**U.S. Department of Justice**

Civil Rights Division

SYC:BOT:MRB:JKC:WGM:LES:ASF:AG:SL:AN:dh
DJ 168-11-44
168-12C-16
168-12C-52
158-12C-63

*Special Litigation Section - PHB*
*950 Pennsylvania Avenue, NW*
*Washington, DC 20530*

August 28, 2009

Kimberly Kirchmeyer
Deputy Director
Medical Board of California
2005 Evergreen Street, Suite 1200
Sacramento, CA 95815

**Re: Mohamed Abdel-Aziz El-Sabaawi, M.D.**

Dear Ms. Kirchmeyer:

We write in response to the complaint recently filed by the Union of American Physicians and Dentists ("UAPD") against Dr. Mohamed El-Sabaawi, which alleges that Dr. El-Sabaawi is practicing medicine at several state mental health hospitals without a valid California medical license. We concur with the statements made by the California Department of Mental Health, in its letter to you of August 27, 2009.

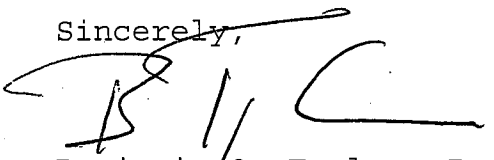
Dr. El-Sabaawi serves as the court-appointed monitor in U.S. v. California, CV 06-2667 (C.D. Ca.), a case involving conditions of confinement at four California mental hospitals, brought under the Civil Rights of Institutionalized Persons Act, 42 U.S.C. § 1997. Under the Consent Judgment in that case, which was negotiated and agreed to by the United States and the State of California, and ordered by the federal district court, the role of the monitor is "to observe, review, report findings, and make recommendations, where appropriate, with regard to the implementation of the" Enhancement Plan of the Consent Judgment. The Consent Judgment certainly does not contemplate that Dr. El-Sabaawi, as monitor, would be treating patients or dictating the treatment of any individual patient. To our knowledge, there is no basis to conclude that his work as monitor involves such activities.

Dr. El-Sabaawi's periodic compliance reports, issued pursuant to the Consent Judgment, confirm that his duties as monitor are limited to assessing the State's compliance with the Enhancement Plan of the Consent Judgment and making recommendations to the State in order to help it achieve

compliance. Furthermore, the reports make it clear that the State is, in fact, free to ignore any of Dr. El-Sabaawi's recommendations. As the reports' introductions consistently state, "The evaluators' recommendations are suggestions, not stipulations for future findings of compliance. The facility is free to respond to the recommendations in any ways it chooses as long as it meets the requirements in every action step in the [Enhancement Plan of the Consent Judgment]."

Thank you for your consideration of this letter. Please feel free to contact me at (202) 514-8103, should you have any questions.

Sincerely,



Benjamin O. Tayloe, Jr.
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