



STATE OF NEW YORK
DEPARTMENT OF HEALTH

20

433 River Street, Suite 303

Troy, New York 12180-2299

Barbara A. DeBuono, M.D., M.P.H.
Commissioner

Dennis P. Whalen
Executive Deputy Commissioner

March 6, 1997

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

E. Marta Sachey, Esq.
Associate Counsel
New York State Department of Health
Division of Legal Affairs
Empire State Plaza
Corning Tower - Room 2438
Albany, New York 12237

Joseph Saldanha, M.D.
78 Bartlett Drive
Manhasset, New York 11030

Judi Abbott Curry, Esq.
Jeffrey R. Ruggiero, Esq.
Lester, Schwab, Katz & Dwyer
120 Broadway
New York, New York 10271-0071

RE: In the Matter of Joseph Saldanha, M.D.

Dear Ms. Sachey, Mr. Saldanha and Ms. Curry:

Enclosed please find the Determination and Order (No. BPMC-97-58) of the Hearing Committee in the above referenced matter. This Determination and Order shall be deemed effective upon the receipt or seven (7) days after mailing by certified mail as per the provisions of §230, subdivision 10, paragraph (h) of the New York State Public Health Law.

Five days after receipt of this Order, you will be required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate. Delivery shall be by either **certified mail or in person** to:

Office of Professional Medical Conduct
New York State Department of Health
Hedley Park Place
433 River Street - Fourth Floor
Troy, New York 12180

If your license or registration certificate is lost, misplaced or its whereabouts is otherwise unknown, you shall submit an affidavit to that effect. If subsequently you locate the requested items, they must then be delivered to the Office of Professional Medical Conduct in the manner noted above.

As prescribed by the New York State Public Health Law §230, subdivision 10, paragraph (i), and §230-c subdivisions 1 through 5, (McKinney Supp. 1992), "the determination of a committee on professional medical conduct may be reviewed by the Administrative Review Board for professional medical conduct." Either the licensee or the Department may seek a review of a committee determination.

Request for review of the Committee's determination by the Administrative Review Board stays penalties **other than suspension or revocation** until final determination by that Board. Summary orders are not stayed by Administrative Review Board reviews.

All notices of review must be served, by **certified mail**, upon the Administrative Review Board **and** the adverse party within fourteen (14) days of service and receipt of the enclosed Determination and Order.

The notice of review served on the Administrative Review Board should be forwarded to:

James F. Horan, Esq., Administrative Law Judge
New York State Department of Health
Bureau of Adjudication
Hedley Park Place
433 River Street, Fifth Floor
Troy, New York 12180

The parties shall have 30 days from the notice of appeal in which to file their briefs to the Administrative Review Board. Six copies of all papers must also be sent to the attention of Mr. Horan at the above address and one copy to the other party. The stipulated record in this matter shall consist of the official hearing transcript(s) and all documents in evidence.

Parties will be notified by mail of the Administrative Review Board's Determination and Order.

Sincerely,

A handwritten signature in black ink that reads "Tyrone T. Butler". The signature is written in a cursive style with a large initial "T" and "B".

Tyrone T. Butler, Director
Bureau of Adjudication

TTB:crc
Enclosure

IN THE MATTER
OF
JOSEPH P. SALDANHA, M.D.

DETERMINATION
AND
ORDER
BPMC-97-58

A Notice of Hearing and a Statement of Charges, dated February 1, 1996, were served upon the Respondent, Joseph P. Saldanha, M.D. **MICHAEL R. GOLDING, M.D. (Chair), OLIVE M. JACOB and ELEANOR KANE, M.D.** duly designated members of the State Board for Professional Medical Conduct, served as the Hearing Committee (hereinafter "the Committee") in this matter pursuant to Section 230(10)(e) of the Public Health Law. **JEFFREY W. KIMMER, ADMINISTRATIVE LAW JUDGE**, served as the Administrative Officer. The Department of Health appeared by E. Marta Sachey, Esq., Associate Counsel. The Respondent appeared by Lester, Schwab, Katz & Dwyer, Judi Abbot Curry, Esq and Jeffrey R. Ruggiero, Esq of counsel. Evidence was received and witnesses sworn and heard and transcripts of these proceedings were made.

After consideration of the entire record, the Committee issues this Determination and Order.

PROCEDURAL HISTORY

Date of Notice of

Hearing and Statement of Charges:

September 27, 1996

Dates of Hearing:

November 13, 1996

December 3, 1996

December 4, 1996

Witness for Department of Health:

None

Witness for Respondent:

Philomena Saldanha Ashdown

Pratima Saldanha, M.D.

Frank Vaccarino, M.D.

Avital Berger Kornblum

Joseph P. Saldanha, M.D.

Robert Cancro, M.D.

Deliberations Held:

January 8, 1997

STATEMENT OF CASE

The Respondent was charged with fourteen specifications of professional misconduct. The specifications include surrender of a license in another state, conduct which evidences moral unfitness, willfully filing a false report, practicing the profession fraudulently and conviction of a crime. A copy of the Statement of Charges is attached to this Determination and Order as Appendix I.

FINDINGS OF FACT

The following Findings of Fact were made after a review of the entire record in this

matter. Unless otherwise noted, all Findings and Conclusions herein are the unanimous determination of the Committee. Having heard testimony and considered evidence presented by the Department of Health and the Respondent respectively, the Hearing Committee hereby makes the following findings of fact. Conflicting evidence, if any, was considered and rejected in favor of the evidence cited. Numbers in parentheses refer to transcript page numbers (hereinafter "T.") or exhibits (hereinafter "Ex."). These citations represent evidence found persuasive by the Committee in arriving at a particular finding. All Findings of Fact made by the Committee were established by at least a preponderance of the evidence.

GENERAL FINDINGS

1. JOSEPH P. SALDANHA, M.D., (hereinafter " Respondent"), was authorized to practice medicine in New York State on November 16, 1979, by the issuance of license number 140630 by the New York State Education Department. (Pet. Ex. 3)

SURRENDER OF A LICENSE

2. On September 10, 1992, the Respondent entered into a Consent Order and Agreement with the West Virginia Board of Medicine (hereinafter "the Board") under which Respondent surrendered his license to practice medicine and surgery in West Virginia as of September 18, 1992. Under the terms of the Consent Order and Agreement Respondent further agreed not to petition the Board for reinstatement of his license and not to apply for a license to practice medicine and surgery in West Virginia at any time in the future. If Respondent does so petition or apply such

petition or application shall be denied. (Pet. Ex. 4)

3. Respondent surrendered his license after the Board had instituted disciplinary action by serving a Complaint and Notice of Hearing upon Respondent on or about February 18, 1992. (Pet. Exs. 4 & 7)

4. Respondent served an answer to the Board's complaint on March 2, 1992, and hearings were held in April, May and June of 1992 in which Respondent participated fully. A recommended decision of the hearing examiner, which was adverse to Respondent and which the Respondent had knowledge of, was submitted to the West Virginia Board in August 1992 for consideration at its September 14, 1992 meeting. (T. 22-23; Pet. Ex. 4)

5. The Consent Order and Agreement under which Respondent surrendered his license recites that it "is an action of the Board based on reasons relating to Dr. Saldanha's professional conduct." (Pet. Ex. 4)

6. The conduct resulting in Respondent's surrender of his license is set forth in the Board's complaint included altering a patient's medical records after the patient filed a malpractice claim, which alterations materially misrepresented the actual facts, and threatening bodily harm to another physician if that physician treated any of Respondent's patients or gave opinions regarding Respondent's treatment of patients. The conduct is characterized in the complaint as dishonorable, unethical or unprofessional conduct of a character likely to deceive, defraud and/or harm the public, as a departure from or failure to conform to the ethics of the medical profession and as a departure from or failure to conform to the principles of medical ethics of the AMA in violation of West Virginia Code § 30-3-14 (c) (17) and 11

CSR 1A 12.1(i). Such conduct would constitute professional misconduct under N.Y. Educ. Law § 6530 (20). (Pet. Ex. 4)

N.Y. DELAYED REGISTRATION 1992

7. On or about February 21, 1992, Respondent filed a Delayed Registration Application with the New York State Education Department for the period January 1, 1992 through December 31, 1992. (Pet. Ex. 6)

8. Respondent answered "No" to the application question "Since you last registered has any state other than New York instituted charges against you for professional misconduct, unprofessional conduct, incompetence or negligence or revoked, suspended or accepted surrender of a professional license held by you." (Pet. Ex.6)

9. Respondent answered "No" to the application question "Since you last registered has any hospital or licensed facility restricted or terminated your professional training, employment or privileges or have you ever voluntarily or involuntarily resigned or withdrawn from such association to avoid imposition of such action due to professional misconduct, unprofessional conduct, incompetence or negligence." (Pet. Ex.. 6)

10. In approximately January 1987 the Charleston Area Medical Center suspended Respondent's medical staff privileges until Respondent received further approved training. After being verbally advised that he was suspended, Respondent tendered his resignation which was not accepted. (T.64-66, 77-78, 359, 406-407;

Pet. Ex.8)

11. In January 1988 the St. Francis Hospital, Charleston, West Virginia, had restricted Respondent from performing total knee procedures, had required Respondent to videotape all arthroscopic procedures for one year and had required Respondent to obtain a second opinion for all laminectomy procedures for one year. (T. 97, 360-361, 411-412; Pet. Ex.10)

N. Y. REGISTRATION APPLICATION 1993-1994

12. On October 6, 1992, the Respondent filed a Registration Application with the New York State Education Department for the period January 1, 1993 through December 31, 1994. (Pet. Ex. 6)

13. Respondent answered affirmatively the application question "Since you last registered has any state other than New York instituted charges against you for professional misconduct, unprofessional conduct, incompetence or negligence or revoked or suspended or accepted surrender of a professional license held by you." Respondent explained his affirmative answer in a letter dated the same date as the application which states "I have relocated my surgical practice and residence to New York. Hence, I have terminated my registration with the West Virginia Board of Medicine in good standing effective September 18, 1992." (Pet. Ex. 6)

14. The Board's acceptance of the license surrender had the condition that Respondent not petition for reinstatement of his license or apply for a West Virginia medical license at any time in the future. If Respondent so petitioned or applied he

would be denied. Further, the Consent Order and Agreement under which Respondent surrendered his license recites that it "is an action of the Board based on reasons relating to [Respondent's] professional conduct." (Pet. Ex. 4)

CATHOLIC MEDICAL CENTER STAFF APPLICATION

15. On March 31, 1992, Respondent filed an Application for Initial Appointment to the Medical/Adjunct Staff of the Catholic Medical Center of Brooklyn and Queens, Inc. (Pet. Ex. 11)

16. Respondent answered "No" to the application question "Have any of the following ever been, or are they currently in the process of being investigated, denied, revoked, suspended, restricted, terminated, reduced, limited, placed on probation, not renewed or voluntarily relinquished? Medical License in any State". He also answered "No" to the question "Have you ever been the subject of a disciplinary proceeding." (Pet. Ex. 11)

17. Respondent answered "No" to the application question "Have any of the following ever been, or are they currently in the process of being investigated, denied, revoked, suspended, restricted, terminated, reduced, limited, placed on probation, not renewed or voluntarily relinquished? Clinical Privileges." (Pet. Ex. 11)

FLUSHING HOSPITAL MEDICAL CENTER STAFF APPLICATION

18. On August 24, 1992, the Respondent filed an Application for Appointment to the Medical Staff of the Flushing Hospital Medical Center. (Pet. Ex. 13)

19. Respondent answered "No" to the application question "Have any of the following ever been, or are any currently in the process of being denied, revoked, suspended, reduced, limited, placed on probation, not renewed or voluntarily relinquished? Medical license in any state." (Pet. Ex..13)

20. Respondent answered "No" to the application question "Have any of the following ever been, or are any currently in the process of being denied, revoked, suspended, reduced, limited, placed on probation, not renewed or voluntarily relinquished? Clinical privileges." (Pet. Ex..13)

21. Respondent's August 24, 1992, Flushing Hospital Medical Center application was dated three days after the August 21, 1992 recommended decision of the hearing officer. (T. 22; Pet. Ex. 13)

CRIMINAL CONVICTION

22. On or about September 10, 1993, the Respondent in the case of People v. Joseph Saldanha (N.Y. Sup. Ct. Queens County) plead guilty and was convicted of criminal possession of a weapon in the fourth degree, a class A misdemeanor. Respondent was sentenced to a conditional discharge. (Pet. Ex. 14; Res. Ex. R)

CONCLUSIONS

The following conclusions were made pursuant to the Findings of Fact listed above. The Committee concluded that the following Factual Allegations were proven by a preponderance of the evidence (the paragraphs noted refer to those set forth in the Statement of Charges, Factual Allegations). The citations in in parentheses refer to the Findings of Fact (supra), which support each Factual allegation:

Paragraph 1. : (2);

Paragraph 2.: (6);

Paragraph 3.: (23);

Paragraph 4.: (7);

Paragraph 4.a.: (3,4,8);

Paragraph 4.b.: (9,10);

Paragraph 4.c.: (9,11);

Paragraph 5.: (12,13);

Paragraph 5.a.: (13,14);

Paragraph 6.: (15);

Paragraph 6.a.: (3,4,16);

Paragraph 6.b.: (10,17);

Paragraph 6.c.: (11,17);

Paragraph 7.: (18);

Paragraph 7.a.: (3,4,19);

Paragraph 7.b.: (11,20);

Paragraph 8.: (22).

The Hearing Committee further concluded that the following Specifications should **be sustained**. The citations in parentheses refer to the Factual Allegations from the Statement of Charges, which support each specification:

SURRENDER OF A LICENSE IN ANOTHER STATE

First Specification: (Paragraphs 1.-3.);

CONDUCT WHICH EVIDENCES MORAL UNFITNESS

Second Specification: (Paragraphs 4., 4.a., 4.b. and 4.c.);

Third Specification: (Paragraph 5. and 5.a.);

Fourth Specification: (Paragraphs 6.. 6.a., 6.b. and 6.c.);

Fifth Specification: (Paragraphs 7., 7.a. and 7.b.);

WILLFULLY MAKING OR FILING A FALSE REPORT

Sixth Specification: (Paragraphs 4., 4.a., 4.b. and 4.c.);

Seventh Specification: (Paragraph 5. and 5.a.);

Eighth Specification: (Paragraphs 6.. 6.a., 6.b. and 6.c.);

Ninth Specification: (Paragraphs 7., 7.a. and 7.b.);

PRACTICING THE PROFESSION FRAUDULENTLY

Tenth Specification: (Paragraphs 4., 4.a., 4.b. and 4.c.);

Eleventh Specification: (Paragraph 5. and 5.a.);

Twelfth Specification: (Paragraphs 6., 6.a., 6.b. and 6.c.);

Thirteenth Specification: (Paragraphs 7., 7.a. and 7.b.);

CONVICTION OF A CRIME

Fourteenth Specification: (Paragraph 8.).

DISCUSSION

Respondent was charged with fourteen specifications alleging professional misconduct within the meaning of Education Law §6530. This statute sets forth numerous forms of conduct which constitute professional misconduct. During the course of its deliberations on these charges, the Hearing Committee consulted a memorandum prepared by the General Counsel for the Department of Health. This document, entitled "Definitions of Professional Misconduct Under the New York Education Law", sets forth suggested definitions for fraud in the practice of medicine. That definition which follows was utilized by the Committee during its deliberations:

Fraud is an intentional misrepresentation or concealment of a known fact. An individual's knowledge that he/she is making a misrepresentation or concealing a known fact with the intention to mislead may properly be inferred from certain facts.

Using the above-referenced definition where applicable as a framework for its deliberations, the Hearing Committee unanimously concluded, by a preponderance of the evidence, that the first through fourteenth specifications of professional misconduct should be sustained. The rationale for the Committee's conclusions is set forth below.

Respondent knew that the answers on the Delayed Registration Application with regard to the West Virginia Board of Medicine's pending charges against him, his termination and/or resignation from the Charleston Area Medical Center and the restriction of his privileges at St. Francis Hospital were false. Based on the foregoing Findings of Fact, the Committee concluded that Respondent, in making and filing the application, intended to deceive. This conclusion is based on the Respondent's knowledge of the facts which he failed to reveal in answering the application questions. Respondent's various excuses for why he answered the application questions as he did were not credible.

The Delayed Registration Application question contemplates either restriction or termination of privileges or resignation to avoid imposition of such action. Respondent knew that he had either resigned or been terminated from the Charleston Area Medical Center.

Respondent's answer to the application question is also false as it related to Respondent's association with the St. Francis Hospital in West Virginia. In January 1988 the St. Francis Hospital had restricted Respondent from performing total knee procedures, had required Respondent to videotape all arthroscopic procedures for one year and had required Respondent to obtain a second opinion for all laminectomy procedures for one year.

Respondent knew the circumstances related to his surrender of his West Virginia license. The Committee concluded that Respondent, in making and filing

the explanatory letter with his 1993-1994 registration application intended to deceive. The explanation in that letter that Respondent was relocating his practice and had surrendered his license in good standing in view of the circumstances surrounding the license surrender was incomplete and misleading. In fact, Respondent had surrendered his West Virginia license during the West Virginia Board's disciplinary proceedings and after the hearing officer had issued a recommended decision which was adverse to Respondent. The West Virginia Board's acceptance of the license surrender had the condition that Respondent not petition for reinstatement of his license or apply for a West Virginia medical license at any time in the future. If Respondent so petitioned or applied he would be denied. Further, the Consent Order and Agreement under which Respondent surrendered his license recites that it "is an action of the Board based on reasons relating to [Respondent's] professional conduct." Respondent's various reasons for why he submitted the explanatory letter that he did mitigate his conduct. The Committee concluded that the Respondent in making and filing the explanatory letter with his registration application intended to deceive.

The Committee reached the same conclusions with respect to the Respondent's applications for appointment to the medical staff of Catholic Medical Center of Brooklyn and Queens and Flushing Hospital Medical Center.

Respondent consulted with the psychiatrist for the first time shortly before the hearing on this matter began. The consulting psychiatrist's evaluation and his conclusion that the Respondent was in denial were based on two office visits totaling one hour and forty-five minutes. The psychiatrist read the charges in this proceeding but no other primary material between the two visits. He did not know the breadth of the matters against Respondent in West Virginia. Despite serious allegations of altering a patient's medical records and threatening another physician, which the psychiatrist was aware of by reading the instant charges, the psychiatrist

did not explore these issues with Respondent. No attempt was made to access primary material regarding Respondent's circumstances in West Virginia independent of Respondent as a source other than the instant charges. This was despite the obvious secondary gain Respondent had in consulting with the psychiatrist just before this hearing and the fact that the psychiatrist was exploring Respondent's mental state as it existed approximately four and one half years before the consultation.

The Committee concluded that the opinion of the consulting psychiatrist regarding Respondent's making and filing of the false applications was unconvincing.

Respondent's conduct evidences moral unfitness to practice medicine, constitutes the willful making or filing of a false report and practicing the profession fraudulently.

DETERMINATION AS TO PENALTY

The Hearing Committee, pursuant to the Findings of Fact and Conclusions set forth above, unanimously determined that Respondent's license to practice medicine in New York State should **be revoked**. This determination was reached upon due consideration of the full spectrum of penalties available pursuant to statute, including revocation, suspension and/or probation, censure and reprimand, and the imposition of monetary penalties.

The record in this case clearly established Respondent's misconduct is of an aggravated and serious nature. Considered alone, Respondent's surrender of his West Virginia license during disciplinary proceedings is a basis to revoke his New York State license. New York State should not be a haven for physicians, such as

Respondent, who surrender their licenses in other states when faced with serious misconduct allegations. That Board considered the Consent Order and Agreement under which Respondent surrendered his license "an action of the Board based on reasons relating to Dr. Saldanha's professional conduct."

Respondent's conduct in New York State in falsely making and filing two New York State Education Department registration applications and applications to two New York hospitals reflects a pattern of behavior which is totally unacceptable. Respondent's conduct raises serious doubts concerning his ethics and whether he possesses the requisite moral character to be allowed to practice medicine in New York State.

ORDER


Based upon the foregoing, **IT IS HEREBY ORDERED THAT:**

1. The First through Fourteenth Specifications of professional misconduct, as set forth in the Statement of Charges (Appendix I, attached hereto and made a part of this Determination and Order) are **SUSTAINED**;

2. Respondent's license to practice medicine in New York State be and hereby is **REVOKED**.

DATED: New York, New York

3/3, 1997


MICHAEL R. GOLDING, M.D. (CHAIR)
OLIVE M. JACOB
ELEANOR KANE, M.D.



TO: E. Marta Sachey, Esq.
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APPENDIX I

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

-----X

IN THE MATTER : STATEMENT
OF : OF
JOSEPH P. SALDANHA, M.D. : CHARGES

-----X

JOSEPH P. SALDANHA, M.D. the Respondent, was authorized to practice medicine in New York State on November 16, 1979, by the issuance of license number 140630 by the New York State Education Department. Respondent is currently registered with the New York State Education Department to practice medicine for the period January 1, 1995 through December 31, 1996, from 78 Bartlett Drive, Manhasset, New York 11030.

FACTUAL ALLEGATIONS

1. Respondent on September 10, 1992 entered into a Consent Order and Agreement with the West Virginia Board of Medicine under which Respondent surrendered his license to practice medicine and surgery in West Virginia as of September 18, 1992. Respondent further agreed not to petition the West Virginia Board for reinstatement of his license and not to apply for a license to practice medicine and surgery in West Virginia at any time in the future. If Respondent does so petition or apply such petition or application shall be denied.

Respondent surrendered his license after the West Virginia Board served its Complaint and Notice of Hearing upon Respondent on February 18, 1992, after hearings were held in April, May and June of 1992, and after the recommended decision of the hearing examiner was submitted to the Board in August, 1992 for consideration and vote at the Board's regular meeting on September 14, 1992.

2. The conduct underlying Respondent's surrender of his license consisted of, inter alia, altering medical records of a patient after the patient filed a medical malpractice claim against Respondent, which alterations materially misrepresented the actual facts, and threatening bodily harm to another physician if that physician treated any of Respondent's patients or gave opinions regarding Respondent's treatment of patients. Such conduct constitutes dishonorable, unethical or unprofessional conduct of a character likely to deceive, defraud and/or harm the public or any member thereof, constitutes a departure from or failure to conform to the ethics of the medical profession, and constitutes a departure from or failure to conform to the principles of medical ethics of the AMA in violation of West Virginia Code §30-3-14(c) (17) and 11 CRR 1A 12.1(e) and (j) and 11 CSR 1A 12.2(d).

3. The conduct underlying Respondent's surrender of his license would, if committed in New York State, constitute

professional misconduct under N.Y. Educ. §6530(20) (McKinney Supp. 1996) [conduct in the practice of medicine which evidences moral unfitness to practice medicine].

4. Respondent, on or about February 21, 1992, filed a Delayed Registration Application for the period January 1, 1992 through December 31, 1992 with the New York State Education Department.
 - a. Respondent answered "No" to the application question "Since you last registered has any state other than New York instituted charges against you for professional misconduct, unprofessional conduct, incompetence or negligence or revoked, suspended, or accepted surrender of a professional license held by you" when, in fact, the West Virginia Board of Medicine served its Complaint and Notice of Hearing upon Respondent on February 18, 1992 and Respondent knew such fact.
 - b. Respondent answered "No" to the application question "Since you last registered has any hospital or licensed facility restricted or terminated your professional training, employment or privileges or have you ever voluntarily or involuntarily resigned or withdrawn from such association to avoid imposition of such action due to professional misconduct, unprofessional conduct, incompetence or negligence" when, in fact, in approximately January 1987 the Charleston Area Medical Center, West Virginia, suspended Respondent's medical staff privileges until Respondent received further approved training and/or when, in fact, Respondent, after being notified of such suspension, submitted a letter of resignation, and Respondent knew such facts.
 - c. Respondent answered "No" to the application question set forth in subparagraph b, above, when, in fact, in approximately January, 1988 the St. Francis Hospital, Charleston, West Virginia, restricted Respondent's privileges by precluding Respondent from performing total knee procedures, requiring Respondent to video tape all arthroscopic procedures for one year and requiring Respondent to obtain a second opinion for all laminectomy procedures for one year, and Respondent knew such facts.

5. Respondent, on or about October 6, 1992, filed a Registration Application for the period January 1, 1993 through December 31, 1994 and letters explaining his answers to certain application questions with the New York State Education Department.
 - a. Respondent explained his affirmative answer to the application question "Since you last registered has any state other than New York instituted charges against you for professional misconduct, unprofessional conduct, incompetence or negligence or revoked or suspended or accepted surrender of a professional license held by you" by stating "I have relocated my surgical practice and residence to New York. Hence, I have terminated my registration with the West Virginia Board of Medicine in good standing effective September 18, 1992" when, in fact, as more fully set forth in Paragraphs 1, above, Respondent surrendered his license to the West Virginia Board of Medicine with the condition that Respondent not petition said Board for reinstatement of his license and not apply for a medical license in West Virginia at any time in the future, and Respondent knew such facts.

6. Respondent on or about March 31, 1992, filed an Application for Initial Appointment to the Medical/Adjunct Staff of the Catholic Medical Center of Brooklyn and Queens, Inc., Jamaica, New York.
 - a. Respondent answered "No" to the application question "Have any of the following ever been, or are they currently in the process of being investigated, denied, revoked, suspended, restricted, terminated, reduced, limited, placed on probation, not renewed or voluntarily relinquished? Medical License in any State" and/or the question "Have you ever been the subject of a disciplinary proceeding" when, in fact, the West Virginia Board of Medicine had served its Complaint and Notice of Hearing upon Respondent on February 18, 1992 and Respondent knew said fact.
 - b. Respondent answered "No" to the application question "Have any of the following ever been, or are they

currently in the process of being investigated, denied, revoked, suspended, restricted, terminated, reduced, limited, placed on probation, not renewed or voluntarily relinquished? Clinical Privileges" when, in fact, in approximately January 1987 the Charleston Area Medical Center, West Virginia, suspended Respondent's medical staff privileges until Respondent received further approved training and/or when, in fact, Respondent, after being notified of such suspension, submitted a letter of resignation, and Respondent knew such facts.

c. Respondent answered "No" to the application question set forth in subparagraph b, above, with regard to "Clinical Privileges" when, in fact, in approximately January, 1988 the St. Francis Hospital, Charleston, West Virginia, restricted Respondent's privileges, as is more fully set forth in Paragraph 4(c), above.

7. Respondent, on or about August 24, 1992, filed an Application for Appointment to the Medical Staff with the Flushing Hospital Medical Center, Flushing, New York.

a. Respondent answered "No" to the application question "Have any of the following ever been, or are any currently in the process of being denied, revoked, suspended, reduced, limited, placed on probation, not renewed or voluntarily relinquished? Medical license in any state" when, in fact, the West Virginia Board of Medicine had served its Complaint and Notice of Hearing upon Respondent on February 18, 1992 and/or hearings were held in April, May and June of 1992 with regard to such Complaint and/or a recommended decision was issued on August 21, 1992 and Respondent knew such facts.

b. Respondent answered "No" to the application question set forth in subparagraph a, above, with regard to "Clinical privileges" when, in fact, in approximately January, 1988 the St. Francis Hospital, Charleston, West Virginia, restricted Respondent's privileges as is more fully set forth in Paragraph 4(c), above, and Respondent knew such facts.

8. Respondent, on or about September 10, 1993 in the case of

People v. Joseph Saldanha (N.Y. Sup. Ct. Queens County) pursuant to his guilty plea, was convicted of criminal possession of a weapon in the fourth degree, a class A misdemeanor. Respondent was sentenced to a conditional discharge.

SPECIFICATIONS

FIRST SPECIFICATION

SURRENDER OF LICENSE IN ANOTHER STATE

Respondent is charged with professional misconduct under N.Y. Educ. Law §6530(9)(d) (McKinney Supp. 1996) by reason of having his license to practice medicine revoked, suspended or having other disciplinary action taken, or having his application for a license refused, revoked or suspended or having voluntarily or otherwise surrendered his license after a disciplinary action was instituted by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the revocation, suspension or other disciplinary action involving the license or refusal, revocation or suspension of an application for license or the surrender of the license would, if committed in New York State, constitute professional misconduct under the laws of New York State, in that Petitioner charges:

1. The facts in Paragraphs 1 through 3.

SECOND THROUGH FIFTH SPECIFICATIONS

MORAL UNFITNESS

Respondent is charged with professional misconduct under N.Y. Educ. Law §6530(20) (McKinney Supp. 1996) by reason of his conduct in the practice of medicine which evidences moral unfitness to practice medicine in that Petitioner charges:

2. The facts in Paragraphs 4 and 4a, 4 and 4b and/or 4 and 4c.
3. The facts in Paragraphs 5 and 5a.
4. The facts in Paragraphs 6 and 6a, 6 and 6b and/or 6 and 6c.
5. The facts in Paragraphs 7 and 7a and/or 7 and 7b.

SIXTH THROUGH NINTH SPECIFICATIONS

WILLFULLY FILING A FALSE REPORT

Respondent is charged with professional misconduct under N.Y. Educ. Law §6530(21) (McKinney Supp. 1996) by reason of his willfully making or filing a false report in that Petitioner charges:

6. The facts in Paragraphs 4 and 4a, 4 and 4b and/or 4 and 4c.
7. The facts in Paragraphs 5 and 5a.
8. The facts in Paragraphs 6 and 6a, 6 and 6b and/or 6 and 6c.

9. The facts in Paragraphs 7 and 7a and/or 7 and 7b.

TENTH THROUGH THIRTEENTH SPECIFICATIONS

PRACTICING FRAUDULENTLY

Respondent is charged with professional misconduct under N.Y. Educ. Law §6530(2) (McKinney Supp. 1996) by reason of his practicing the profession fraudulently in that Petitioner charges:

10. The facts in Paragraphs 4 and 4a, 4 and 4b and/or 4 and 4c.
11. The facts in Paragraphs 5 and 5a.
12. The facts in Paragraph 6 and 6a, 6 and 6b and/or 6 and 6c.
13. The facts in Paragraphs 7 and 7a and/or 7 and 7b.

FOURTEENTH SPECIFICATION

CRIMINAL CONVICTION

Respondent is charged with professional misconduct under N.Y. Educ. Law §6530(9)(a)(i) by reason of his being convicted of committing an act constituting a crime under New York State Law in that Petitioner charges:

14. The facts in Paragraph 8.

DATED: *Sept. 27*, 1996
Albany, New York

Peter D. Van Buren
PETER D. VAN BUREN
Deputy Counsel
Bureau of Professional
Medical Conduct