

THE STATE EDUCATION DEPARTMENT / THE UNIVERSITY OF THE STATE OF NEW YORK

OFFICE OF PROFESSIONAL DISCIPLINE  
ONE PARK AVENUE, NEW YORK, NEW YORK 10016-5802

RECEIVED  
June 5, 1991

JUN 19 1991

OFFICE OF PROFESSIONAL  
MEDICAL CONDUCT

Eliezer M. Seguerra, Physician  
441 Wolf Hill Road  
Dix Hills, N.Y. 11746

Re: License No. 153537

Dear Dr. Seguerra:

Enclosed please find Commissioner's Order No. 11590. This Order goes into effect five (5) days after the date of this letter.

**If the penalty imposed by the Order in your case is a revocation or a surrender of your license, you must deliver your license and registration to this Department within ten (10) days after the date of this letter. Your penalty goes into effect five (5) days after the date of this letter even if you fail to meet the time requirement of delivering your license and registration to this Department.**

**If the penalty imposed by the Order in your case is a revocation or a surrender of your license, you may, pursuant to Rule 24.7 (b) of the Rules of the Board of Regents, a copy of which is attached, apply for restoration of your license after one year has elapsed from the effective date of the Order and the penalty; but said application is not granted automatically.**

Very truly yours,

DANIEL J. KELLEHER  
Director of Investigations

By:

GUSTAVE MARTINE  
Supervisor

DJK/GM/er

**CERTIFIED MAIL - RRR**

cc: Marvin Hirsch, Esq.  
170 Old Country Road  
Mineola, N.Y. 11501

REPORT OF THE  
REGENTS REVIEW COMMITTEE

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ERLEEN H. SEGUERRA

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NO. 11590



# The University of the State of New York

IN THE MATTER

of the

Disciplinary Proceeding

against

**ELIEZER M. SEGUERRA**

**No. 11590**

who is currently licensed to practice  
as a physician in the State of New York.

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## REPORT OF THE REGENTS REVIEW COMMITTEE

ELIEZER M. SEGUERRA, hereinafter referred to as respondent, was licensed to practice as a physician in the State of New York by the New York State Education Department.

This disciplinary proceeding was properly commenced and on eight dates from August 15, 1989 to May 29, 1990 a hearing was held before a hearing committee of the State Board for Professional Medical Conduct. A copy of the statement of charges, without the appendix of patient names, is annexed hereto, made a part hereof, and marked as Exhibit "A".

The hearing committee rendered a report of its findings, conclusions, and recommendation, a copy of which is annexed hereto, made a part hereof, and marked as Exhibit "B".

The hearing committee concluded that respondent was guilty of the first through ninth specifications of the charges, to the

ELIEZER M. SEGUERRA (11590)

extent indicated in its report, and recommended that respondent's license to practice as a physician in the State of New York be revoked.

The Commissioner of Health recommended to the Board of Regents that the findings of fact and conclusions of the hearing committee be accepted in full, and that its recommendation as to penalty also be accepted. A copy of the recommendation of the Commissioner of Health is annexed hereto, made a part hereof, and marked as Exhibit "C".

On March 27, 1991, the scheduled date of our hearing, respondent appeared before us in person and was represented by his attorney, Marvin Hirsch, Esq., who presented oral argument on behalf of respondent. Jean Bresler, Esq., presented oral argument on behalf of the Department of Health.

Petitioner's written recommendation as to the measure of discipline to be imposed, should respondent be found guilty, was revocation.

Respondent's written recommendation as to the measure of discipline to be imposed, should respondent be found guilty, was probation or community service.

We have considered the record as transferred by the Commissioner of Health in this matter, as well as respondent's submissions to the Regents Review Committee and petitioner's submission objecting thereto.

**ELIEZER M. SEGUERRA (11590)**

We note that on the last line of page 31 of the hearing committee report there is a reference to 8 NYCRR 19.1(b)(5). We assume this to be a typographical error and that 8 NYCRR 29.1(b)(5) was intended.

In our unanimous opinion, the charges, involving the eight different patients, were properly before the hearing committee and the hearing committee appropriately weighed the testimony and the record in this matter.

We unanimously recommend the following to the Board of Regents:

1. The hearing committee's findings of fact, conclusions as to guilt, and recommendation as to the penalty to be imposed, as well as the Commissioner of Health's recommendation as to those findings, conclusions, and recommendation be accepted, with "8 NYCRR 19.1(b)(5)" on the last line of page 31 of the hearing committee report deemed corrected to read "8 NYCRR 29.1(b)(5)";
2. Respondent be found guilty, by a preponderance of the evidence, of the nine specifications of the charges to the extent indicated by the hearing committee; and
3. Respondent's license to practice as a physician in the State of New York be revoked upon each specification of the charges of which respondent has been found guilty, as aforesaid.

ELIEZER M. SEGUERRA (11590)

Respectfully submitted,

FLOYD S. LINTON

THEODORE M. BLACK, SR.

ARTHUR WACHTEL

  
\_\_\_\_\_  
Chairperson

Dated: *May 6, 1991*

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

-----X  
IN THE MATTER : STATEMENT  
OF : OF  
ELIEZER M. SEGUERRA, M.D. : CHARGES  
-----X

ELIEZER M. SEGUERRA, M.D., the Respondent, was authorized to practice medicine in New York State on March 1983 by the issuance of license number 153537-1 by the New York State Education Department. The Respondent is currently registered with the New York State Education Department to practice medicine for the period January 1, 1989 through December 31, 1991 at 4 Aries Lane, Dix Hills, New York 11746.

FACTUAL ALLEGATIONS

1. On or about September 27, 1987 Patient A (whose name and the name of other patients appear in the attached Appendix), was treated by the Respondent at the Franklin General Hospital emergency room, in Valley Stream, New York. Patient A came to the emergency room complaining of severe lower back and side pain, which began while she was exercising earlier that evening. During the course of what he purported to be a physical examination, Respondent touched Patient A's vagina in a sexual manner. Respondent rubbed the vaginal area

including the clitoris and he inserted his fingers into her vagina. During the course of this sexual touching Respondent did not wear gloves and no one else was present in the examining room.

2. On or about November 30, 1987 Patient B was treated by the Respondent at the Franklin General Hospital emergency room, in Valley Stream, New York. Patient B had a history of kidney infections. On November 30th Patient B advised Respondent of her history of kidney infections and told him she was experiencing symptoms like those she had experienced in the past, including pain on the left side and difficulty urinating. During the course of what he purported to be a physical examination Respondent touched Patient B in a sexual manner. He lifted Patient B's hospital gown above her breasts and grabbed her breast. Respondent gave Patient B an envelope with his name and phone number and suggested that they meet socially.

3. (a) On or about May 16, 1988 Patient C was treated by the Respondent at the Franklin General Hospital emergency room, in Valley Stream, New York. At the time she was suffering from lower abdominal pain. During the course of what he purported to be a pelvic examination Respondent rubbed and touched Patient C's genital area including her clitoris. During his contact with Patient C in the examining room



Respondent made inappropriate comments to Patient C including: do you believe in love at first sight; I am your boyfriend, and you are beautiful. On May 16th, Respondent left Patient C in the examining room and then returned repeatedly, each time touching her and rubbing against her. On May 16th Respondent performed a second pelvic examination on Patient C again touching and rubbing the vaginal area including the clitoris. During the course of this sexual contact Respondent did not wear gloves and no one else was present.

(b) On or about May 18, 1988 Patient C met the Respondent in the parking lot at Franklin General Hospital. Respondent entered Patient C's car. Respondent pulled his pants down to his knees and fondled and touched Patient C. Later that evening, Patient C and the Respondent went to a hotel and engaged in sexual intercourse.

4. On or about May 5, 1988 Patient D went to the Franklin General Hospital emergency room, in Valley Stream, New York. Patient D was complaining of difficulty breathing, pains in her chest and the sensation that she was sinking. During what he purported to be a physical examination, Respondent touched Patient D's breasts in a sexual manner. Respondent repeated this sexual touching four times. Respondent then had Patient D take off her pants and touched her vagina in a sexual

manner. Respondent repeated this sexual touching three times. No other person was present during this purported examination.

5. On or about May 31, 1988 Respondent treated Patient E at the Franklin General Hospital emergency room, in Valley Stream, New York. Patient E was complaining of stomach pain and nausea. During what he purported to be a physical examination Respondent fondled Patient E's breasts and nipples.
6. On or about December 27, 1988 Patient F was treated by the Respondent at the Mercy Hospital emergency room, in Rockville Centre, New York. At the time Patient F was complaining of severe right shoulder pain. During the course of what he purported to be a physical examination Respondent touched Patient F in a sexual manner including fondling her breasts, stroking her head and her hair. Respondent whispered in Patient F's ear, "do you want to stay here?"
7. On or about October 2, 1988 Patient G was treated by the Respondent at the Mercy Hospital emergency room, in Rockville Centre, New York. At the time she was complaining of chest pain. During the course of what he purported to be a physical examination Respondent touched Patient G in a sexual manner including fondling Patient G's breasts and nipples

repeatedly. Respondent, on more than one occasion, placed Patient G's hand on the side of the bed and rubbed his penis against the back of her hand. Without gloves and with no one else present, Respondent touched and rubbed Patient G's vagina in a sexual manner. Respondent left the examining room and returned. He again touched Patient G in a sexual manner including fondling Patient G's breasts and rubbing the vaginal area simultaneously. Respondent attempted, with force, to push Patient G's legs apart. Respondent again left the examining room and returned a third time, this time he again touched Patient G's vagina in a sexual manner. Respondent again put Patient G's hand on the side of the bed and pressed his erect penis against her hand.

8. On or about ~~January 9, 1989~~ Respondent treated Patient H at the Good Samaritan Hospital emergency room, in West Islip, New York. At the time Patient H was complaining of severe lower back pain. During the course of what he purported to be a physical examination Respondent repeatedly fondled Patient H's breasts and nipples.

**SPECIFICATION OF CHARGES**

**WILFULL PATIENT ABUSE**

**FIRST THROUGH EIGHTH SPECIFICATION**

The Respondent is charged with professional misconduct within the meaning of N.Y. Educ. Law, Section 6509(9) (McKinney 1985) in that he has committed unprofessional conduct as set forth in 8 NYCRR 29.2(a)(2) (1987) in that he wilfully abused Patients A, B, C, D, E, F, G, and H by engaging in physical touching of a sexual nature with each of them in that Petitioner alleges:

The facts in Paragraphs 1 through 8.

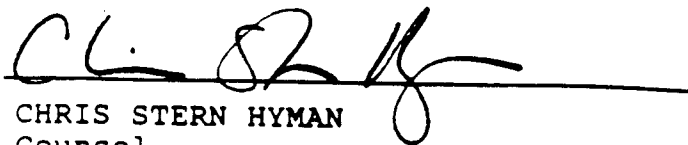
**MORAL UNFITNESS TO PRACTICE THE PROFESSION**

**NINTH SPECIFICATION**

The Respondent is charged with unprofessional conduct under N.Y. Educ. Law, Section 6509(9) (McKinney 1985) in that his conduct in the practice of his profession evidences moral unfitness to practice the medical profession within the meaning of 8 NYCRR 29.1(b)(5) (McKinney 1987), in that Petitioner alleges:

The facts in Paragraphs 1 through 8.

DATED: New York, New York  
June 29, 1989

A handwritten signature in black ink, appearing to read "C. Stern Hyman", is written over a solid horizontal line.

CHRIS STERN HYMAN  
Counsel  
Bureau of Professional Medical  
Conduct

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

-----X  
IN THE MATTER : REPORT OF THE  
OF : HEARING  
ELIEZER M. SEGUERRA, M.D. : COMMITTEE  
-----X

TO: The Honorable David Axelrod, M.D.  
Commissioner of Health, State of New York

The undersigned Hearing Committee (The Committee) consisting of Mrs. Ann Shamberger, Chairperson, Glenda D. Donoghue, M.D., and Winston Price, M.D., was duly designated, constituted and appointed by the State Board for Professional Medical Conduct (The Board). The Administrative Officer was Harry Shechtman, Administrative Law Judge.

The hearing was conducted, pursuant to the provisions of New York Public Health Law #230 and New York Administrative Procedure Act ##301-307 to receive evidence concerning the charges that the Respondent had violated provisions of the New York Education Law #6509. Witnesses were sworn or affirmed and examined. A stenographic record of the hearing was made. Exhibits were received in evidence and made part of the record.

The Committee has considered the entire record in the above-captioned matter and makes a Report of its Findings of Fact, Conclusions and Recommendations to the New York State Commissioner of Health.

WITNESSES CALLED BY PETITIONER

Patient: A

Patient: B

Patient: C

Patient: D

Patient: E

Patient: F

Patient: G

Patient: H

WITNESSES CALLED BY RESPONDENT

Redemption Geronimo, M.D.

Christine B. Wolfer, R.N.

Sergio Guevara, M.D.

Rudolfo Morales, M.D.

Luther Tamayo, M.D.

Diana Olden, R.N.

James Hamill, R.N.

Anita Frese, R.N.

Georgette Perigaut, R.N.

Susan Gieschen, R.N.

Eliezer M. Seguerra, M.D.

Mary J. Gozdziaak, R.N.

RECORD OF PROCEEDINGS

Statement of Charges dated:	June 29, 1989
Notice of Hearing and Statement of Charges served:	July 8, 1990
Place of Hearing:	8 East 40th Street New York, New York
Answer by Respondent:	None
Bureau of Professional Medical Conduct appeared by:	Jean Bresler, Esq.
Respondent appeared by:	Flamhaft, Levy, Kamins, Hirsch & Booth, Esqs. by Marvin Hirsch, Esq. of Counsel
Pre-Hearing Conference held on:	August 15, 1989
Hearings dates:	August 15, 1989 September 22, 1989 October 10, 1989 November 3, 1989 November 10, 1989 January 12, 1990 January 19, 1990 May 29, 1990
Proposed findings of Fact by:	
Respondent	6/29/90
Petitioner	6/29/90
Hearing Closed:	May 29, 1990
Deliberations:	August 28, 1990 September 25, 1990



## STATEMENT OF THE CASE

The Respondent is charged with professional misconduct in that he willfully abused eight patients, (in the first through eighth specifications) A through H as set forth in the Factual Allegations, consisting of engaging in physical touching of a sexual nature of each of the patients. The Respondent is charged in the Ninth Specification with moral unfitness to practice the profession based on the same facts as alleged in the Factual Allegations.

## FINDINGS OF FACT

### I.

Eliezer M. Seguerra, M.D., the Respondent, was authorized to practice medicine in New York State on March 1983 by the issuance of license number 153537-1 by the New York State Education Department. The Respondent is currently registered with the New York State Education Department to practice medicine for the period January 1, 1989 through December 31, 1991 at 4 Aries Lane, Dix Hills, New York 11746.

## II.

First through Eighth Specification (willful patient abuse consisting of physical touching of a sexual nature) Findings of Fact and Conclusions as to each Patient.

### PATIENT A - FINDINGS OF FACT

1. Patient A was treated by Respondent on September 21, 1987 at Franklin General Hospital. (/x. 3; T. 67)
2. Patient A complained of pain in her groin. After hearing Patient A's complaint, Respondent asked Patient A's friend to leave the examination room. (Ex. 3; T. 71)
3. Respondent palpated Patient A's breasts and chest, and listened to her breathing with a stethoscope, and told Patient A that he was going to do an internal examination. (T. 72)
4. The Respondent pulled Patient A's pants down. He then touched the outside of her vagina in a non-professional manner, (T. 73-74), and stroked her vagina beneath the pubic hair. (T. 74, 136-137) He inserted ungloved fingers into Patient A's vagina. (T. 75)
5. While Respondent was preparing Patient A for the internal examination, she was not given a gown. (T. 119-120)

6. Respondent's notes in Patient A's chart do not document that he performed a pelvic examination. (Ex. 3)

7. Respondent gave Patient A his telephone number and told her to call the next day if she had pain, or to come back to the Emergency Room at a certain time when he would be there. (T. 75-76)

8. No evidence was produced to indicate that anyone else was present during the entire examination.

9. The following day Patient A went to her own physician and told him that Dr. Seguerra had touched her vagina and had not worn gloves. (T. 78) She also reported the incident to her gynecologist. (T. 79, 80) She then spoke to her lawyer who contacted the hospital and an administrator from the hospital then spoke to her on the telephone. (T. 81, 82)

10. Respondent diagnosed pelvic inflammatory disease and noted lower abdominal discomfort. (T. 857; Ex. 3) Respondent acknowledged that doing a pelvic exam would have been helpful in making the diagnosis he was considering. (T. 857 and 862)

#### PATIENT A - CONCLUSIONS

The Committee unanimously concludes that the Respondent, in order to have diagnosed pelvic inflammatory

disease, must have done a pelvic examination. This is contrary to his testimony in which he denies doing such an internal examination. The Committee gives credence to Patient A's testimony with regard to the events that took place in the emergency room. The Committee concludes that in engaging in physical touching of a non-medical sexual nature the Respondent willfully abused the patient.

The Committee therefore unanimously sustains the charges in the First Specification with regard to Patient A.

#### PATIENT B - FINDINGS OF FACT

1. Patient B has been a certified nursing assistant for the past 10 years taking care of people who are in need of home nursing care. (T. 506)
2. On or about November 30, 1987 Patient B was treated by Respondent at Franklin General Hospital for a kidney infection. (T. 506)
3. Patient B was fully undressed wearing only a hospital gown. Respondent lifted the gown above her breasts exposing her naked body from the neck down, and palpated her left kidney area. (T. 509, 510)
4. Respondent left the examining room, came back and again lifted Patient B's gown above her breasts exposing her

naked body from the neck down and again palpated the kidney area. (T. 510)

5. Patient B than had a number of tests and X-rays done including X-rays of the stomach, chest and kidneys and a urine test. (T. 509-510) After the tests were completed, Respondent entered the examining room for the third time. He said he had to perform a breast examination. Patient B did not object to the breast exam because she was concerned that he had found something abnormal on the chest x-ray. (T. 510)

6. During the course of what purported to be a breast examination, Respondent fondled Patient B's nipple for a couple of minutes until Patient B stopped him by saying "hey what are you doing." (T. 511) Respondent stopped what he was doing to her breast immediately and told her she had a kidney infection. (T. 511, 531) Respondent never examined the other breast. (T. 532) Nor did he note in the hospital record that he performed a breast examination. (Ex. 11, 11A)

7. After providing Patient B with a prescription for the kidney infection, Respondent stated that he wanted to see Patient B socially and gave her a piece of paper with a telephone number and a telephone extension number. (T. 512)

8. Thereafter Patient B complained about Dr. Seguerra's conduct to her fiancée (a police officer) who advised her it was her word against the Respondent's and that she would

not be believed. (T. 512, 527) She also told her father and sister about the incident. (T. 523)

9. In March, after she received a bill from the hospital she called the hospital and said "why should I pay the bill, the doctor fondled me" and thereafter wrote a letter to the hospital. She was not required to pay the bill. (T. 513, 514, Ex. 11A)

10. After reading in the newspaper about Dr. Seguerra's sexual abuse of other women, Patient B complained to the police. (T. 514)

11. Patient B has not sued Dr. Seguerra nor has she seen a lawyer for that purpose. (T. 514)

12. Patient B saw Respondent on several occasions prior to November 30, also for kidney infection, and on these other occasions his conduct was proper (T. 525).

#### PATIENT B - CONCLUSIONS

The Committee gives credence to this Patient's testimony especially in view of her immediate complaint to the Respondent to stop what he was doing and her later complaint to the hospital. The Committee gives no credence to the Respondent's testimony. There was no apparent reason for a breast examination in the face of the patient's complaint about

her kidney and the fact that the Respondent had already been treating her for her kidney problem on prior occasions.

The Committee unanimously concludes that Respondent willfully abused the patient by engaging in physical touching of a sexual nature and therefore unanimously sustains the Second Specification, with regard to Patient B.

#### PATIENT C - FINDINGS OF FACT

1. On or about May 16, 1988, Patient C was treated by the Respondent at Franklin General Hospital for severe abdominal pain. (T. 358; Ex. 9)

2. Patient C undressed and put on a hospital gown. (T. 361)

3. After listening to her chest with a stethoscope, Respondent palpated Patient C's abdomen. (T. 363-364)

4. While she was in a reclining position Respondent inserted his fingers into Patient C's vagina and simultaneously rubbed her clitoris. At that same time he pressed on patient C's abdomen with his other hand and questioned her about her medical history. (T. 365-366)

5. Respondent then left and returned to the examining room several times. (T. 367)

6. On several occasions he rubbed Patient C's forearms, her feet and the back of her neck. (T. 367)

7. Respondent engaged in personal conversation with Patient C saying such things as "do you believe in love at first sight". He told her how much money he earned and that he was building a new home in Dix Hills. He gave her a piece of paper with his telephone number on it and asked her to call him. (T. 367-369)

8. On one occasion when Respondent returned he conducted what he purported to be a second pelvic examination, during which he again inserted his fingers in Patient C's vagina and simultaneously rubbed her clitoris. During this second purported pelvic examination Respondent did not wear gloves. (T. 372-373).

9. Patient C knew for two reasons that he was not wearing gloves, first, he did not remove gloves after the second pelvic exam (and he did after the first), and secondly, when he signed her out she saw blood on the Respondent's hand. She testified that she was menstruating at the time of this incident and that seeing the blood on his hand embarrassed her. (T. 372-373)

10. The next morning, May 17, Patient C called the Respondent at the number he had given her. Among other things, they discussed meeting at a later date. (T. 375-377).



11. On May 18th, Patient C met the Respondent in his car in the parking lot of Franklin General Hospital. At that meeting, Respondent provided Patient C with a prescription for Tenuate Dospan, which she filled on May 20th. (T. 377-379; Ex. 10A) These are diet pills with similar pharmacologic activity to amphetamines.

12. Patient C identified Respondent's car as a white Jeep Cherokee. (T. 380) Respondent admitted owning a white Jeep Cherokee. (T. p. 1022)

13. During this second meeting, after he gave her the prescription, Respondent asked Patient C to perform oral sex. (T. 381)

14. Subsequently Respondent and Patient C spoke about the possible side effects of the medication (T. 388) and they met twice more at the Franklin General Hospital parking lot, once on Memorial Day. (T. 390-391)

15. Approximately one week later, Respondent began rejecting her (T. 388) and when Patient C's prescription for Tenuate Dospan had run out, he agreed to meet her in the Franklin General Hospital parking lot but failed to show up. (T. 394)

16. Thereafter, Patient C reported Dr. Seguerra's conduct to Dr. Levitan whom she understood to be the Director of Emergency Services. (T. 396, 419-420).

17. Respondent admitted giving Patient C a prescription for Tenuate Dospan without weighing her. (T. 1020) The medical records for Patient C do not reflect the issuance of this prescription. (T. 1020; Ex. 9)

18. Respondent also admitted that a one-month supply of Tenuate Dospan was not sufficient for treating Patient C's obesity properly. (T. 1050)

19. Patient C permitted the Respondent's non-medical physical contacts because he flattered her and made her feel he really cared for her. She has a low self esteem and is ashamed of being obese. (T. 386-387)

#### PATIENT C - CONCLUSION

The Committee is convinced that the Respondent engaged in a series of non-medical physical touchings of a sexual nature and that he used flattery and a promise to treat her obesity in a manner calculated to reduce any possible resistance to his sexual advances. His admission with regard to the prescription for Tenuate Dospan lends credence to Patient C's having been a victim of an attempt by Respondent to seduce her.

The Committee feels, however, that there was insufficient probative evidence to substantiate the Patient's

claim of a visit to the motel and the events alleged by her to have occurred there.

The Committee concludes that the Respondent willfully abused Patient C by engaging in physical touching of a sexual nature.

The Committee therefore unanimously sustains the charges in the Third Specification with Regard to Patient C.

#### PATIENT D - FINDINGS OF FACT

1. On or about may 5, 1988 Patient D was treated by the Respondent at Franklin General Hospital Emergency Room for a breathing difficulty. (T. 11; Ex. 2)

2. Patient D was brought into the examining room by a nurse who asked her to undress from the waist up (which she did) and gave her a gown. Thereafter the Respondent entered the examining room. (T. 12)

3. The Respondent began by listening to Patient D's chest with a stethoscope and while doing so he stroked patient's breasts. (T. 12)

4. Respondent left and re-entered the examining room several times. Each time he stroked Patient D's breasts. (T. 12, 13)

5. There was a difference between what Dr. Seguerra did to her and the way other physicians have examined her. Other physicians push and press, going around the breasts and under her arms. Dr. Seguerra lightly stroked her breasts, while she kept her arms down during the examination. (T. 13)

6. Dr. Seguerra fondled her breasts about four times, leaving the examining room between each examination. (T. 14)

7. After the fourth time Respondent touched Patient D's breasts he told her she had a fever and asked her for a urine sample. (T. 14) Respondent then asked Patient D to remove her pants and underpants which she did. Thereafter the Respondent, without wearing gloves stroked the lips of Patient D's vagina at least twice. (T. 15, 50)

8. During the course of this sexual touching Respondent told Patient D that he lived in Dix Hills, that he owned a cougar, a Corvette and a jeep. (T. 16)

9. Patient D didn't stop the Respondent because she was having difficulty breathing. She felt nervous and anxious. (T. 62)

10. When she left the hospital she reported this incident to her sister, her husband and her friend Eileen Schell who is a nurse for Catholic Charities. (T. 17, 35)

11. Patient D then described the incident to Mrs. Schell who wrote a letter of complaint which Patient D signed and mailed to Franklin General Hospital. (T. 18)

#### PATIENT D - CONCLUSIONS

The committee believes the testimony of the patient with regard to the non-medical physical touching of her breast and vagina. The apparent inconsistencies between her testimony, the Respondent's testimony and the nurses notes do not, in the minds of the Committee members, affect the credibility of the patient.

It should be noted that the Respondent did not contradict the patient's testimony that upon entering the cubicle she was asked to undress from the waist up only, and thereafter the Respondent asked her to remove her pants and underpants. This substantiates her claim that she came to the Emergency Room for treatment of a breathing problem and for no other reason. The Committee concludes that in engaging in physical touching of a sexual nature the Respondent willfully abused the patient.

The Committee unanimously concludes that the Fourth Specification is sustained with regard to Patient D.

PATIENT E - FINDINGS OF FACT

1. On May 31, 1988, Patient E presented at Franklin General Hospital complaining of nausea, gastric discomfort, dizziness and feeling shaky. She was treated by the Respondent (T. 296, Ex. 8)

2. Patient E was employed as a secretary at Franklin General Hospital. (T. 295, 296)

3. While she was in the Emergency Room, patient was first seen by another physician who asked about her symptoms. She described the first physician as tall with curly hair and wearing glasses. (This does not fit the description of the Respondent.) They discussed whether she could be pregnant. The first doctor left and she waited some time for test results, including an ECG, and evaluation. Respondent came to see her after the EKG was done, at 3:35 P.M. (T. 297, 298, 337, 339)

4. Patient E put on a hospital gown leaving her undergarments on. (T. 298)

5. After the tests were performed, Patient E again waited a long time before she saw the Respondent who asked her if she had been taken care of and she responded that she had not. (T. 298)

6. Respondent told her he was leaving to get her records. He left and returned. At this point, she was lying down and Dr. Seguerria palpated her abdomen. (T. 299)

7. Respondent asked Patient E to remove her bra. He helped her sit up because she was dizzy. He told her to lie down again which she did. (T. 300)

8. He again palpated her abdomen and then began touching her breasts in a non-medical manner--holding her breasts and pressing on the nipples. Respondent went back to pressing on the abdomen, and again returned to touching her breasts in a non-medical manner. (T. 300)

9. Patient E described Respondent's touching her breasts as "caressing...in the way that my husband would really touch me." He was holding on to her breasts tightly, and he was pressing hard on her nipples. He touched her breasts with both hands, touching both nipples in a pinching fashion. (T. 300-301)

10. At least four or five times he went back and forth touching her abdomen and then her breasts. (T. 301)

11. At one point, Respondent put his ungloved hand in her underpants, touched her clitoris and she was startled and looked at him at which point he removed his hand. (T. 301)

12. When Patient's husband arrived at the hospital he called to her through the curtains and Respondent told

Patient E to sit up and he left and returned with a prescription.  
(T. 304, Ex. 8)

13. Patient E never filled the prescription because after what had happened she did not trust the Respondent. (T. 345)

14. That evening she told her husband what had happened and the following day she reported the incident to her superior at work who referred her to Dr. Levitan, the Emergency Room Director who asked her to put her complaint in written form, which she did. (T. 305-306-307)

#### PATIENT E - CONCLUSIONS

The Committee considered very carefully the oral and documentary evidence. It concludes that the testimony of Patient E is highly credible especially because of her employment at the Hospital, her description of the first doctor who saw her and the writing of the prescription signed by the Respondent. There is no doubt in the Committee's mind that the Respondent treated her. It, therefore, concludes that the patient's testimony with regard to the non-medical physical contacts is credible. It gives no credence to the Respondent's denial of ever seeing this patient.



The Committee concludes that the Respondent willfully abused Patient E by engaging in a physical touching of a non-medical sexual nature.

The Committee therefore unanimously concludes that the Fifth Specification is sustained with regard to Patient E.

#### PATIENT F - FINDINGS OF FACT

1. On or about December 27, 1988 the Respondent treated Patient F in the Emergency Room of Mercy Hospital in Rockville Center, New York. At the time she was complaining of pain in the shoulder. (T. 596, Exs. 12 and 12A)

2. Patient F removed her sweater and put on a gown that was given to her (T. 605)

3. Respondent entered the examining cubicle and asked Patient F questions about her shoulder pain. (T. 606) He then proceeded to listen to her chest with his stethoscope. During the course of this part of the examination, he placed the stethoscope on top of one of Patient F's nipples for approximately thirty seconds and then sent Patient F for x-rays. (T. 606, 607)

4. After the x-rays were taken, Respondent re-entered the cubicle and began massaging Patient F's shoulders and neck and began a personal conversation about their lives. During the

conversation, his hands moved from her shoulder to her breasts. Patient F was wearing a bra and Respondent touched her breast both underneath and on top of the bra. (T. 608, 609)

5. The Respondent rubbed Patient F's right breast, held it and rubbed the nipple between his fingers. During the course of this non-medical touching Respondent had Patient F sit up and then lie down. Respondent touched Patient F's right breast approximately ten times going from the shoulder to the breast and nipple. (T. 609-610)

6. While Respondent was rubbing patient's shoulder and breast he was whispering close to her face asking her if her back or neck ever bothered her. While he rubbed her right breast he touched her hair. (T. 609, 610)

7. Respondent went in and out of the examining cubicle three times, his conduct during the third visit to the cubicle was similar to the second. On the third visit. Respondent placed his hand on Patient F's thigh. He told her to come back to the hospital on Thursday night to see him and asked if he could call her to see how she was feeling. (T. 610, 611)

8. A nurse thereafter entered the cubicle and said something about being surprised she was still there. She went to get a sling and left the curtain open. The nurse returned with the sling and did not leave. Respondent eventually left

the examining cubicle, and at that point Patient F told the nurse that Dr. Seguerra had inappropriately touched her breast. (T. 615)

9. This nurse called her superior who took a statement from Patient F and asked if she wanted to speak to the police, which she did. (T. 616, 617) Patient F also returned the pills Dr. Seguerra had given her to the nurse taking the statement from her because she did not trust him. She asked for a new medication which was provided. (T. 625)

10. Patient F was afraid to make the complaint because she thought the hospital would be angry with her. She was also afraid of Dr. Seguerra and concerned that he knew her address. (T. 616)

#### PATIENT F - CONCLUSIONS

The Respondent offered Ms. Gozdziaak, a nurse, as a witness on his behalf. It is, however, noteworthy that this witness was not present for more than five minutes in the examining cubicle, namely from 10:45 to 10:50, which was prior to the ordering of the x-rays. (T. 1098) The witness further stated that between 10:50 and 12:00 the patient was not in her view, and that the patient was in the examining room after the witness left the Hospital. (T. 1101) It is quite evident that

this witness's testimony was with regard to a time during the evening when there was no testimony by Patient F concerning the events. The testimony of Ms. Gozdziaak is irrelevant. The Committee concludes that the Respondent willfully abused Patient F by engaging in a non-medical physical touching of a sexual nature.

The Committee believes that Patient F's testimony was truthful and credible. The Committee, therefore, unanimously sustains the Sixth Specification with regard to Patient F.

#### PATIENT G - FINDINGS OF FACT

1. On or about October 2, 1988, Patient G was treated by Dr. Seguerria in the Emergency Room of Mercy Hospital at which time she was suffering from chest pain under the left breast. (T. 143-147)

2. A nurse told her to undress from the waist up and put on a gown which she did. Dr. Seguerria then entered the room and began examining her. (T. 145-147)

3. Initially Patient G found the Respondent to be a caring physician and thought he was interested in her condition. She felt he was a good doctor and initially trusted him. (T. 147)

4. Patient G laid down and Respondent began examining her and discussing muscle spasm. He rubbed Patient G's breasts, moved his hands down her abdomen, put his hands inside her pants and rubbed on top of her pubic hair. He then put his ungloved finger inside the lips of her vagina. (T. 147-150)

5. Patient G could feel his fingernails scratching her. Patient G further stated that at this point in time she had not removed her pants. Respondent was reaching inside her pants to touch her vagina. (T. 149)

6. While Respondent was rubbing Patient G's breasts, he put her hand down the side of the bed and rubbed his penis against her hand. She pulled her hand away and he put it back, pressing his body harder against it. (T. 150-152)

7. A man entered the cubicle and Dr. Seguerra stopped what he was doing and grabbed something. (T. 152) When the man left Respondent continued rubbing both Patient G's breasts. (T. 152-153) The same man again returned with a patient and Dr. Seguerra covered Patient G with the gown and sheet and left the cubicle (T. 152-154)

8. After this patient left the bed next to Patient G, the Respondent returned and brought with him latex gloves and lubricating gel which he put on his left hand. (T. 154)

9. Respondent asked Patient G to remove her pants which she pulled down just below her buttocks. Respondent

pulled her pants down further. Respondent again placed Patient G's hand down the side of the bed and pressed his penis against her hand. Respondent forcefully opened Patient G's legs and attempted to insert his left hand into her vagina. During the same period of time, Respondent placed his right hand on Patient G's breasts. (T. 155-156)

10. While Respondent was attempting to push his hand into the vaginal area a nurse walked by which caused the Respondent to act startled. He threw the sheets over Patient G and left saying he had to check the x-rays. At this point in time no x-rays had been done. (T. 157)

11. At this point in time she was afraid of Dr. Seguerra. She was afraid he would hurt her. He had used such force with his fist, trying to enter her vagina that it had caused her to urinate. (T. 157-158)

12. Dr. Seguerra re-entered the examining cubicle several minutes later. Patient G told him she wanted to go for x-rays and Respondent stated "in a minute." (T. 158)

13. He again put a latex glove on and lubricated the glove with gel. Respondent again forcefully rubbed Patient G's breast with the right hand and with the gloved left hand attempted to insert fingers into her vagina. He was very forceful, rubbing her breast so hard that it hurt. As he began touching her clitoris a nurse's aide came in and Respondent

threw the sheets on Patient G. He again left the room saying something about x-rays. (T. 158-159)

14. Patient G wanted to say something but was afraid that she would not be believed. The nurse's aide left and came back with linens for the bed next to Patient G. At this point, Patient G told the nurse's aide that Dr. Seguerria had molested her. (T. 160)

15. The nurse's aide returned with a nurse named Karen whom Patient G asked to hide in the room so that the nurse could observe Dr. Seguerria's behavior when he returned. (T. 160)

16. The nurse whom Patient G identified as Karen came back with the nursing supervisor. Patient G told the supervisor what had happened. (T. 161)

17. Patient G was sent for x-rays and saw a gynecologist. The Rockville Center police also came to the hospital and Patient G told them what had happened to her. (T. 162)

18. The gynecological consultant and examination by the consultant demonstrates that Patient G's vulva had a "thick amount of surgical lubrication." (Ex. 4)

### PATIENT G - CONCLUSIONS

The Committee gives credence to Patient G's testimony in that her only reason for coming to the Emergency Room was for chest pains. (Ex. 4) There was, therefore, no medical reason for a pelvic examination. It is significant that the patient's complaint about Dr. Segueria was made immediately to hospital staff members. The fact that no rash was found by the gynecologists on examination contradicts Respondent's claim that Patient G asked him to examine a rash.

The gynecologist found a thick amount of surgical lubrication which is consistent with Patient G's testimony that twice Respondent applied the gel and rubbed her vagina.

Although the gynecologist comments upon the thick amount of surgical lubrication there is no mention of powder. This is contrary to Respondent's claim that the powder was so thick in the vagina he couldn't see if there was a rash.

The Committee concludes that the Respondent willfully abused Patient G by engaging in a non-medical physical touching of a sexual nature. There was no medical reason for the Respondent to examine the area of the vagina.

Therefore, the Committee unanimously sustains the Seventh Specification with regard to Patient G.



PATIENT H - FINDINGS OF FACT

1. On or about December 26, 1988 Respondent treated Patient H in the Emergency Room of Good Samaritan Hospital in West Islip, New York. Patient H was complaining of lower back pain. (Ex. 6)

2. Patient H was placed in an examining room by a nurse. Respondent entered and had her remove her blouse and lie flat on her back. (T. 244)

3. Patient H was wearing pants, underpants, sneakers and socks and no clothing above the waist. She was not provided with a gown. (t. 245)

4. Respondent used the stethoscope for approximately five minutes going around her breast repeatedly, placing the stethoscope on Patient H's nipple. Other physicians have used a stethoscope to examine her but no one had even put the instrument on her nipple or gone all around her breasts. (T. 246)

5. Respondent then placed the stethoscope on one nipple and placed the nipple from her other breast between his thumb and forefinger and twisted the nipple. (T. 247)

6. Patient H tried to stop him by stating "the pain is in my back, you're not going to find it there." (T. 245)

7. Respondent asked Patient H to turn over which she did and he placed his hand on her buttock and started moving his hand between her legs. Patient H grabbed his wrist and said "I'll show you where the pain is." (T. 248)

8. Respondent left the room at which point Patient H pulled open the curtain closest to her and asked a man lying on the bed in the next cubicle to get a nurse. The man got a nurse who brought Patient H's husband. (T. 249)

9. No breast examination is noted in the patient's chart (Ex. 6).

10. In February, when she received a bill from the hospital for services on December 26, she wrote a letter to the hospital complaining about Dr. Seguerra's conduct. (T. 277) Prior to the letter she did attempt to make a verbal complaint to someone at the hospital. (T. 281, 290)

11. Patient H wrote to the hospital to complain about Dr. Seguerra's conduct before she read anything in the newspaper about his abuse of other patients. (T. 290)

### PATIENT H - CONCLUSIONS

This patient did not go to the Emergency Room with chest or breast complaints. Her complaint was strictly about lower back pain. She had no discussion with Dr. Seguerra about her breast and there is nothing in the chart to indicate that there was a medical reason for a breast examination.

The Committee gave complete credence to the patient's testimony. The medical record as well as her demeanor at the hearing gives a sound basis for the truth of her testimony.

The Committee concludes that the Respondent willfully abused Patient H by engaging in a non-medical physical touching of a sexual nature.

Therefore the committee unanimously sustains the Eighth Specification with regard to Patient H.

III.

Ninth Specification (moral unfitness to  
practice the medical profession)

The Committee unanimously concludes upon the basis of the actions of Dr. Seguerra with regard to eight patients, none of whom knew each other or were in any way in collusion with each other, that he is morally unfit to practice the medical profession within the purview of #6509(9) of the Education Law and 8 NYCRR 19.1(b)(5).

RECOMMENDATIONS

The Committee unanimously recommend that Dr. Seguerra's license to practice medicine be revoked and that such revocation be on the basis of disciplinary sanction for his misconduct as to each of the patients separately.

The Committee feels very strongly that Dr. Seguerra is unfit to be a member of the medical fraternity.

DATED: Albany, New York

*November 01*, 1990

Respectfully submitted,

*Ann Shamberger*  
ANN SHAMBERGER, Chairperson

Glenda D. Donoghue, M.D.  
Winston Price, M.D.

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

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IN THE MATTER :

OF :

ELIEZER M. SEGUERRA, M.D. :

-----X

COMMISSIONER'S

RECOMMENDATION

TO: Board of Regents  
New York State Education Department  
State Education Building  
Albany, New York

A hearing in the above-entitled proceeding was held on August 15, 1989, September 22, 1989, October 10, 1989, November 3, 1989, November 10, 1989, January 12, 1990, January 19, 1990, May 29, 1990. Respondent, Eliezer M. Seguerria, M.D. appeared by Marvin Hirsch, Esq. The evidence in support of the charges against the Respondent was presented by Jean Bresler, Esq.

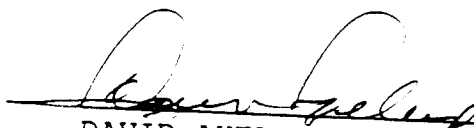
NOW, on reading and filing the transcript of the hearing, the exhibits and other evidence, and the findings, conclusions and recommendation of the Committee,

I hereby make the following recommendation to the Board of Regents:

- A. The Findings of Fact and Conclusions of the Committee should be accepted in full;
- B. The Recommendation of the Committee should be accepted; and
- C. The Board of Regents should issue an order adopting and incorporating the Findings of Fact and Conclusions and further adopting as its determination the Recommendation described above.

The entire record of the within proceeding is transmitted with this Recommendation.

DATED: Albany, New York  
*Hauck* 7, 1990

  
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DAVID AXELROD, M.D., Commissioner  
New York State Department of Health

**ORDER OF THE COMMISSIONER OF  
EDUCATION OF THE STATE OF NEW YORK**

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**ELIEZER M. SEGUERRA**

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**CALENDAR NO. 11590**





# The University of the State of New York

IN THE MATTER

OF

**ELIEZER M. SEGUERRA**  
(Physician)

**DUPLICATE  
ORIGINAL  
VOTE AND ORDER  
NO. 11590**

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Upon the report of the Regents Review Committee, a copy of which is made a part hereof, the record herein, under Calendar No. 11590, and in accordance with the provisions of Title VIII of the Education Law, it was

**VOTED (May 24, 1991):** That, in the matter of ELIEZER M. SEGUERRA, respondent, the recommendation of the Regents Review Committee be accepted as follows:

1. The hearing committee's findings of fact, conclusions as to guilt, and recommendation as to the penalty to be imposed, as well as the Commissioner of Health's recommendation as to those findings, conclusions, and recommendation be accepted, with "8 NYCRR 19.1(b)(5)" on the last line of page 31 of the hearing committee report deemed corrected to read "8 NYCRR 29.1(b)(5)";
2. Respondent is guilty, by a preponderance of the evidence, of the nine specifications of the charges to the extent indicated by the hearing committee; and
3. Respondent's license to practice as a physician in the State of New York be revoked upon each specification of the charges of which respondent has been found guilty, as aforesaid;

and that the Commissioner of Education be empowered to execute,

**ELIEZER M. SEGUERRA (11590)**

for and on behalf of the Board of Regents, all orders necessary to carry out the terms of this vote;

**and it is**

**ORDERED:** That, pursuant to the above vote of the Board of Regents, said vote and the provisions thereof are hereby adopted and **SO ORDERED**, and it is further

**ORDERED** that this order shall take effect as of the date of the personal service of this order upon the respondent or five days after mailing by certified mail.

IN WITNESS WHEREOF, I, Thomas Sobol,  
Commissioner of Education of the State of  
New York, for and on behalf of the State  
Education Department and the Board of  
Regents, do hereunto set my hand and affix  
the seal of the State Education Department,  
at the City of Albany, this 31<sup>st</sup> day of  
May, 1991.  
Thomas Sobol  
Commissioner of Education