



STATE OF NEW YORK DEPARTMENT OF HEALTH

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

Lorna McBarnette
Executive Deputy Commissioner

April 10, 1992

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Abu Hayat, M.D.
One Irving Place
Apartment #16B
New York, New York 10003-9701

Amelio P. Marino, Esq.
Ronald J. Veneziano, Esq.
Marino & Veneziano
163 West 71st Street
New York, New York 10023

Diane Abeloff, Esq.
New York State Department of Health
Bureau of Professional Medical Conduct
5 Penn Plaza - Sixth Floor
New York, New York 10001-1810

RE: In the Matter of Abu Hayat, M.D.

Dear Dr. Hayat, Mr. Marino, Mr. Veneziano and Ms. Abeloff:

Enclosed is the Determination and Order of the Professional Medical Conduct Administrative Review Board.

This Determination and Order will be deemed effective upon receipt or seven (7) days after mailing by certified or express 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required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate.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 than be delivered to the Office of Professional Medical Conduct in the manner noted above.

This exhausts all administrative remedies in this matter [PHL §230-c(5)].

Very truly yours,

Tyrone T. Butler, nam

Tyrone T. Butler, Director
Bureau of Adjudication

TTB:nam
Enclosures

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

-----X
IN THE MATTER : ADMINISTRATIVE
OF : REVIEW BOARD
ABU HAYAT, M.D. : DETERMINATION
AND
ORDER
-----X No. **BPMC-92-13-A**

Pursuant to Dr. Hayat's February 26, 1992 Notice of Review, a quorum of the Administrative Review Board for Professional Medical Conduct, **Robert M. Briber, Edward C. Sinnott, M.D. and William Stewart, M.D.,¹** met on April 8, 1992 to review the Professional Medical Conduct Hearing Committee's February 17, 1992 Determination revoking Dr. Hayat's license to practice medicine in New York State. James F. Horan, Esq. served as Administrative Officer for the Review Board. Diane Abeloff, Esq. submitted a brief for the Department of Health and Amelio P. Marino, Esq. submitted a brief on Dr. Hayat's behalf.

THE SCOPE OF REVIEW

New York Public Health Law (PHL) §230(10)(i), §230-c(1) and §230-c(4)(b) provide that the Board shall review whether or not a Committee on Professional Conduct's Determination and Penalty are consistent with the

¹ By the date of these Deliberations, the New York State Senate had confirmed three members of the five member Administrative Review Board created pursuant to Chapter 606 of the Laws of 1991.

Committee's findings of fact and conclusions of law and whether the penalty is appropriate and within the scope of penalties permitted by PHL §230-a. The Board may remand a case to the Committee for reconsideration on further proceedings.

THE HEARING COMMITTEE'S DETERMINATION

The Hearing Committee reviewed Dr. Hayat's care of eight patients designated as Patients A-H. The Hearing Committee found the Respondent guilty of gross negligence in caring for Patients A-D, negligence on more than one occasion in caring for Patients A-G, violation of state law governing the practice of medicine for performing a late term abortion on Patient A, moral unfitness in the practice of medicine in the care of Patients A, D and H, abandonment of Patients B, C and D, fraudulent practice in caring for Patients A, B, C and D, failing to maintain accurate records for Patients A-G and performing excessive tests on Patient F.

The Committee determined unanimously that the Respondents continued practice of medicine in New York constituted an imminent danger to the public health and voted unanimously to revoke the Respondent's license.

SIGNIFICANT LEGAL RULINGS

The Administrative Officer determined that a three member quorum of the Board could review the Hearing Committee's Determination, provided that any Determination by the Board required unanimous consensus by the three members.

THE BOARD'S DETERMINATION

The Respondent's Brief asserts the Hearing Committee's Determination was null and unconstitutionally void because the Respondent was denied effective assistance of counsel because the Hearing Committee's Administrative Officer refused to adjourn the date for the initial hearing on the Respondent's summary suspension. As noted above, the Review Board's Scope of Review is limited by the Public Health Law §230-c(4)(b) and the Respondent's assertion based upon constitutional grounds is beyond that limited scope of review.

The Board has reviewed the Record and the Hearing Committee's Determination under the standards set out in Public Health Law §230-c(4)(b) and has found that there are no grounds to overturn the Hearing Committee. The Committee's Determination is consistent with its findings of fact and conclusions of law. Based upon those findings and conclusions, the Hearing Committee's penalty revoking the Respondent's license is appropriate and within the scope of

penalties permitted under Public Health Law §230-c.

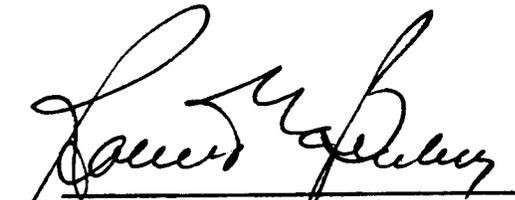
ORDER

Based upon the above Determination, the Board issues the following Order:

The Hearing Committee on Professional Medical Conduct's February 17, 1992 Determination is sustained.

The Hearing Committee's penalty revoking Dr. Hayat's license to practice medicine in the State of New York is sustained.

DATED: Albany, New York
April 8, 1992


ROBERT M. BRISER


EDWARD C. SINNOTT, M.D.


WILLIAM A. STEWART, M.D.