'clock in the morning.

14 That will close the record for today.

15 Thank you.

16 (TIME NOTED: 1:17 P.M.)

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