

STATE OF ILLINOIS
DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION
DIVISION OF PROFESSIONAL REGULATION

In RE the Petition for Restoration of)	
)	
Hisham Sadek, M.D.)	No. 2010-01187
License No. 036-087679, Petitioner.)	

ORDER

This matter having come before the Medical Disciplinary Board of the Department of Financial and Professional Regulation of the State of Illinois, Division of Professional Regulation, and the Medical Disciplinary Board having made certain Recommendation to the Director of the Division of Professional Regulation; and the Division of Professional Regulation having complied with all required notices; and the time allowed for filing of a Motion for Rehearing/Reconsideration before the Director of the Division of Professional Regulation having now passed.

NOW, THEREFORE, I, CECILIA ABUNDIS, ACTING DIRECTOR OF THE DIVISION OF PROFESSIONAL REGULATION of the State of Illinois, do hereby adopt the Recommendation of the Medical Disciplinary Board in this matter.

IT IS THEREFORE ORDERED that Illinois Physician and Surgeon License No. 036-087679 issued to Hisham S. Sadek, M.D., be Restored to Indefinite Probation for minimum of four (4) years under the following terms and conditions:

1. Petitioner shall pay the remaining balance of the \$50,000 fine as required by the October 28, 2013 Consent Order. Petitioner shall pay the remaining balance within 24 months of the date of this Order. Said payment shall be paid to the Illinois Department of Financial and Professional Regulation, Attention: CMU/Accounts Receivable – Fine Payments, 320 W. Washington St., 3rd floor, Springfield, Illinois 62786. In the event that the Petitioner shall fail to pay the fine, and the Department is forced to initiate a collection effort to retrieve the fine, the Petitioner will be responsible for all costs and fees incurred by the collection process;

2. During the period of probation, Petitioner shall provide the Department with quarterly reports which include: (i) current residential address, email address, and contact telephone number; (ii) Petitioner shall provide a copy of any performance evaluation completed by his employer within the prior quarter. Petitioner, shall at the beginning of Probation, provide the Department with objective documentation as to the frequency of employee performance evaluation's; (iii) description of job duties, responsibilities and name of immediate supervisor; (iv) copy of any and all incident reports within the prior quarter filled against Petitioner; and (v) information, regarding any arrests, criminal, or civil actions filed, including DUI and/or other similar offenses against the Petitioner;
3. Petitioner shall notify the Department's Chief of Probation Investigations in writing of any change in employment, home address, email address, or telephone number within ten (10) days;
4. Petitioner shall take and complete additional forty (40) category I Continuing Medical Education credits directly related to professional responsibilities and medical ethics. Said additional CMEs are not to be counted towards the annual CMEs required by the Medical Practice Act;
5. Petitioner shall not treat and/or prescribe and medications for any of his family members and friends;
6. Petitioner shall abstain from the consumption of alcohol and/or use of mood altering and/or psychoactive drugs except those prescribed by a primary care and/or treating physician;
7. Petitioner is not allowed to work in solo practice for minimum of first two years. Petitioner can only work in a group-setting with one or more Illinois Physician and Surgeons that have unrestricted Illinois Physician and Surgeon Licenses that has never been disciplined by any state and/or federal agencies. Said practice setting shall be pre-approved in writing by the Department's Chief Medical Coordinator;

8. Petitioner is not allowed to work in: (1) home-care setting; (2) practice that is not owned and operated by Illinois Physician and Surgeon License that has unrestricted Illinois Physician and Surgeon Licenses that has never been disciplined by any state and/or federal agencies;
9. Prior to engaging and/or changing employment that requires utilization of Illinois Physician and Surgeon License, Petitioner has to obtain a written pre-approval of the setting from the Department's Chief Medical Coordinator;
10. Petitioner shall request his employer to submit quarterly reports to the Department regarding Petitioner's scope of practice, practice location(s) and any issues related to Petitioner's practice of medicine;
11. Petitioner's employer shall agree to inform the Department immediately if there is evidence of inappropriate behavior, professional misconduct, a violation of Petitioner's probation or any violation of the laws and rules governing the practice of medicine;
12. Petitioner shall request that the Department's Chairperson or a supervising Illinois physician and surgeon of every health care institution, where Petitioner is holding clinical privileges, to submit quarterly reports to the Department regarding Petitioner's clinical performance, attendance record and any and all other issues arising out of Petitioner's practice of medicine;
13. Petitioner's Department's Chairperson(s) shall agree to inform the Department immediately if there is evidence of inappropriate behavior, professional misconduct, a violation of Petitioner's probation or any violation of the laws and rules governing the practice of medicine;
14. Within 60 days of the approval of his practice, Petitioner shall obtain a practice monitor, who is a licensed Physician and Surgeon in the State of Illinois. Said practice monitor shall have an unrestricted Illinois Physician and Surgeon License that has never been disciplined by any state and/or federal agencies. Said practice monitor shall be Board-

certified and practice in the same field as Petitioner. Said practice monitor cannot be affiliated with Petitioner's practice and/or have any personal relationship with Petitioner. The practice monitor shall be hired at the expense of Petitioner and shall be pre-approved by the Chief Medical Coordinator of the Department. Petitioner shall request that his practice monitor submit quarterly reports about scope and performance appraisals. On a quarterly basis the practice monitor shall meet with Petitioner and randomly select and review ten (10) charts of patients who have been seen by Petitioner during the quarter. The practice monitor shall review the charts of those patients and submit independent quarterly reports to the Department evaluating the scope, appropriateness, and quality of medical care rendered by Petitioner;

15. The practice monitor shall agree to inform the Department immediately if there is evidence of inappropriate behavior, professional misconduct, a violation of Petitioner's probation or any violation of the laws and rules governing the practice of medicine;
16. Petitioner shall notify the Department's Probation Unit within 10 (ten) days should his relationship with any practice monitor cease. Petitioner shall submit to the Department's Chief Medical Coordinator a name of a new practice monitor within 30 days from the date of the Notice;
17. Petitioner shall ensure that all the reports required to be submitted under the terms of this Probation shall be filed with the Department no later than 1/20, 4/20, 7/20 and 10/20 of each year during the full term of the Probation;
18. Petitioner shall not violate the Illinois Medical Practice Act of 1987, any other federal and state laws related to the practice of medicine as well as any other federal or state laws;
19. If Petitioner violates any of the terms and conditions of this Order, the Director of the Division of Professional Regulation may issue an Order forthwith mandating the automatic, immediate, indefinite suspension of Petitioner's Illinois physician and surgeon

license no. 036.087679 for a minimum of twelve (12) months. This indefinite suspension shall not preclude the Department from taking any other disciplinary or other actions it deems appropriate. In the event Petitioner contests in writing (by the filing of an appropriate petition with the Department) the factual basis underlying said indefinite suspension within thirty (30) days of the imposition thereof, then Petitioner shall be afforded a hearing on the merits within thirty (30) days from filing of said petition.

20. The aforementioned terms and conditions shall become effective immediately after being approved by the Director of the Division of Professional Regulation of the Illinois Department of Financial and Professional Regulation.

DATED THIS 19th DAY OF August, 2019.

**DEPARTMENT OF FINANCIAL AND
PROFESSIONAL REGULATION of the State of Illinois
DEBORAH HAGAN, Secretary
DIVISION OF PROFESSIONAL REGULATION**


CECILIA ABUNDIS
Acting Director of the Division of Professional Regulation

REF: License No. 036-087679/ Case No. 2010-01187

**STATE OF ILLINOIS
DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION
DIVISION OF PROFESSIONAL REGULATION**

IN RE: THE PETITION FOR RESTORATION OF)	
)	
)	No. 2010-01187
)	
HISHAM S. SADEK, M.D.,)	
License No. 036.087679,)	
Petitioner.)	

**FINDINGS OF FACT, CONCLUSIONS OF LAW
AND RECOMMENDATION TO THE DIRECTOR**

Now comes the Medical Disciplinary Board ("Board") of the Department of Financial and Professional Regulation, Division of Professional Regulation of the State of Illinois ("Department") and, after reviewing the pleadings in this matter, a majority of its members hereby make the following Findings of Fact, Conclusions of Law and Recommendation to the Director of the Department:

FINDINGS OF FACT

The Board hereby adopts the Findings of Fact contained in the April 3, 2019, Administrative Law Judge's Report and Recommendation of Administrative Law Judge Ian Brenson (hereinafter "ALJ Report") and incorporates the Findings of Fact herein.

CONCLUSIONS OF LAW

The Board hereby adopts the Conclusions of Law contained in the ALJ Report and incorporates the Conclusions of Law herein.

RECOMMENDATION

Based on the aforementioned Findings of Facts and Conclusions of Law, the Board accepts the recommendation contained in the ALJ Report in part. The Board accepts the ALJ Report's recommendation that the Petition for Restoration of the Illinois Physician and Surgeon License of HISHAM S. SADEK, M.D., license no. 036.087679, be GRANTED and returned to probationary status. The Board rejects that Petitioner's Illinois Physician and Surgeon License be returned to

probationary status pursuant to the terms and conditions of the October 28, 2013 Consent Order. Instead, due to the fact that Petitioner's Illinois Physician and Surgeon License has been suspended since November 2014, the Board recommends that Petitioner's Illinois Physician and Surgeon license be placed on Indefinite Probation for a minimum of 4 (four) years pursuant to the following terms and conditions:

1. Petitioner shall pay the remaining balance of the \$50,000 fine as required by the October 28, 2013 Consent Order. Petitioner shall pay the remaining balance within 24 months of the date of this Order. Said payment shall be paid to the Illinois Department of Financial and Professional Regulation, Attention: CMU/Accounts Receivable – Fine Payments, 320 W. Washington St., 3rd floor, Springfield, Illinois 62786. In the event that the Petitioner shall fail to pay the fine, and the Department is forced to initiate a collection effort to retrieve the fine, the Petitioner will be responsible for all costs and fees incurred by the collection process;
2. During the period of probation, Petitioner shall provide the Department with quarterly reports which include: (i) current residential address, email address, and contact telephone number; (ii) Petitioner shall provide a copy of any performance evaluation completed by his employer within the prior quarter. Petitioner, shall at the beginning of Probation, provide the Department with objective documentation as to the frequency of employee performance evaluation's; (iii) description of job duties, responsibilities and name of immediate supervisor; (iv) copy of any and all incident reports within the prior quarter filled against Petitioner; and (v) information, regarding any arrests, criminal, or civil actions filed, including DUI and/or other similar offenses against the Petitioner;

3. Petitioner shall notify the Department's Chief of Probation Investigations in writing of any change in employment, home address, email address, or telephone number within ten (10) days;
4. Petitioner shall take and complete additional forty (40) category I Continuing Medical Education credits directly related to professional responsibilities and medical ethics. Said additional CMEs are not to be counted towards the annual CMEs required by the Medical Practice Act;
5. Petitioner shall not treat and/or prescribe and medications for any of his family members and friends;
6. Petitioner shall abstain from the consumption of alcohol and/or use of mood altering and/or psychoactive drugs except those prescribed by a primary care and/or treating physician;
7. Petitioner is not allowed to work in solo practice for minimum of first two years. Petitioner can only work in a group-setting with one or more Illinois Physician and Surgeons that have unrestricted Illinois Physician and Surgeon Licenses that has never been disciplined by any state and/or federal agencies. Said practice setting shall be pre-approved in writing by the Department's Chief Medical Coordinator;
8. Petitioner is not allowed to work in: (1) home-care setting; (2) practice that is not owned and operated by Illinois Physician and Surgeon License that has unrestricted Illinois Physician and Surgeon Licenses that has never been disciplined by any state and/or federal agencies;
9. Prior to engaging and/or changing employment that requires utilization of Illinois Physician and Surgeon License, Petitioner has to obtain a written pre-approval of the setting from the Department's Chief Medical Coordinator;

10. Petitioner shall request his employer to submit quarterly reports to the Department regarding Petitioner's scope of practice, practice location(s) and any issues related to Petitioner's practice of medicine;
11. Petitioner's employer shall agree to inform the Department immediately if there is evidence of inappropriate behavior, professional misconduct, a violation of Petitioner's probation or any violation of the laws and rules governing the practice of medicine;
12. Petitioner shall request that the Department's Chairperson or a supervising Illinois physician and surgeon of every health care institution, where Petitioner is holding clinical privileges, to submit quarterly reports to the Department regarding Petitioner's clinical performance, attendance record and any and all other issues arising out of Petitioner's practice of medicine;
13. Petitioner's Department's Chairperson(s) shall agree to inform the Department immediately if there is evidence of inappropriate behavior, professional misconduct, a violation of Petitioner's probation or any violation of the laws and rules governing the practice of medicine;
14. Within 60 days of the approval of his practice, Petitioner shall obtain a practice monitor, who is a licensed Physician and Surgeon in the State of Illinois. Said practice monitor shall have an unrestricted Illinois Physician and Surgeon License that has never been disciplined by any state and/or federal agencies. Said practice monitor shall be Board-certified and practice in the same field as Petitioner. Said practice monitor cannot be affiliated with Petitioner's practice and/or have any personal relationship with Petitioner. The practice monitor shall be hired at the expense of Petitioner and shall be pre-approved by the Chief Medical Coordinator of the Department. Petitioner shall request that his practice monitor


submit quarterly reports about scope and performance appraisals. On a quarterly basis the practice monitor shall meet with Petitioner and randomly select and review ten (10) charts of patients who have been seen by Petitioner during the quarter. The practice monitor shall review the charts of those patients and submit independent quarterly reports to the Department evaluating the scope, appropriateness, and quality of medical care rendered by Petitioner;

15. The practice monitor shall agree to inform the Department immediately if there is evidence of inappropriate behavior, professional misconduct, a violation of Petitioner's probation or any violation of the laws and rules governing the practice of medicine;
16. Petitioner shall notify the Department's Probation Unit within 10 (ten) days should his relationship with any practice monitor cease. Petitioner shall submit to the Department's Chief Medical Coordinator a name of a new practice monitor within 30 days from the date of the Notice;
17. Petitioner shall ensure that all the reports required to be submitted under the terms of this Probation shall be filed with the Department no later than 1/20, 4/20, 7/20 and 10/20 of each year during the full term of the Probation;
18. Petitioner shall not violate the Illinois Medical Practice Act of 1987, any other federal and state laws related to the practice of medicine as well as any other federal or state laws;
19. If Petitioner violates any of the terms and conditions of this Order, the Director of the Division of Professional Regulation may issue an Order forthwith mandating the automatic, immediate, indefinite suspension of Petitioner's Illinois physician and surgeon license no. 036.087679 for a minimum of twelve (12) months. This indefinite suspension shall not preclude the Department from taking any other disciplinary or other actions it

deems appropriate. In the event Petitioner contests in writing (by the filing of an appropriate petition with the Department) the factual basis underlying said indefinite suspension within thirty (30) days of the imposition thereof, then Petitioner shall be afforded a hearing on the merits within thirty (30) days from filing of said petition.

20. The aforementioned terms and conditions shall become effective immediately after being approved by the Director of the Division of Professional Regulation of the Illinois Department of Financial and Professional Regulation.

DATED THIS 3rd DAY OF July, 2019.


CHAIRPERSON
Karen O'Mara, D.O.

MEMBER


MEMBER


MEMBER

MEMBER

MEMBER


MEMBER


MEMBER


MEMBER

STATE OF ILLINOIS
DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION
DIVISION OF PROFESSIONAL REGULATION

IN RE: THE PETITION FOR RESTORATION OF)	
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)	No. 2010-01187
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HISHAM S. SADEK, M.D.,)	
License No. 036.087679,)	
Petitioner.)	

ADMINISTRATIVE LAW JUDGE'S REPORT AND RECOMMENDATION

This report is being filed with the Illinois Medical Disciplinary Board by Administrative Law Judge Ian Brenson pursuant to 225 ILCS 60/35.

BACKGROUND OF CASE

Hisham S. Sadek, M.D. (hereinafter "Petitioner") has been the holder of a Physician and Surgeon License in Illinois since October 28, 1993. On October 5, 2011, Petitioner's license was fined \$5,000 and placed upon indefinite probation for a minimum term of three years for his failure to inform his colleagues about his personal relationship with one of his patients, who was his wife. On October 28, 2013, Petitioner's license was fined \$50,000 and placed upon indefinite probation for a minimum of four years for violation of the pending probation by submitting inaccurate reports to the Department. On November 25, 2014, Petitioner's license was indefinitely and automatically suspended for a minimum period of twelve months for failure to comply with the terms and conditions of his indefinite probation, specifically his failure to pass the Ethics & Boundaries Assessment Services Essay Examination ("EBAS Exam"). On July 15, 2015, the Indiana Medical Licensing Board indefinitely suspended Petitioner on a reciprocal basis. This is Petitioner's second Petition for Restoration. His prior Petition was filed on November 13, 2015 and denied on October 16, 2017. This Petition for Restoration was filed on April 6, 2018.

Petitioner was directed to appear for a preliminary hearing on May 14, 2018. The case proceeded to a formal evidentiary hearing on January 17, 2019 before Administrative Law Judge Ian Brenson. There was no Board member present on behalf of the Illinois Medical Disciplinary Board. The Department was represented by attorney Vladimir Lozovskiy. Petitioner was represented by Michael K. Goldberg and Priyanka Desai of the Goldberg Law Group, LLC.

The Administrative Law Judge received the complete record of the proceedings on March 4, 2019.

SUMMARY OF EVIDENCE

Exhibits

The following exhibits of Petitioner were admitted into evidence:

- Exhibit 1: EBAS Exam Results
- Exhibit 2: Petitioner's Curriculum Vitae
- Exhibit 3: Egyptian Medical Licensure
- Exhibit 4: Teaching and ongoing education in Egypt
- Exhibit 5: Continuing Medical Education certificates
- Exhibit 6: Miscellaneous Patient Medical Records from Egypt

The following exhibits of the Department were admitted into evidence:

- Exhibit A: IDFPR Order Case Nos. 2010-01187 and 2010-01187-2, dated November 25, 2014
- Exhibit B: IDFPR Consent Order Case No. 2010-01187 dated October 5, 2011, and the underlying Department Complaint
- Exhibit C: IDFPR Consent Order Case No. 2010-01187-2 dated October 28, 2013, and the underlying Department Complaint

- Group** Petitioner's Ethics and Boundaries Assessment Services Test
- Exhibit D:** Scores (September 2014, October 2014, December 2014, April 2015)
- Exhibit F:** Indiana Medical Licensing Board Findings of Fact, Conclusions of Law and Order, dated July 15, 2015
- Exhibit G:** Indiana Medical Licensing Board Findings of Fact, Conclusions of Law and Order, dated October 24, 2012
- Exhibit H:** IDFPR Director's Order, dated October 16, 2017, along with ALJ's and Board's Findings of Fact, Conclusions of Law, and Recommendations
- Exhibit I:** Summons and Complaint for Administrative Review, Case No. 2017 CH 15280, Chancery Division, Circuit Court of Cook County, Illinois

Witnesses

Dr. Ayman Jabr, Dr. Mitchell Glaser, and Petitioner testified in Petitioner's case-in-chief.

The Department did not call any witnesses, but was allowed extended scope during cross-examination of Petitioner.

FINDINGS OF FACT

The Administrative Law Judge makes the following Findings of Fact, based upon the evidence presented at the hearing. Petitioner called three witnesses in his case-in-chief.

1. Dr. Ayman Jabr

Dr. Ayman Jabr testified that he has been a family medicine doctor for the past fifteen years. (Tr. at 28). He has an Illinois license which has never been disciplined. (Tr. at 28, 29). As a family physician he sees patients on an inpatient and outpatient basis from birth to death. (Tr. at 28). He testified that he has hospital privileges at St. Mary's Hospital in Chicago, where he has shared an office with

Petitioner for the past fifteen years. (Tr. at 29). He knows Petitioner both personally and professionally. (*Id.*). The witness has referred patients to Petitioner for psychiatric care: the patients love him, ask for him, and wait in line to see him. (Tr. at 30-31). Petitioner often used to see 30 to 40 patients in a day. (Tr. at 31). The witness considers Petitioner to be a knowledgeable physician who practices with integrity and skill. (Tr. at 32). Petitioner was one of the busiest physicians at the hospital. (*Id.*). The witness testified that he was aware that Petitioner's license had been disciplined, but this did not change the witness' opinion of him, and that Petitioner had been practicing psychiatry in Egypt. (Tr. at 31, 32).

Upon cross-examination by the Department, the witness testified that they were personal friends and that they had last seen each other about three months before. (Tr. at 40). The witness has never been to Egypt. (Tr. at 41). He acknowledged that his information concerning the scope of Petitioner's practice in Egypt had come from the Petitioner himself. (*Id.*). Dr. Jabr testified that he believed that the last time that he referred patients to Petitioner was prior to his suspension, about three years ago, probably in March or April 2016. (Tr. at 33-34). The witness did not recall the date of the suspension. (Tr. at 35). They shared an office together and saw each other about three times a week. (Tr. at 37). They never had the same admitting privileges and did not visit the same floors at St. Mary's when doing rounds. (Tr. at 36-37). The witness testified that this was the first time he was hearing that Petitioner was disciplined three times by the Department. (Tr. at 37).

The witness further testified that he had previously had privileges at Norwegian American Hospital, but that he had resigned from the hospital in 2017 before the hearing had taken place. (Tr. at 39-40). A report concerning his credentialing privileges was sent to the National Practitioners' Database. (Tr. at 40).

When questioned further by Petitioner's counsel, the witness testified that he was uncertain when Petitioner's suspension occurred. (Tr. at 42-43). It could have been in 2014. (Tr. at 40).

The Administrative Law Judge found the witness to be credible.

2. Dr. Mitchell Glaser.

Dr. Mitchell Glaser testified that he has been the Department Chairman of Psychiatrists at St. Mary Elizabeth Medical Center for about six years. (Tr. at 45-46). He oversees about twelve psychiatrists. (Tr. at 46). The witness testified that he knew Respondent and is familiar with Respondent's work from when Respondent was a member of the Department. (*Id.*).

The witness testified that he became responsible for the care of Petitioner's patients when he left the practice and concluded that Petitioner was a good, reliable and consistent psychiatrist who cared about his patients. (Tr. at 47). His patients missed him. (*Id.*). His patients were being treated appropriately with appropriate medications; the notes were dependable in the description of what was going on with the patient, and the assessments and diagnoses were accurate as far as the witness could recall. (*Id.*). The witness testified that he was aware that Respondent's license had been suspended. (Tr. at 48). He had come to testify on Respondent's behalf as to his experience with the patients that he saw. (*Id.*). The witness testified that he supported Petitioner's petition to obtain his license reinstatement. (Tr. at 48-49). He would be in favor of Petitioner working in his department again as a licensed physician. (Tr. at 49).

Under cross-examination, the witness testified that he believes that three of his dozen or so psychiatrists have been suspended. (Tr. at 50-51). The last time he had seen Petitioner at his workplace was two to three years ago, and he does not know what he's been doing in the interim, although he had just been told that Petitioner had been practicing in Egypt. (Tr. at 52-54). Prior to Petitioner's suspension, the witness recalls that he might have been one of the people sending in reports to the Department concerning Petitioner being clinically appropriate and/or meeting standards. (Tr. at 53-54).

The Administrative Law Judge found the witness to be credible.

3. Petitioner.

Petitioner testified that he was first licensed to practice medicine in Illinois in 1995. (Tr. at 56-57). He has also been licensed in Indiana since 1994 and Egypt following his graduation from the Alexandria School of Medicine in 1985. (Tr. at 57). Petitioner's Illinois license was suspended on November 25, 2014, and his Indiana license received a reciprocal suspension in July 2015. (*Id.*). His Egyptian license remains active and without discipline. (*Id.*). Page 4 of Exhibit 3 is a true and accurate copy of an English translation of Petitioner's Egyptian medical license, which has a government stamp in Arabic and the Secretary of Foreign Affairs stamp, showing that the license has been active since it was issued on March 31, 1985 through July 12, 2018, when Petitioner requested an English copy. (Tr. at 58-59). Petitioner testified that Page 3 of Exhibit 3 is an authentication of the license from the United States Embassy in Cairo, Egypt. (Tr. at 62, 65). Petitioner also testified that the two pages referenced as 169 and 170 constituted a license to practice medicine in Egyptian, and a translation of the document. (Tr. at 66-67).

Page 6 is a copy of the picture identification card of the Egyptian Medical Association ("EMA") which verified his license number, his membership in the EMA, the date that his license became active and the expiration date for the fees he had paid to the EMA (2020). (Tr. at 63-64). Petitioner testified that Page 5 is a sworn translation of following page. (*Id.*). Petitioner testified that Pages 9 and 10 show copies of the original and translation of his national identification card, including name, address, registration number and occupation as a physician. (Tr. at 66).

Petitioner testified that he had maintained a practice in Egypt since 2015. (Tr. at 69, 70-71). He has two offices, open six days a week, where he treats patients requiring psychiatric and addiction counselling. (Tr. at 73). Apart from outpatient care, Petitioner testified that he got into two centers where he provides addiction treatment. (Tr. at 74). He works two days a week in his

Alexandria office and four days a week in New Cairo. (*Id.*). His practice has grown to a full load of ten patients each day. (Tr. at 75). Petitioner testified that he has authority to prescribe regular medications and controlled substances. (*Id.*).

Petitioner next testified to some eighty pages contained in Exhibit 6. (Tr. at 76-89. He stated that

This is a small sample of the notes I produce with my patients in my office for their treatment, including some of it has full psychiatric evaluations. Some of it has follow-up assessment and treatment plan and some of this have the consent to treat that I use with every patient. There's two consents. First consent is a consent to treat. Second consent is a consent to release confidential information. . . . I ask some sample of patients who are willing. Other samples are not willing. They don't want to release information. Some people, they will be willing.

(Tr. at 76-77; errors in original). The exhibit consisted of patient records, including medical notes, prescriptions and orders for lab works. (Tr. at 76-89).

Petitioner testified that, outside his outpatient practice, he also visits some centers (including the Alriyada Center) which handle psychiatric and addiction patients to consult with the resident professionals and to share the knowledge he had gained in Chicago. (Tr. at 90-91). He described this as follows:

If they have a patient, they have a case, they bring the case to me and they describe you know their history and what they are suffering from and the treatment that they are on. And then we interact about appropriateness of the treatment plan, modification that need to be made. And if the patient have questions, the patient can join the meeting. The same like we do here. It's called staffing.

(Tr. at 91; errors in original). Petitioner testified that he had also been doing "continuous medical education" in the United States and Egypt during this period. (Tr. at 92; Ex. 5).

In the event that his license were to be restored, Petitioner would like to return to being the "busiest physician" again. (Tr. at 93). He testified that he would like to provide the community with a much-needed service with the number of patients he had before his problems started. (Tr. at 94). Petitioner

testified that having to travel five times a year to work in Egypt has been exhausting and hard on his family in this country. (Tr. at 94-95). His family has been very supportive and helped him to pass the examination by putting him on an online typing program to speed up his typing. (Tr. at 95). Petitioner testified that his children have had to leave their academic studies at University of Illinois, Loyola and DePaul Universities to finish up their studies at community colleges for financial reasons. (Tr. at 96).

In response to cross-examination by the Department, Petitioner testified that he started seeing patients in Egypt around November 2015 at their homes. (Tr. at 98). He did not yet have his own property and was in the process of advertising himself as a physician. (*Id.*). The Egyptian Medical Syndicate¹ is not a licensing body, but more like the American Medical Association. (Tr. at 100). Petitioner testified that one automatically becomes a member of the EMA upon graduation from medical school. (Tr. at 101). Some physicians pay the fees and remain members, others do not. (*Id.*). Membership of the EMA is not a requirement to practice medicine in Egypt. (*Id.*). Petitioner testified that Page 5 of Exhibit 6 shows the starting date of his registration and an expiration date of 2020. (Tr. at 103-104). It does not show on the face of the document, however, that he paid the fees for any particular year. (Tr. at 104).

In answer to questions concerning the translation of the proffered documents, Petitioner testified that he located the private translator and that the translator was certified. (Tr. at 106-107). However, he did not produce copies of any certification. (Tr. at 110). The only document certified by the United States Government consists of pages 3 and 4 of Exhibit 3. (Tr. at 112).

Turning to the continuing medical education contained in Exhibit 5, Petitioner testified that taking a course on depression and suicide directly implicated medical ethics, as did the course on cannabis and cannabis abuse, and

¹ Throughout the testimony, Egyptian Medical Syndicate and Egyptian Medical Association appear to have been used interchangeably.

the course on tardive dyskinesia. (Tr. at 113-116). He testified that the EBAS examination had five parts: "[b]oundary violation, billing fraudulent activities, professional standards -- appropriate and competent diagnosis examination, treatment and outcome of the treatment." (Tr. at 116). Petitioner testified that ethics and boundary awareness are embedded in the teaching of every practitioner:

It is not an issue where people voluntarily choose to have or not to have. It is part of everyday practice and it shows -- the outcome shows No. 1, zero morbidity, zero mortality and zero lawsuits because when you have significant number of lawsuits, when you have physicians who have driving under the influence of alcohol, when you have physician have background of shameful activities, when you have a physician who have public intoxication, when you have physician who have fraudulent activity stealing from patients or breaching confidentiality or practitioners who are disruptive and vulgar and abusive to their staff and patients, all of this in the history of the background of the physician can give us indication about the future activity of that physician.

But when you have physician who have a clear record, zero incriminating behavior, zero civil, zero criminal, zero lawsuits, zero morbidity, zero mortality, zero termination from hospitals, zero reprimand from any institution, zero complaints from any patients, that tell you something about the history of that patient.

And when that physician get certificates from the hospital thanking him for being No. 1 on the top admitter to the hospital to be repeated in one hospital, two hospital, three hospital, then that tells you something about the quality of that patient -- of that physician.

(Tr. at 117-118; errors in original). Nonetheless, Petitioner acknowledged that he had to take the EBAS exam five times in order to pass but blamed this on his poor typing skills. (Tr. at 116).

Petitioner testified that he made a mistake when he admitted his wife to hospital without informing his fellow physicians. (Tr. at 121). He stated that he was respecting her decision not to reveal her identity but should have revealed to his colleagues that he was treating his wife. (*Id.*). "I do apologize. I know it's

wrong." (*Id.*). Referencing the definition of "rehabilitation" in the Diagnostic Assessment Manual, Petitioner analogized his disciplinary problem to a "disorder," and testified that he had been free from the "disorder" for almost four years. (Tr. at 121-122). He does not consider discipline to be a disorder, but a plan intended to lead to rehabilitation. (Tr. at 123). "It is not part of the plan to achieve like the death penalty. It is part of the plan to get people back on their feet. . . . I have committed an act that I deeply regret. I've been regretting over the past years, several years." (*Id.*).

Petitioner testified that the allegation that led to his suspension – submitting inaccurate reports to the Department while on probation – was incorrect. (Tr. at 125). The Chairman of St. Anthony Hospital and another psychologist stated that their signatures were original and genuine. (Tr. at 125-126). Further, Petitioner testified that he was misguided by Dr. Rose, who gave him incorrect information. (Tr. at 126). He subsequently changed his testimony to state that he *misinterpreted* information he was given by Dr. Rose: he *mistakenly* understood Dr. Rose to say that "if you're the Vice-Chairman or you're the Chairman, you can ask a regular . . . faculty member to cosign your papers." (*Id.*). Petitioner testified that he was represented by his attorney when he signed the consent order. (Tr. at 130-131).

Petitioner admitted that he filed a lawsuit against the Department after the Director denied his previous Petition in 2016. (Tr. at 131-132). He testified that the denial of his Petition was "great news" since it allowed him to take the EBAS Exam which he had not been able to do for the preceding 16 months. (*Id.*). Petitioner stated that the Director's Order was issued on October 16, 2017, and the Complaint for Administrative Review was filed on November 16, 2017. (Tr. at 135-136). Petitioner filed the lawsuit against the Department because "there was no road map. . . . No authorization of the exam is a complete death penalty for the staff, for the practice." (Tr. at 141). He gave the order to his attorney to withdraw the Complaint for Administrative Review as soon as he picked up the

certified mail letter from the Department and learned that he could take the examination. (Tr. at 139). Petitioner does not know when he received the letter from the Department. Petitioner testified that he immediately filed for the examination, paid the \$1,500 fee, and used the 70-80 days prior to the examination improving his typing skills and refreshing his professional skills so that he would pass on his first attempt. (Tr. at 140). When he received the letter notifying him that he had passed, Petitioner immediately decided to go for a hearing; however, because of attorney delays, the Petition was not filed until some months later. (Tr. at 141).

Petitioner testified that he did not disclose either the Illinois or Indiana suspension to the Egyptian Licensing Department of Health. (Tr. at 143-144). He did not inform the agency that his Petition to Restore had been denied. (Tr. at 144). Petitioner testified that he did not disclose either the Illinois or Indiana suspension to the Egyptian Medical Syndicate, nor that his Petition to Restore had been denied. (Tr. at 145).

Petitioner testified that he does not have admitting privileges in Egypt since that would require continuous residency in that country. (Tr. at 153). After Petitioner stated that he disclosed his suspended licenses on his website for the benefit of his patients, he later clarified that what he really meant was that his online presence would educate his patients to check the different Department websites in Illinois and Indiana. (Tr. at 153, 155-156). He acknowledged that he did not maintain his website, that it was not really a comprehensive website, and that its purpose was to list his office address, his name and some pictures for physicians. (Tr. at 155).

On redirect from his counsel, Petitioner repeated that he did not blame Dr. Rose for his misinterpretation of the information that he was given, and he testified that there was no entity in Egypt that required him to report his Illinois or Indiana suspensions. (Tr. at 158).

The Department's final questioning concerned the process of medical licensure in Egypt. Petitioner testified that the initial application is made to the Department of the Secretary of Health following graduation from medical school. (Tr. at 159). The application is done by hand, and the process takes several months. (*Id.*). Once the license is issued, the license remains in effect for life. (*Id.*). There is no need to renew the application. (*Id.*).

While granting some leeway for the fact that Petitioner was not answering questions in his first language, on occasion Petitioner provided inconsistent, evasive and self-serving testimony.

ANALYSIS

Pursuant to the Illinois Civil Administrative Code, 20 ILCS 2105/2105-10, the practice of the regulated professions, trades, and occupations in Illinois is hereby declared to affect the public health, safety, and welfare of the People of this State and in the public interest is subject to regulation and control by the Department of Professional Regulation. It is further declared to be a matter of public interest and concern that standards of competency and stringent penalties for those who violate the public trust be established to protect the public from unauthorized or unqualified persons representing one of the regulated professions, trades, or occupations.

It is a general purpose of the Medical Practice Act of 1987 to protect the public health and welfare from those not qualified to practice medicine. *Vine Street Clinic v. HealthLink, Inc.*, 222 Ill. 2d 276, 295 (2006) (citing *Ikpoh v. Department of Professional Regulation*, 338 Ill. App. 3d 918, 926 (1st Dist. 2003)).

The practice of medicine, in addition to skill and knowledge, requires honesty and integrity of the highest degree, and inherent in the State's power is the right to revoke the license of those who violate the standards it set. *Kaplan v. Department of Registration and Ed.*, 46 Ill. App. 3d 968, 975 (1st Dist. 1977).

The Medical Practice Act of 1987 provides that, at any time after the suspension or revocation of any license, the Department may restore it to the

accused person unless, after an investigation and a hearing, the Department determines that restoration is not in the public interest. 225 ILCS 60/43.

The Department has shown that Petitioner's license was indefinitely suspended for a minimum of twelve months in 2014. Petitioner is therefore eligible for restoration since his petition was filed over twelve months following the indefinite suspension. Section 1285.255 of the Illinois Administrative Code as applicable to the Medical Practice Act provides certain factors, some of which are relevant to this case, which shall be considered by the Administrative Law Judge to determine if Petitioner is to be deemed sufficiently rehabilitated to warrant the public trust. 68 Ill. Admin. Code 1285.255. Discussion of the relevant factors follows below.

Petitioner's disciplinary problems originated with an ethical violation in 2006 where Petitioner admitted a patient to St. Mary's of Nazareth Hospital Center with a diagnosis of major depression with suicidal ideations and a history of opiate dependence; Petitioner was thereafter responsible for the patient's care for nineteen days, from the date of admission to the date of discharge from the hospital; and Petitioner legally married the patient a few days after her discharge. Additionally, Petitioner did not establish and maintain records of his care, treatment and/or evaluation of the patient following her discharge and did not inform his colleagues of his personal relationship with the patient during the time that she was under his care for psychiatric services. These actions would be grounds for discipline under 225 ILCS 60/22(A)(5), (20) and (41).

Petitioner agreed to these allegations in the 2011 Consent Order, which, among other things, placed an indefinite probation for a minimum of three years on Petitioner's license, imposed a fine in the amount of \$5,000, and contained the following reporting requirement:

H. While [Petitioner's] said license is on probation. [Petitioner] shall request the department's chairperson from any health-care institution, where [Petitioner] is holding admitting privileges, to submit quarterly reports to the [IDFPR] regarding holding [Petitioner's] clinical

performance, attendance record and any and all other issues arising out of [Petitioner's] practice of medicine.

(Ex. A, Consent Order at 4).

In February 2013, the Department filed a single-count complaint against Petitioner alleging that Petitioner submitted or facilitated the submission of quarterly reports purportedly prepared and signed by physicians who did not actually prepare, sign and/or authorize any reports submitted to the Department as a part of Petitioner's probation compliance. The resulting Consent Order placed Petitioner's license on an indefinite probation for a minimum period of four years with certain condition. Specifically, Petitioner agreed to taking and passing the EBAS Exam within twelve months of the start of the probationary period, subject to automatic suspension if he did not do so. Upon receipt of an affidavit from the Department's probation compliance monitor that Petitioner had failed to comply with this condition, the Director entered an order indefinitely suspending Petitioner's license for a minimum of twelve months.

On October 17, 2017, the Director denied Petitioner's prior Petition for Restoration, adopting the recommendation of the prior Administrative Law Judge and the Board. The Administrative Law Judge had summarized his findings by concluding that "Petitioner's failure to pass the [EBAS Exam] and his activities surrounding that exam strongly indicate that Petitioner has not yet been rehabilitated such that his Physician License should be restored at this time." (Ex. H at 2). However, the Director provided some hope for the Petitioner, when she added "[s]hould Petitioner request to retake the EBAS essay examination, the Department will authorize his re-take of the examination." (*Id.* at 4).

Petitioner's original discipline was probation based upon an ethical violation. The Administrative Law Judge does not wish to minimize the significance of the ethical violation – ethical rules are in place for a reason; however, it does not reflect criminal conduct of a serious nature, nor serious

fraudulent activity, and resulted in probation and a \$5,000, and not suspension or revocation. The subsequent reporting issues resulted once again in probation and a far more significant fine in the amount of \$50,000. Petitioner's license was eventually indefinitely suspended for failure to pass the EBAS Exam.

While Petitioner's previous Petition for Restoration was denied, in large part, because he had failed to pass the required examination, Petitioner has now done so, albeit on his fifth attempt. Petitioner testified that his eventual success in the examination was due to his focus on improving his typing skills. Regardless of how or why he passed the examination, it is undisputed that he did so. The only reasonable way to read the language contained in the Director's Order ("[s]hould Petitioner request to retake the EBAS essay examination, the Department will authorize his re-take of the examination") is as a possible pathway to restoration of Petitioner's license.

While it is significant that Petitioner has shown that he has finally succeeded in passing the EBAS Exam, the Administrative Law Judge must also be satisfied that the public interest would be served by the restoration of Petitioner's license and that he has been sufficiently rehabilitated to warrant the public trust.

No one additional factor listed in 68 Ill. Admin. Code 1285.255(a) is determinative. Some of the testimony and documentary evidence weighs in favor of, and some against, the Petitioner's petition for restoration of his license. For example, Petitioner's two character witnesses (Dr. Ayman Jabr and Dr. Mitchell Glaser) testified to Petitioner's skill, knowledge and honesty. They reported that Petitioner's many patients were very satisfied with his clinical ability and professional services. Petitioner filled a significant need in the psychiatric field. Petitioner has continued to service patients in Egypt (the only jurisdiction available to him, following the reciprocal discipline in Indiana) for the past three years, which has caused him difficulties in his personal life. Petitioner provided voluminous medical records from his time in Egypt, which were sufficient to

persuade the Administrative Law Judge that he had been working continuously in that country. Upon restoration of his license, Petitioner has plans to return to his past employment under Dr. Glaser (confirmed by that witness). He has taken numerous continuing medical education courses, although none dealt specifically with medical ethics. (In his testimony, Petitioner labelled each clinical course as based in ethics). Petitioner indicated that his family has been extremely supportive through this difficult period. Perhaps most compelling is the fact that no concerns have ever been raised about Petitioner's clinical ability as a psychiatrist in over thirty years of practice.

On the other hand, Petitioner has faced a series of disciplinary actions by the Department, the most recent of which was the imposition of indefinite suspension due to the violation of a probationary term. The unethical conduct, which was the subject of the original 2010 complaint, led indirectly to the remaining disciplinary actions. The last disciplinary action took place in 2017. Additionally, Petitioner has previously filed an unsuccessful Petition for Restoration (details of which are described above), and did appeal a previous disciplinary order, but promptly instructed his lawyer to withdraw the appeal once he received the 2017 Order from the Director, which allowed him to re-take the EBAS Exam.

The Administrative Law Judge is satisfied that the mitigating factors advanced by Petitioner outweigh the severity of the violations underlying this action. Petitioner has successfully taken and passed the EBAS Exam and should be allowed to continue the practice of medicine in his chosen field of psychiatry. Petitioner has shown by a preponderance of the evidence that the public interest would be served by the restoration of his Illinois Physician and Surgeon License, and that he has been sufficiently rehabilitated to warrant the public trust.

CONCLUSIONS OF LAW

Based on the above Findings of Fact, the Administrative Law Judge concludes as a matter of law the following:


1. The Illinois Medical Disciplinary Board has jurisdiction over the subject matter and the parties in this case.
2. Petitioner has proven by a preponderance of the evidence that his Physician and Surgeon License should be restored.

RECOMMENDATION

Based on the above Findings of Fact and the Conclusions of Law, and consideration of the factors of rehabilitation in 68 Ill. Admin. Code 1285.255, the Administrative Law Judge recommends to the Illinois Medical Disciplinary Board that the Petition for Restoration of the Physician and Surgeon license of HISHAM S. SADEK, M.D., No. 036.087679, be GRANTED, and that his license be returned to probationary status pursuant to the terms and conditions of the October 28, 2013 Consent Order.

Dated: April 3, 2019

Respectfully submitted:


Ian Brenson
Administrative Law Judge

2010-001187
Hisham S. Sadek, M.D.
License No. 036.087679