

BEFORE THE
DIVISION OF MEDICAL QUALITY
BOARD OF MEDICAL QUALITY ASSURANCE
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation)
Against)
)
NABIL GHALI, M.D.) CASE NO. D-3535
P.O. Box 431874)
Miami, Florida 33143) OAH NO. N-28869
)
Physician's and Surgeon's)
Certificate No. A-025206)
)
Respondent.)
)

DECISION

The attached Proposed Decision of the Administrative Law
Judge is hereby adopted by the Board of Medical Quality
Assurance as its Decision in the
above-entitled matter.

This Decision shall become effective on June 27, 1988.

IT IS SO ORDERED May 27, 1988.

Theresa Claassen

THERESA CLAASSEN
Secretary/Treasurer
DIVISION OF MEDICAL QUALITY

BEFORE THE
DIVISION OF MEDICAL QUALITY
BOARD OF MEDICAL QUALITY ASSURANCE
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation)
Against)
)
NABIL GHALI, M.D.) CASE NO. D-3535
P.O. Box 431874)
Miami, Florida 33143) OAH NO. N-28869
)
Physician's and Surgeon's)
Certificate No. A-025206)
)
Respondent.)
)

PROPOSED DECISION

On March 4, 1988, in Sacramento, California, Keith A. Levy, Administrative Law Judge, Office of Administrative Hearings, heard this matter.

Jana L. Tutton, Deputy Attorney General, represented complainant.

Malcolm S. McNeil, Attorney at Law, represented respondent.

Evidence was received and the record remained open for receipt of closing arguments. Complainant's was received on March 23, 1988 and marked as Exhibit 5. Respondent's was received on March 30, 1988 and marked as Exhibit G.

FINDINGS OF FACT

I

Complainant, Kenneth Wagstaff, Executive Director of the Board of Medical Quality Assurance of the State of California, made and filed the Accusation in his official capacity and not otherwise.

II

On or about March 15, 1973, respondent Nabil Ghali, M.D. was issued physician's and surgeon's certificate number A-025206 under the laws of the State of California. The certificate is presently in full force and effect.

III

On or about November 17, 1983, in case number 190 before the State Board of Medical Licensure for the Commonwealth of Kentucky, respondent's license to practice medicine was revoked by the Commonwealth of Kentucky. The revocation was based upon respondent's conviction on November 10, 1982 in Kentucky District Court relative to four misdemeanor charges involving sexual misconduct.

IV

On or about August 5, 1985, in case number OPL-85-30 before the Division of Occupational and Professional Licensing for the State of Utah, respondent's license to practice medicine was revoked by the State of Utah. The revocation was based on unprofessional conduct by reason of misrepresentations made on his application for licensure renewal. On or about December 3, 1984, respondent had submitted an application to the Division of Registration for the State of Utah upon which he certified that he had not been called before a licensing board for interrogation and that he had not had a license to practice medicine suspended or revoked. This is despite the fact that on November 17, 1983, respondent's license to practice medicine in the State of Kentucky was revoked and on November 14, 1984 respondent's license to practice medicine in the State of Ohio was suspended.

DETERMINATION OF ISSUES

Cause for discipline of respondent's license was established for violation of Business and Professions Code, section 2305 by reason of Findings III and IV.

ORDER

License number A-025206 issued to respondent Nabil Gahali is revoked.

Dated:

April 18, 1988


KEITH A. LEVY
Administrative Law Judge
Office of Administrative Hearings

REDACTED

1 JOHN K. VAN DE KAMP, Attorney General
2 of the State of California
3 JANA L. TUTON
4 Deputy Attorney General
5 1515 K Street, Suite 511
6 P. O. Box 944255
7 Sacramento, California 94244-2550
8 Telephone: (916) 324-5342
9
10 Attorneys for Complainant

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BEFORE THE
DIVISION OF MEDICAL QUALITY
BOARD OF MEDICAL QUALITY ASSURANCE
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation) No. D-3535
Against:)
NABIL GHALI, M.D.) ACCUSATION
P. O. Box 431874)
Miami, Florida 33143)
Physician's and Surgeon's)
Certificate No. A-025206)
Respondent.)

Kenneth Wagstaff, the complainant herein, alleges as
follows:

1. He is the Executive Director of the Board of Medical
Quality Assurance of the State of California (hereinafter the
"Board") and makes these allegations in his official capacity as
such and not otherwise.

2. On or about March 15, 1973, respondent Nabil N.
Ghali, M.D. (hereinafter "respondent Ghali") was issued
physician's and surgeon's certificate number A-025206 under the
laws of the State of California. Said certificate is presently
in full force and effect.

1 3. Section 2234 of the Business and Professions Code
2 (hereinafter the "Code") provides that the Division of Medical
3 Quality of the Board of Medical Quality Assurance shall take
4 action against a holder of a physician's and surgeon's certificate
5 who is guilty of unprofessional conduct.

6 4. Section 2305 of the Code provides that the revo-
7 cation, suspension or other discipline by another state of a
8 license or certificate to practice medicine issued by the state
9 to a licensee under this chapter shall constitute grounds for
10 disciplinary action for unprofessional conduct against such
11 licensee in this State.

12 5. Respondent Ghali is subject to disciplinary action
13 pursuant to sections 2234 and 2305 of the Code in that his
14 certificate to practice medicine has been disciplined in another
15 state as more particularly alleged hereinafter:

16 A. On or about November 17, 1983, in case number 190
17 before the State Board of Medical Licensure for the Commonwealth
18 of Kentucky, respondent's license to practice medicine was revoked
19 by the Commonwealth of Kentucky. A true and correct copy of the
20 order of discipline is attached hereto as Exhibit "A" and incor-
21 porated herein by reference as though fully set forth at this
22 point.

23 B. On or about August 5, 1985, in case number
24 OPL-85-30 before the Division of Occupational and Professional
25 Licensing for the State of Utah, respondent's license to practice
26 medicine was revoked by the State of Utah. A true and correct
27 copy of the order of discipline is attached hereto as Exhibit "B"

1 and incorporated herein by reference as though fully set forth
2 at this point.

3 WHEREFORE, complainant prays that the Division of
4 Medical Quality hold a hearing on the matters alleged herein and
5 following said hearing issue a decision:

6 1. Suspending or revoking the physician's and
7 surgeon's certificate issued to Nabil N. Ghali, M.D.; and
8 2. Taking such other and further action as may be
9 proper.

10 DATED: August 12, 1986.


11 KENNETH WAGSTAFF
12 Executive Director
13 Board of Medical Quality Assurance
14 Department of Consumer Affairs
15 State of California

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27 Complainant

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FILED OF RECORD
K. S. B. M. L.
11-18-83

COMMONWEALTH OF KENTUCKY
STATE BOARD OF MEDICAL LICENSURE
CASE NO. 190

STATE BOARD OF MEDICAL LICENSURE

COMPLAINANT

v.

NABIL NASHED GHALI, M.D.

RESPONDENT

ORDER

Comes now the Kentucky State Board of Medical Licensure, having considered the Findings of Fact and Conclusions of Law contained in the Hearing Officer's Opinion entered July 22, 1983, Respondent's objections thereto, the oral arguments of opposing counsel, the Supplemental Findings of Fact of the Hearing Officer and being otherwise sufficiently advised hereby accepts all the findings and conclusions of the Hearing Officer and ORDERS that the license to practice medicine in the Commonwealth held by Nabil Nashed Ghali, M.D. be and is hereby revoked, effective as set forth by law.

This 17th day of November, 1983.

Royce Dawson
ROYCE E. DAWSON, M.D.
Secretary
Kentucky State Board of
Medical Licensure

FILED OF RECORD
K. S. B. M. L.
1-21-83

COMMONWEALTH OF KENTUCKY

STATE BOARD OF MEDICAL LICENSURE

CASE NO. 190

STATE BOARD OF MEDICAL LICENSURE

COMPLAINANT

VS.

NABIL NASHED GHALI, M.D.
30 Holly Woods Drive
Ft. Thomas, KY 41075

RESPONDENT

COMPLAINT

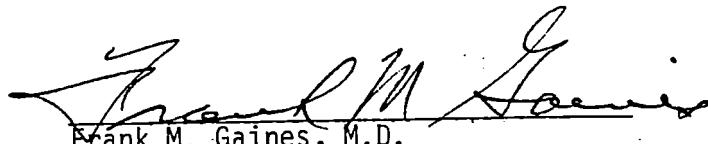
Comes now the Complainant, Kentucky State Board of Medical Licensure, pursuant to its authority under KRS Chapter 311, and for its Complaint states as follows:

1. Respondent is licensed to practice medicine in the Commonwealth of Kentucky and thereby is subject to review by the Kentucky State Board of Medical Licensure pursuant to KRS Chapter 311.
2. On January 13, 1983, Respondent was sentenced in regard to a finding of guilt on four counts of unlawful transaction with a minor in violation of KRS 350.070, a misdemeanor in the Commonwealth of Kentucky.
3. The conduct which prompted the convictions denoted in numerical paragraph 2 was performed in connection with Respondent's practice of medicine.
4. The crimes for which Respondent was found guilty were misdemeanors perpetrated with the use of fraud and deception and as such constitute misdemeanors involving moral turpitude.
5. The conviction denoted in numerical paragraph 2 is a ground for disciplinary action to be taken against Respondent's medical

license pursuant to KRS 311.595(4), 311.595(8), 311.595(11), 311.597(3), 311.597(4), and 201 KAR 9:005(3), inclusively and alternatively, as the conviction is a violation of the law, is the violation of a misdemeanor involving moral turpitude, has the effect of bringing the medical profession into disrepute and otherwise is conduct which is dishonorable, unethical, and unprofessional of a character likely to deceive, defraud or harm the public or a member thereof.

WHEREFORE, Complainant prays that appropriate disciplinary action be taken against the license to practice medicine held by Nabil Nashed Ghali, M.D.

This 20TH day of January, 1983.



Frank M. Gaines, M.D.
Secretary
Kentucky State Board of
Medical Licensure

FILED OF RECORD
K. S. B. M. L.
7-22-83

COMMONWEALTH OF KENTUCKY
STATE BOARD OF MEDICAL LICENSURE

CASE NO. 190

STATE BOARD OF MEDICAL LICENSURE

vs.

COMPLAINANT

OPINION

NABIL NASHED GHALI, M.D.

RESPONDENT

* * * *

STATEMENT OF THE CASE

On or about January 20, 1983, the State Board of Medical Licensure issued Complaint No. 190 against the Respondent, Nabil Nashed Ghali, M.D. Said Complaint charged that the Respondent had been convicted of four counts of the unlawful transaction with a minor in contravention of KRS 530.070 in the Campbell District Court on November 10, 1982. The Complaint charged that said conviction is cause for revocation of the Respondent's licensure pursuant to KRS 311.595 (4) (8) (11), and that such acts are dishonorable, unethical and unprofessional under the statute pursuant to KRS 311.597 (3, 4).

A Hearing was held before this Hearing Officer on April 26, 1983, in the offices of the State Board of Medical Licensure. At said time, the Board was represented by the Honorable R. Thomas Carter, and the Respondent was present and represented by the Honorable Richard R. Slukich.

STATEMENT OF THE FACTS

The Board introduced its evidence, a certified copy of the Judgment of the conviction of the Campbell District Court which was introduced as Exhibit "1" for the Board without objection, TE 17. However, the Board also

introduced the tapes of the proceedings in the Campbell District Court which were introduced over the objection of the Respondent, TE 18-22.

This Hearing Officer allowed the tapes to be introduced, but allowed the Respondent time to brief the issue of whether they could be or should be introduced as substantive evidence. While no brief was received by this Hearing Officer from the Respondent, this Hearing Officer believes that it is not within the perimeters of this Board's jurisdiction to review the testimony which caused the Respondent's conviction. In a number of cases involving disciplinary action against attorneys in the Commonwealth of Kentucky, the Courts have held that an inquiring into the conviction is inappropriate. In re: Rudd 221 SW 2d 688; in re: Carol 406 SW 2d 845; in re: Shoemate 382 SW 2d 405; in re: Lester 437 SW 2d 958. While the statutory empowerments and rules established for the discipline of attorneys are entirely different from those relating to physicians, this Hearing Officer believes that the policy avoids collateral attack upon convictions in the administrative proceedings. In sum and substance, the Judge in the Campbell District Court has made a determination of fact which was entirely within his jurisdiction having had the opportunity to listen to the testimony while observing the demeanor of the witnesses and neither this Hearing Officer, nor this Board should allow the relitigation of those facts and/or substitute its opinion for that of the District Court.

In view of the above, this Hearing Officer rules that the tapes which were introduced as Exhibits "B" for the Board should not be referred to and have not been referred to by this Hearing Officer during these proceedings.

The first witness for the Board was Mary Lou K. [REDACTED], who is the mother of the child who was involved in the proceedings in the Campbell District Court.

Ms. K [REDACTED] indicated that she and Dr. Ghali had been friends for a period of approximately four years with frequent visits to both his house and her house, TE 26. Ms. K [REDACTED] is a licensed practical nurse and originally met Dr. Ghali on a professional relationship. Subsequently, they became close friends and she allowed her children to swim at Dr. Ghali's house. Both she and the children trusted Dr. Ghali, who agreed to act as their physician, TE 27, 28. Ms. K [REDACTED] testified that on two occasions, Dr. Ghali acted as the physician for her daughter, the first of which was the signing of an immunization on August 21, 1982, for her admission to school. (Complainant's Exhibit "C") (Te 29, 30) The second occasion was the letter which Dr. Ghali forwarded to a Dr. Levenson so that the child could receive care for her knees, TE 31, 32.

On Cross-examination, Ms. K [REDACTED] admitted that she and her husband helped Dr. Ghali finish his basement which was apparently used by the K [REDACTED] and Dr. Ghali for Amway meetings. In summer of 1982, Dr. Ghali had a swimming pool installed in his backyard and both the witness and her family utilized the pool during the summer, TE 36, 37. Ms. K [REDACTED] stated that she sent her medical records and those of her two daughters to the offices of Dr. Ghali and Honey, TE 40, 41. She further testified that she thought Dr. Ghali did examine her daughter when he signed the immunization forms. On Cross-examination, the witness admitted that no examination was necessary to complete the form, TE 42. The witness testified that Dr. Ghali examined her child's legs prior to sending a referral letter to Dr. Levenson and that she was present when he did so, TE 42. She further testified that Dr. Ghali saw patients at his home including a Rose C [REDACTED] TE 43.

On Cross-Examination, the witness testified to moving into Dr. Ghali's home when he went to Utah for an undetermined period of time. The witness denied

ever asking Dr. Ghali to deed his house over to her and then subsequently admitted that she did ask him for a deed, TE 49, 51. She explained that Dr. Ghali had been sued in a malpractice suit and she felt that he could protect his property by deeding same over to her. She denied wanting the property and testified that the offer was made in good faith and that it could always be signed back over to him, TE 53.

Dr. Ghali was called as a witness in his own behalf. He is a 1958 graduate of the University of Cairo and is a United States Citizen. He began practice in July of 1971 with Dr. Honey in Northern Kentucky, TE 59, 60. In 1981, a malpractice suit was filed against Dr. Ghali which caused him to give up his practice and begin working for the Public Health Department in Cincinnati, TE 60. The witness admits that he had known Ms. K [REDACTED] since 1971, and that she was his patient from approximately that time until 1981, when he discontinued his practice.

Dr. Ghali denies that he treated the daughters of Ms. K [REDACTED] but admits that in 1981, the nature of their relationship began to change because of an Amway meeting and the previous house-sitting incident, TE 64-72.

Dr. Ghali testified that he did not know the K [REDACTED] were going to stay in his house when he was in Utah and was upset when he discovered their presence, TE 72-74. At that time, he wanted to terminate the relationship; however, later in 1982, he did act as the sponsor for their daughter when she received her first communion, TE 74, 75. In July of 1982, Mr. K [REDACTED] was helping Dr. Ghali in the basement, and at that same time, the swimming pool was open and the K [REDACTED] and their family used same, TE 76, 77. During that summer, Dr. Ghali's eight year-old son lived with him. Toni J [REDACTED] Dr. Ghali's cousin was also present at various times, TE 75 and 78. Mr. Ghali testified that it was during that summer that

Ms. K. [redacted] daughter began to follow him around wherever he went, TE 77.

The K. [redacted] went on vacation in early August of 1982 and the next time Dr. Ghali saw them was approximately the 21st or 22nd, TE 84, 85. Dr. Ghali admits that he did sign the immunization forms or or about August 21, but denies having the child's medical records. He further admits that he did forward a letter to Dr. Levenson, TE 84-86. The Respondent denied having ever examined the child except for on one occasion when he checked for swelling, TE 90, 91. Dr. Ghali testified that the child only came to his home on one occasion without supervision of her parents, which occurred in June or July of 1982. On August 21, 1982, the child came to Dr. Ghali's house apparently to recover some sunglasses and Dr. Ghali called her father and asked that he come and get her, TE 98-101. Dr. Ghali denies seeing the child on September 5 or 19 and testified that he saw an interior designer, Ms. Francois Wood on that occasion. Ms. Wood testified that she was with the doctor at his home on that day, TE 101, 102 and 152.

Dr. Ghali testified that on August 2, 1982, he took his cousin to Mr. Ansara for the completion of a number of tests, TE 122. According to Mr. Ansara, those tests took place between 12:30 and approximately 2:30, TE 149. He was unable to testify regarding the events either prior to or subsequent to that time frame. Mr. Ansara and his family were present on August 21 when the daughter of the K. [redacted] came over, TE 144.

Ms. Wood testified that she had not seen the K. [redacted] child on either occasion when she was with Dr. Ghali, TE 155, 157.

Ms. K. [redacted] was called as a rebuttal witness by counsel for the Board. She testified that she first noticed something was wrong with her daughter when they were on vacation. When they returned from vacation, they had a fishfry and

asked to talk to Dr. Ghali. On that date, Dr. Ghali had apparently taken the child back to his home to have a talk, TE 173.

The remainder of the rebuttal evidence is primarily with the K [REDACTED] Amway distributorship and the use of Dr. Ghali's home as well as the offer to accept a deed from Dr. Ghali to the property.

FINDINGS OF FACT

I. This Hearing Officer finds that Nabil Nashed Ghali, M.D. was convicted in the Campbell District Court of four counts of unlawful transaction with a minor in violation of KRS 530.070. That said convictions constitute a Class A Misdemeanor in the State of Kentucky and are punishable by fines up to \$500.00 for each count and imprisonment not exceeding twelve months.

II. The evidence substantiates that Dr. Ghali acted as a physician for the K [REDACTED] child when he signed her immunization certificate on August 21, 1982. Further, that he acted as her physician on August 30, 1982, when he forwarded a letter to Dr. Levenson referring the K [REDACTED] child to Dr. Levenson's care. This Hearing Officer further finds that Dr. Ghali acted as the K [REDACTED] child's physician when he checked her knees for swelling.

III. The conviction of Dr. Ghali in the Campbell District Court resulted from the Court's finding that he knowingly induced, assisted or caused the K [REDACTED] child to engage in illegal sexual activity.

CONCLUSIONS OF LAW

I. The evidence of Dr. Ghali's conviction in the Campbell District Court substantiates that he engaged in dishonorable, unethical and unprofessional conduct of a character likely to deceive, defraud or harm the public or any member thereof in contravention of KRS 311.595(8).

II. Dr. Ghali did act as a physician for the K_____ child when he signed her immunization record and referred to another physician for care.

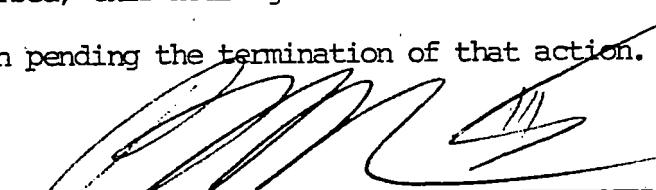
CONCLUSION

The conviction of Dr. Ghali under the circumstances reflected in the record are cause for the revocation, suspension, or probation of Dr. Ghali's license pursuant to KRS 311.595.

The record reflects that the K_____ considered Dr. Ghali to be their physician and that on at least two occasions, he acted as such for the K_____ child. Dr. Ghali's sexual contact with the K_____ child is both a breach of his ethical duties to his patient and unprofessional conduct of a nature which would fully justify the revocation of his license.

RECOMMENDATION

This Hearing Officer understands that the conviction of Dr. Ghali is on appeal in the Campbell Circuit Court. Apparently, that Appeal has as its basis, the sufficiency of the evidence and the technical question regarding Dr. Ghali's right to a jury trial. This Hearing Officer would recommend that Dr. Ghali be suspended from the practice of medicine until the termination of his appeal. Should the lower Court be sustained, Dr. Ghali's licence should be permanently revoked. Should the lower Court be reversed, this Hearing Officer would recommend that Dr. Ghali be put on strict probation pending the termination of that action.

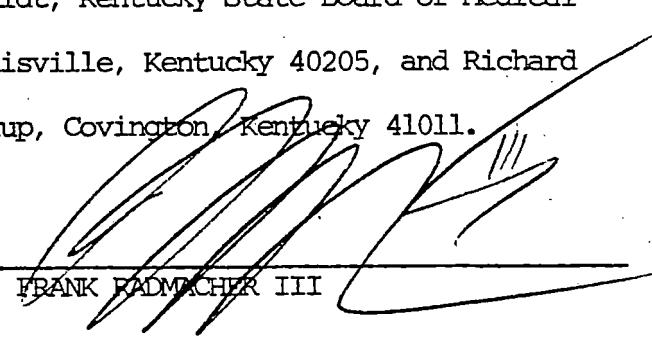


FRANK RADMACHER III
HEARING OFFICER, KENTUCKY STATE BOARD OF
MEDICAL LICENSURE

730 W. Main, Suite 470
Louisville, Kentucky 40202
Phone: 584-6593

CERTIFICATION

It is hereby certified that a copy hereof was this 21st day of July, 1983, mailed to R. Thomas Carter, Counsel for Complainant, 3532 Ephraim McDowell Drive, Louisville, Kentucky 40202; C. William Schmidt, Kentucky State Board of Medical Licensure, 3532 Ephraim McDowell Drive, Louisville, Kentucky 40205, and Richard Slukich, Attorney for Respondent, 314 Greenup, Covington, Kentucky 41011.


B. FRANK RADMACHER III

FILED OF RECORD
K.S.B.M.L.
11-2-83

COMMONWEALTH OF KENTUCKY

STATE BOARD OF MEDICAL LICENSURE

CASE NO. 190

STATE BOARD OF MEDICAL LICENSURE

COMPLAINANT

vs.

SUPPLEMENTAL FINDINGS OF FACT

NABIL NASHED GHALI, M.D.

RESPONDENT

* * * *

By Order of the Board, this Hearing Officer has reviewed the tapes of the proceedings held in the Campbell District Court, styled Commonwealth of Kentucky vs. Dr. Nabil Ghali, Case Nos. 83J854, 83J855, 83J856, 83J857 and 83J858, which culminated in the Respondent's conviction on four counts of unlawful transaction with a minor in violation of KRS 530.070.

The Board directed this Hearing Officer to review the tapes and report the evidence which resulted in the Respondent's conviction. Specifically, the Board questioned whether the conviction was based upon an illegal sexual activity between the Respondent and child under subsection (b) or whether the conviction was based upon evidence relating to subsections (c) or (d). Subsection (c) requires the knowingly inducement or assistance which causes a minor to become a habitual truant while subsection (d) requires the persistent and knowing inducement or assistance or causing a minor to disobey his parent or guardian.

The principal witness against the Respondent was Kim K. [REDACTED] who was at the time of the offense, 14 years of age. According to Ms. K. [REDACTED] prior to August of 1982, she had never dated nor had she allowed anyone to put anything inside of her vagina, (Transcriptive Evidence, Tape 2, Side 1, No. 166-169, hereinafter

referred to as TE, Tape ___, Side ___, No. ____.) Ms. K_____ advises that on August 2, she was at Dr. Ghali's home, no one else was present; however her sister was playing with a neighbor's child next door, TE tape 2, side 1, no. 188. According to Kimberlee, Dr. Ghali asked if she wanted a massage. She put on her bathing suit and met the doctor in the bedroom where he took off both her suit and his own. Dr. Ghali then laid Kimberlee on the bed, got on top of her and rubbed his penis between her legs. Kimberlee testified that Dr. Ghali penetrated her vagina which was quite painful, breathed funny, then he placed his fingers inside of her vagina, TE tape 2, side 1, no. 208-277. Kimberlee then went swimming and when Dr. Ghali joined her in the Jacuzzi, he then inserted his penis and asked her not to tell anyone, TE tape 2, side 1, no. 294, 319. Kimberlee noted some blood in her vaginal area later that day and testified that it hurt to go to the bathroom, TE tape 2, side 1, no. 327. Kimberlee testified that she didn't attempt to stop Dr. Ghali because she trusted him and felt that they ultimately would get married, TE tape 2, side 1, no. 344.

Kimberlee testified that on August 20, she went to the doctor's house and that he advised her that he was glad she was back, moved her shorts to the side and "played around down there", TE tape 2, side 1, 369.

Kimberlee stated that she visited Dr. Ghali on August 29 and she intended to tell him that she didn't like sex and felt that it was gross, TE tape 2, side 1, no. 387. On that date Dr. Ghali met Kim in his bedroom, took off her shorts, laid her on the bed and again had sex with her, TE tape 2, side 1, no. 403-478. On that occasion, Kimberlee testified that she did see white on Dr. Ghali's penis, TE tape 2, side 1, no. 507.

On one other occasion, during early September, Kimberlee testified that Dr. Ghali tripped her down, put his penis between her legs and rubbed, ultimately

penetrating her vagina, asking her if she could feel it and asking her whether she had had enough and placed his fingers inside her vagina, TE tape 2, side 1, no. 566-645.

Kimberlee's testimony was bolstered by the testimony of Dr. Mary Billermayer, who testified that she took a history from Kimberlee and made a physical examination. According to Dr. Billermayer, there was evidence of infrequent sexual intercourse, principally, a recently torn hymen, TE tape 1, side 1, 178-221.

Alexis Marie B. [REDACTED] whose family lives across the street from Dr. Ghali also testified. According to this child, Dr. Ghali touched her both on the chest and between her legs when she went to a party for Dr. Ghali's son Michael, TE tape 2, side 2, no. 242-340. Jackie B. [REDACTED] the twelve year old sister of Alexis testified that she had seen Dr. Ghali touch a child, Janie W. [REDACTED] who is five years old, when he placed his hand under her shirt, TE tape 2, side 1, no. 417.

CONCLUSION

The above evidence accurately details the four sexual encounters to which Kimberlee K. [REDACTED] testified. Those four incidents are the four incidents for which Dr. Ghali was convicted in the Campbell District Court.

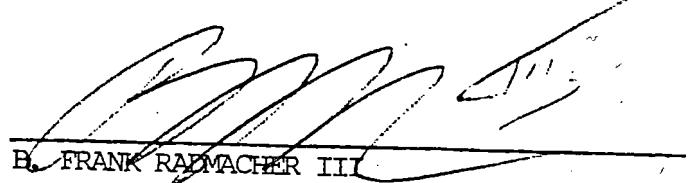


B. FRANK BAUMACHER III
HEARING OFFICER, KENTUCKY STATE BOARD OF
MEDICAL LICENSURE
730 W. Main, Suite 470
Louisville, Kentucky 40202
Phone: 584-6593

CERTIFICATE

It is hereby certified that a copy hereof was mailed this 19 day of

November, 1983, to R. Thomas Carter, Counsel for Complainant, 3532 Ephraim McDowell Drive, Louisville, Kentucky 40205; Richard R. Slukich, Counsel for Respondent, 314 Greenup Street, Covington, Kentucky 41011; and the original hereof mailed to C. William Schmidt, for filing in the action, Kentucky State Board of Medical Licensure, 3532 Ephraim McDowell Drive, Louisville, Kentucky 40205.



B. FRANK RAMMACHER III

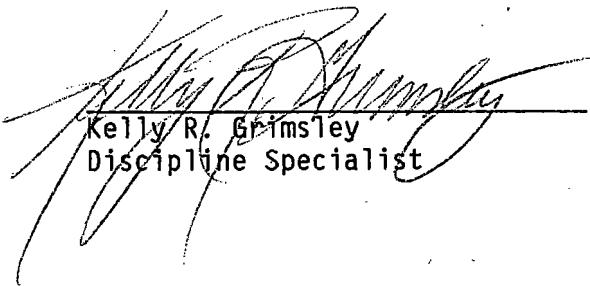
BEFORE THE DIVISION OF OCCUPATIONAL & PROFESSIONAL LICENSING
OF THE DEPARTMENT OF COMMERCE
OF THE STATE OF UTAH

State of Utah : : SS. NABIL N. GHALI
County of Salt Lake : : Case No. 85-30

I hereby certify that the foregoing consists of a true and correct copy of the original ORDER, FINDINGS OF FACT, CONCLUSIONS OF LAW AND RECOMMENDED ORDER, HEARING, and PETITION in the above-entitled matter or cause, now of record or on file in the office of the Division of Occupational and Professional Licensing of the State of Utah.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said Division this 22nd day of May, 1990.




Kelly R. Grimsley
Discipline Specialist

BEFORE THE DIVISION OF OCCUPATIONAL & PROFESSIONAL LICENSING

STATE OF UTAH

IN THE MATTER OF THE LICENSES OF	:	
NABIL N. GHALI	:	
TO PRACTICE MEDICINE	:	CASE NO. OPL-85-30
AND TO ADMINISTER AND PRESCRIBE	:	
CONTROLLED SUBSTANCES	:	ORDER
IN THE STATE OF UTAH	:	
	:	

The following recommended Findings of Fact, Conclusions of Law and Recommended Order are hereby adopted by the Director of the Division of Occupational & Professional Licensing of the State of Utah.

IT IS FURTHER ORDERED that the revoked licenses, both wall and wallet sizes, as well as the embossed certificates, be immediately surrendered to the Division of Occupational & Professional Licensing upon receipt of this Order.

Dated this 5th day of August, 1985.



ROBERT O. BOWEN, DIRECTOR

S E A L

BEFORE THE DIVISION OF OCCUPATIONAL & PROFESSIONAL LICENSING
STATE OF UTAH

IN THE MATTER OF THE LICENSES OF	:	
NABIL N. GHALI	:	CASE NO. OPL-85-30
TO PRACTICE MEDICINE	:	
AND TO ADMINISTER AND PRESCRIBE	:	FINDINGS OF FACT, CONCLUSIONS OF LAW
CONTROLLED SUBSTANCES	:	AND RECOMMENDED ORDER
IN THE STATE OF UTAH	:	
	:	

Appearances:

Nicholas E. Hales for the Division of Occupational & Professional
Licensing

Nabil N. Ghali for the Respondent

BY THE BOARD:

Pursuant to notice duly served by certified mail, this matter came on
regularly for hearing on July 17, 1985 at the hour of 3:00 p.m. before
J. Steven Eklund, Administrative Law Judge for the Utah Department of Business
Regulation and the Physicians Licensing Board. Evidence was offered and
received and the Board, being fully advised in the premises, now enters the
following Findings of Fact, Conclusions of Law and Recommended Order:

FINDINGS OF FACT

1. Respondent is, and at all times relevant to these proceedings has
been, a licensee of the Division of Occupational & Professional Licensing of
the State of Utah.

2. By Order, dated November 17, 1983, the Kentucky State Board of Medical Licensure revoked Respondent's license to practice medicine. Said revocation was based upon Respondent's conviction on November 10, 1982 in Kentucky District Court relative to four misdemeanor charges.

3. The just-stated licensure revocation and misdemeanor conviction was appealed by Respondent. The instant record reflects no documentation as to the final resolution of said appeals.

4. By Order, dated November 14, 1984, the State Medical Board of Ohio indefinitely suspended Respondent's license to practice medicine. Said suspension was based upon the facts underlying Respondent's above-described conviction.

5. The just-stated licensure suspension was appealed by Respondent. The instant record reflects no documentation as to the final resolution of that appeal.

6. On December 3, 1984, Respondent applied with the Division for renewal of his license to practice medicine. On the application form, Respondent certified that he had never "been called before any state licensing board for interrogation concerning any violation of the laws or regulations" pertaining to his profession, that he never had a "license to practice revoked, suspended or restricted", and that he had never been convicted of a felony or misdemeanor.

CONCLUSIONS OF LAW

Respondent is in violation of Section 58-12-36(8), Utah Code Ann. (1953), as amended, in that he engaged in unprofessional conduct by reason of misrepresentations made on his application for licensure renewal. Such

conduct constitutes a sufficient basis upon which to impose a sanction in the instant matter.

Section 58-12-35(b) provides that a license may be revoked if the licensee has had a license suspended or revoked by any competent authority of any other state jurisdiction for reasons relating to the licensees ability, skillfully and safely, to practice medicine. However, given the unknown status as to the pending appeals regarding the resolution of the Orders entered by the licensing authorities in Kentucky and Ohio, any basis to sanction Respondent's licensure in this State relative to those other proceedings should not be addressed at the present time. Rather, the Division should maintain continuing jurisdiction as to that matter and as may be warranted, subsequent proceedings may be conducted in this forum upon receipt of documentation as to the final resolution of the above-described pending appeals.

RECOMMENDED ORDER

WHEREBY, IT IS RECOMMENDED that an order be entered, whereby Respondent's licenses to practice medicine and to administer and prescribe controlled substances in the State of Utah be revoked.

DATED this 17th day of July, 1985, by the

P H Y S I C I A N S L I C E N S I N G B O A R D

Arnold Grauer

Marcell C. Davis

DD Kohler

John M. Jolly

James Nichols

Richard Lee

DIVISION OF REGISTRATION
UTAH DEPARTMENT OF BUSINESS REGULATION
Heber M. Wells Building
160 East 300 South
P. O. Box 45802
Salt Lake City, Utah 84145

BEFORE THE DIVISION OF REGISTRATION
OF THE DEPARTMENT OF BUSINESS REGULATION
OF THE STATE OF UTAH

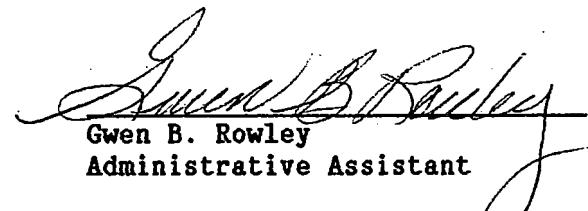
IN THE MATTER OF THE LICENSES OF :
NABIL N. GHALI :
TO PRACTICE MEDICINE : MAILING AFFIDAVIT
AND TO ADMINISTER AND PRESCRIBE :
CONTROLLED SUBSTANCES : CASE NO. RG-85-30
IN THE STATE OF UTAH :

Gwen B. Rowley, being duly sworn, deposes and says she is the Administrative Assistant regularly employed in the office of the Division of Registration, State of Utah, whose office is located at 160 East 300 South, Salt Lake City, Utah.

That there is a United States Post Office at Salt Lake City, and at the vicinity of the place of business or residence of the persons whose names are set forth below; and between Salt Lake City and residences or places of business, there is a regular communication by mail.

That on the 30th day of May, 1985, true copies of the hereto attached ORDER DENYING CONTINUANCE were sent to the said persons by mailing such copies enclosed in a sealed envelope with postage prepaid thereon, legibly addressed to the following persons, at the addresses shown:

NABIL N. GHALI
P. O. Box 431874
Miami, FL 33143


Gwen B. Rowley
Administrative Assistant

Subscribed and sworn to before me this 30th day of May, 1985.


NOTARY PUBLIC



My Commission Expires: April 7, 1989

Residing in Salt Lake County, Utah

BEFORE THE DIVISION OF REGISTRATION

STATE OF UTAH

IN THE MATTER OF THE LICENSES OF
NABIL N. GHALI
TO PRACTICE MEDICINE
AND TO ADMINISTER AND PRESCRIBE
CONTROLLED SUBSTANCES
IN THE STATE OF UTAH

CASE NO. RG-85-30

ORDER
DENYING CONTINUANCE

Reference is made to a request for a continuance in the above entitled matter. The request is hereby denied. The matter will be heard formally before the Physicians Licensing Board, Division of Registration, Department of Business Regulation on July 17, 1985 at the hour of 3:00 p.m. in room 428 of the Heber M. Wells Building, 160 East 300 South, Salt Lake City, Utah, as previously scheduled.

Dated this 30th day of May, 1985.



Robert O. Bowen
ROBERT O. BOWEN, DIRECTOR

S E A L

DIVISION OF REGISTRATION
UTAH DEPARTMENT OF BUSINESS REGULATION
Heber M. Wells Building
160 East 300 South
P. O. Box 45802
Salt Lake City, Utah 84145

BEFORE THE DIVISION OF REGISTRATION
OF THE DEPARTMENT OF BUSINESS REGULATION
OF THE STATE OF UTAH

IN THE MATTER OF THE LICENSES OF :
NABIL N. GHALI :
TO PRACTICE MEDICINE : MAILING AFFIDAVIT
AND TO ADMINISTER AND PRESCRIBE :
CONTROLLED SUBSTANCES : CASE NO. RG-85-30
IN THE STATE OF UTAH :

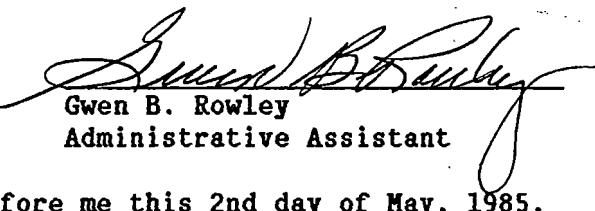
Gwen B. Rowley, being duly sworn, deposes and says she is the Administrative Assistant regularly employed in the office of the Division of Registration, State of Utah, whose office is located at 160 East 300 South, Salt Lake City, Utah.

That there is a United States Post Office at Salt Lake City, and at the vicinity of the place of business or residence of the persons whose names are set forth below; and between Salt Lake City and residences or places of business, there is a regular communication by mail.

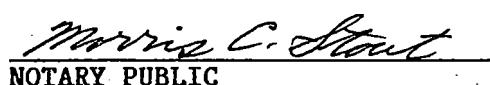
That on the 2nd day of May, 1985, true copies of the hereto attached PETITION, NOTICE OF HEARING AND CHARGE AND ORDER TO SHOW CAUSE were sent to the said persons by mailing such copies enclosed in a sealed envelope with postage prepaid thereon, legibly addressed to the following persons, at the addresses shown:

NABIL N. GHALI
700 NW 107th Ave #215
Miami, FL 33172

MEMBERS, Physicians Licensing Board


Gwen B. Rowley
Administrative Assistant

Subscribed and sworn to before me this 2nd day of May, 1985.


NOTARY PUBLIC



Commission Expires: April 7, 1989
Residing in Salt Lake County, Utah

DIVISION OF REGISTRATION
UTAH DEPARTMENT OF BUSINESS REGULATION
Heber M. Wells Building
160 East 300 South
P. O. Box 45802
Salt Lake City, Utah 84145
Telephone: (801) 530-6626

BEFORE THE DIVISION OF REGISTRATION

STATE OF UTAH

IN THE MATTER OF THE LICENSES OF : Case No. RG-85-30
NABIL N. GHALI :
TO PRACTICE MEDICINE :
AND TO ADMINISTER AND PRESCRIBE : NOTICE OF HEARING AND CHARGE AND
CONTROLLED SUBSTANCES :
IN THE STATE OF UTAH : ORDER TO SHOW CAUSE

Notice is hereby given that on following date in Conference Room 428 of the Heber M. Wells Building, 160 East 300 South, Salt Lake City, Utah, the Division of Registration of the State of Utah will conduct a hearing to determine whether or not the licenses of NABIL N. GHALI to practice Medicine and to Administer and Prescribe Controlled Substances in the State of Utah should be revoked:

JULY 17, 1985 3:00 p.m.

The hearing is based on the verified Petition of Steven Davis, Investigator, State of Utah, filed with the Division of Registration of the State of Utah, a copy of which is hereto attached and by reference made a part hereof.

At the aforesaid hearing NABIL N. GHALI may appear and be heard; he may present evidence and show cause why his licenses to Practice Medicine and to Administer and Prescribe Controlled Substances in the State of Utah should not be revoked.

NABIL N. GHALI is entitled to be represented by legal counsel. Said counsel should file with the Division of Registration, Attention Gwen Rowley, an Entry of Appearance within three weeks from date of this Order to Show Cause.

Please conduct yourself accordingly.
Dated this 2nd day of May, 1985.


ROBERT O. BOWEN, DIRECTOR

S E A L

DIVISION OF REGISTRATION
UTAH DEPARTMENT OF BUSINESS REGULATION
Heber M. Wells Building
160 East 300 South
P. O. Box 45802
Salt Lake City, Utah 84145

BEFORE THE DIVISION OF REGISTRATION
OF THE DEPARTMENT OF BUSINESS REGULATION
OF THE STATE OF UTAH

IN THE MATTER OF THE LICENSES OF)
NABIL N. GHALI)
TO PRACTICE MEDICINE AND TO)
PRESCRIBE AND ADMINISTER)
CONTROLLED SUBSTANCES)
IN THE STATE OF UTAH)

P E T I T I O N
CASE NO. RG-85-30

PRELIMINARY STATEMENT

These causes of action were investigated by the Utah Division of Registration (the Division) upon complaints that GHALI, a licensee of the Division, has engaged in acts and practices which constitute violations of the Medical Practice and Controlled Substances Acts, Utah Code Ann., Section 58-12.

PARTIES

1. The Division is a Division of the Department of Business Regulation of the State of Utah, established by virtue of Section 58-1-1 of the Utah Code.

2. GHALI is a licensee of the Division.

STATEMENT OF FACTS

3. a. On or about November 17, 1983, GHALI'S license to practice medicine in the State of Kentucky was revoked.
- b. On or about November 14, 1984, GHALI'S license to practice medicine in the State of Ohio was suspended.
- c. On or about December 3, 1984, GHALI submitted an application to the Divison of Registration upon which he certified that he had not been called before a licensing board for interrogation and that he had not had a license to practice medicine suspended or revoked.

COUNT I

4. The Division realleges and incorporates by reference the allegations set forth in paragraphs 1 through 3 above as if fully set out herein.

5. Section 58-1-35(a) of the Utah Code provides that the Division may revoke a license if the holder is not of good moral character or is guilty of unprofessional conduct.

6. Section 58-12-36(8) defines unprofessional conduct to include:

The employment of fraud, deception, misrepresentation or any unlawful or unethical means in applying for or securing a license to practice medicine.

7. By engaging in the acts and practices contained in paragraph number 3 above, GHALI is in violation of 58-12-36(8), constituting

unprofessional conduct and grounds for the revocation of his licenses under the provisions of 58-1-35(a).

COUNT II

8. The Division realleges and incorporates by reference the allegations set forth in paragraphs 1 through 7 above as if fully set out herein.

9. Section 58-12-35(d) of the Medical Practice Act provides that the Division may revoke a license if the holder has had a license suspended or revoked by another competent jurisdiction.

10. By engaging in the acts and practices contained in paragraph number 3, GHALI is in violation of the provisions of 58-12-35(d), constituting grounds for the revocation of his licenses under the provisions of Section 58-1-25 of the Utah Code.

WHEREFORE, the Division requests the following relief:

1. That GHALI be adjudged and decreed to have engaged in the acts alleged herein.

2. That by engaging in the above acts, GHALI be adjudged and decreed to have violated the provisions of the Medical Practice Act.

3. That an Order be issued revoking the licenses of GHALI to practice Medicine and to Administer and Prescribe Controlled Substances.

DATED this 11 day of April, 1985.



Steven D. Allen

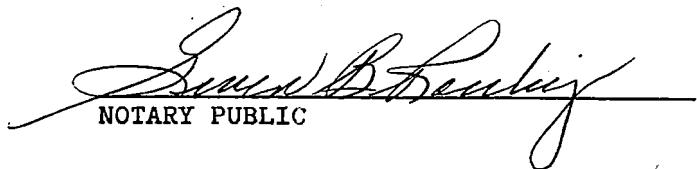
DIVISION OF REGISTRATION
Utah Department of Business Regulation

STATE OF UTAH)

: ss.

COUNTY OF SALT LAKE)

On the 11th day of April, 1985, personally
appeared before me Steven Davis, the signer of the above instrument, who duly
acknowledged to me that he executed the same on behalf of the Division of the
Utah Department of Business Regulation.



NOTARY PUBLIC

My Commission Expires:

3-8-86