



STATE OF NEW YORK DEPARTMENT OF HEALTH

433 River Street, Suite 303

Troy, New York 12180-2299

Antonia C. Novello, M.D., M.P.H., Dr.P.H.
Commissioner

Dennis P. Whalen
Executive Deputy Commissioner

PUBLIC

June 24, 2004

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Robert Bogan, Esq.
Paul Robert Maher, Esq.
NYS Department of Health
Office of Professional Medical Conduct
433 River Street – 4th Floor
Troy, New York 12180

Patricio Salvador, M.D.
10615 Meadowglen Avenue
Apartment 812
Houston, Texas 77042-4011

RE: In the Matter of Patricio Salvador, M.D.

Dear Parties:

Enclosed please find the Determination and Order (No. 04-140) 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 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.

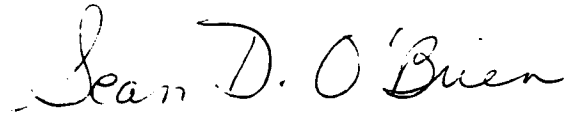
The notice of review served on the Administrative Review Board should be forwarded to:

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 "Sean D. O'Brien". The signature is written in a cursive style with a large initial "S" and "O".

Sean D. O'Brien, Director
Bureau of Adjudication

SDO:cah

Enclosure

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

IN THE MATTER
OF
PATRICIO SALVADOR, M.D.

DETERMINATION
AND
ORDER
BPMC #04-140

COPY

A Notice of Referral Proceeding and Statement of Charges, both dated May 18, 2004, were served upon the Respondent, **PATRICIO SALVADOR, M.D.**. **DENISE M. BOLAN, R.P.A.-C.**, Chairperson, **MOHAMMAD GHAZI-MOGHADAM, M.D.** and **ARSENIO G. AGOPOVICH, M.D.**, duly designated members of the State Board for Professional Medical Conduct, served as the Hearing Committee in this matter pursuant to Section 230(10)(e) of the Public Health Law. **STEPHEN L. FRY, ESQ.**, Administrative Law Judge, served as the Administrative Officer.

A hearing was held on June 17, 2004, at the Offices of the New York State Department of Health, Hedley Park Place, 433 River Street, Troy, New York. The Department appeared by **DONALD P. BERENS, JR., ESQ.**, General Counsel, by **ROBERT BOGAN, ESQ.** and **PAUL ROBERT MAHER, ESQ.**, of Counsel. The Respondent failed to appear at the hearing, in person or by a representative.

Evidence was received and transcripts of these proceedings were made.

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

1. **PATRICIO SALVADOR, M.D.**, the Respondent, was authorized to practice medicine in New York State on June 11, 1974, by the issuance of license number 120163 by the New York State Education Department (Ex. 4).
2. On February 26, 2002, the Texas State Board of Medical Examiners ("the Texas Board") entered a Final Order revoking Respondent's Texas medical license and fining him \$50,000. The Board concluded that these actions were necessary because Respondent had knowingly allowed persons, not licensed to do so, to diagnose and treat patients (often without Respondent's direct or even on-premises supervision), that he had pre-signed prescription blanks for use by such persons, that he had delegated medical tasks to such persons, and that he had lied to the Board about his knowledge of this unlicensed practice (Ex. 5). This Order was supplanted by a nunc pro tunc order on April 5, 2002 making a minor technical change to the original order (Ex. 6).
3. On May 25, 2004, a process server attempted to serve Respondent personally with the Notice of Hearing and Statement of Charges in the instant matter at his last known address. The process server was advised by the person answering the door that Respondent had been out of the country for the last two years (Ex. 2, Ex. 7, Department's attorney's representations on the record).
4. On May 19, 2004, the Department's attorney mailed the same documents to Respondent at the same address by certified Mail, return receipt requested and by first class mail. The postal deliverer attempted unsuccessfully three times (on May 24, May 29 and June 8, 2004) to deliver the documents, and the return receipt came back as undelivered, but the first class mail was not returned to the Department (Department's attorney's representations on the record).

5. Respondent has not kept the New York State Education Department apprised of any changes of address after 1974, when he lived in New York and applied for his New York license, as required by Education Law 6502(5) (Ex. 4).

HEARING COMMITTEE CONCLUSIONS

The hearing Committee concludes that the conduct resulting in the Texas Board's disciplinary actions against Respondent would constitute misconduct under the laws of New York State, pursuant to New York Education Law §6530(9)(b) and (d), in that the conduct would have constituted misconduct in New York, had it been committed here, under:

- New York Education Law §6530(2) (practicing the profession fraudulently);
- New York Education Law §6530(3) (practicing with negligence on more than one occasion);
- New York Education Law §6530(4) (practicing with gross negligence);
- New York Education Law §6530(11) (permitting, aiding or abetting an unlicensed person to perform activities requiring a license);
- New York Education Law §6530(25) (delegating professional responsibilities to a person when the licensee delegating such responsibilities knows or has reason to know that such person is not qualified to perform them); and
- New York Education Law §6530(33) (failing to exercise appropriate supervision over persons who are authorized to practice only under the supervision of the licensee).

The Hearing Committee also concludes that Respondent's New York medical license should be revoked.

VOTE OF THE HEARING COMMITTEE

SPECIFICATIONS

FIRST SPECIFICATION

Respondent violated New York Education Law §6530(9)(b) by having been found guilty of improper professional practice or professional misconduct by a duly authorized professional disciplinary agency of another state where the conduct upon which the finding was based would, if committed in New York State, constitute professional misconduct under the laws of New York State.

VOTE: SUSTAINED (3-0)

SECOND SPECIFICATION

Respondent violated New York Education Law §6530(9)(d) by having had disciplinary action taken by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the disciplinary action would, if committed in New York State, constitute professional misconduct under the laws of New York State.

VOTE: SUSTAINED (3-0)

DETERMINATION AS TO SERVICE

The Department attempted to serve Respondent with the Notice of Hearing and Statement of Charges both personally and by Certified Mail Return Receipt Requested at his last known address. This was an address at which Respondent had previously, in November, 2003, signed for Certified Mail sent to him by the Department, and at which his automobile was registered (Ex. 7). The personal service was not successful because the person answering the door stated that Respondent had moved away 2 years previously (an apparent untruth), and the Certified Mail was returned as undelivered after 3 unsuccessful

attempts at delivery. It appears from all the evidence that Respondent was attempting to avoid service by having someone provide erroneous information to the process server and by refusing to accept service by Certified Mail. The First Class mail with the documents being served was not returned to the Department as undeliverable, and it may be assumed that they reached Respondent.

The Administrative Law Judge ruled that the Department had effectuated service in accordance with the requirements of Public Health Law §230(10)(d), which provides that if personal service is not successful, the charges and notice may be served "...to the licensee's last known address by the Board...". The notice and charges in this case were served "to" Respondent's last known address, and service was thus accomplished within the meaning of the statute. In the eventuality that Respondent had, in fact, moved from that address, he may be held responsible for any actual failure of delivery because of his own violation of the statute cited above requiring him to keep the Education Department apprised of any changes of address.

HEARING COMMITTEE DETERMINATION

The record in this case establishes that Respondent had his Texas license revoked by the Texas Board because he had engaged in a scheme whereby unlicensed persons in his office provided medical care to patients, unsupervised by him at times, and using pre-signed prescription blanks, and because he had lied to the Board about this scheme. This behavior on Respondent's part seriously endangered patients, violated the trust they placed in him, and violated the most essential tenet of medical licensing – that only fully educated, trained and qualified persons should be allowed to provided medical care. The Hearing Committee has no difficulty concluding that Respondent cannot be trusted to safely

provide medical care, and that this behavior on his part warrants revocation of his New York medical license.

ORDER

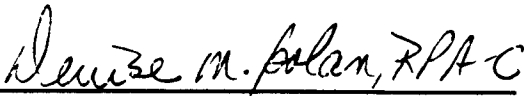
IT IS HEREBY ORDERED THAT:

1. The New York medical license of **PATRICIO SALVADOR, M.D.** is hereby **REVOKED**.

This **ORDER** shall be effective upon service on the Respondent pursuant to Public Health Law section 230(10)(h).

DATED: Newcomb, New York

June 22, 2004

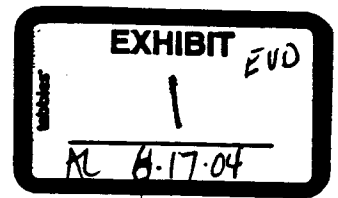


DENISE M. BOLAN, R.P.A.-C

Chairperson

**MOHAMMAD GHAZI-MOGHADAM, M.D.
ARSENIO G. AGOPOVICH, M.D.**

APPENDIX 1



IN THE MATTER

NOTICE OF

OF

REFERRAL

**PATRICIO SALVADOR, M.D.
CO-03-03-1265-A**

PROCEEDING

TO: PATRICIO SALVADOR, M.D.
10615 Meadowglen Avenue
Apt. 812
Houston, TX 77042-4011

PLEASE TAKE NOTICE THAT:

An adjudicatory proceeding will be held pursuant to the provisions of N.Y. Pub. Health Law § 230(10)(p) and N.Y. State Admin. Proc. Act Sections 301-307 and 401. The proceeding will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct (Committee) on the 17th day of June 2004, at 10:00 in the forenoon of that day at Hedley Park Place, Board Room, 433 River Street, 4th Floor, Troy, New York 12180.

At the proceeding, evidence will be received concerning the allegations set forth in the attached Statement of Charges. A stenographic record of the proceeding will be made and the witnesses at the proceeding will be sworn and examined.

You may appear in person at the proceeding and may be represented by counsel. You may produce evidence or sworn testimony on your behalf. Such evidence or sworn testimony shall be strictly limited to evidence and testimony relating to the nature and severity of the penalty to be imposed upon the licensee. Where the charges are based on the conviction of state law crimes in other jurisdictions, evidence may be offered that would show that the conviction would not be a crime in New York state. The Committee also may limit the number of witnesses whose testimony will be received, as well as the length of time any witness will be permitted to testify.

If you intend to present sworn testimony, the number of witnesses and an estimate of the time necessary for their direct examination must be submitted to the New York State Department of Health, Division of Legal Affairs, Bureau of Adjudication, Hedley Park Place, 5th Floor, 433 River Street, Troy, New York, ATTENTION: HON. SEAN O' BRIEN, DIRECTOR, BUREAU OF ADJUDICATION, (hereinafter "Bureau of Adjudication") as well as the Department of Health attorney indicated below, on or before June 7, 2004.

Pursuant to the provisions of N.Y. Public Health Law §230(10)(p), you shall file a written answer to each of the Charges and Allegations in the Statement of Charges no later than ten days prior to the hearing. Any Charge of Allegation not so answered shall be deemed admitted. You may wish to seek the advice of counsel prior to filing such an answer. The answer shall be filed with the Bureau of Adjudication, at the address indicated above, and a copy shall be forwarded to the attorney for the Department of Health whose name appears below. You may file a brief and affidavits with the Committee. Six copies of all such papers you wish to submit must be filed with the Bureau of Adjudication at the address indicated above on or before June 7, 2004, and a copy of all papers must be served on the same date on the Department of Health attorney indicated below. Pursuant to Section 301(5) of the State Administrative Procedure Act, the Department, upon reasonable notice, will provide at no charge a qualified interpreter of the deaf to interpret the proceedings to, and the testimony of, any deaf person.

The proceeding may be held whether or not you appear. Please note that requests for adjournments must be made in writing to the Bureau of Adjudication, at the address indicated above, with a copy of the request to the attorney for the Department of Health, whose name appears below, at least five days prior to the scheduled date of the proceeding. Adjournment requests are not routinely granted. Claims of court engagement will require detailed affidavits of actual engagement. Claims of illness will require medical documentation. Failure to obtain an attorney within a reasonable period of time prior to the proceeding will not be grounds for an adjournment.

The Committee will make a written report of its findings, conclusions as to guilt, and a determination. Such determination may be reviewed by the Administrative Review Board for Professional Medical Conduct.

SINCE THESE PROCEEDINGS MAY RESULT IN A DETERMINATION
THAT SUSPENDS OR REVOKES YOUR LICENSE TO PRACTICE
MEDICINE IN NEW YORK STATE AND/OR IMPOSES A FINE FOR
EACH OFFENSE CHARGED, YOU ARE URGED TO OBTAIN AN
ATTORNEY TO REPRESENT YOU IN THIS MATTER.

DATED: Albany, New York

May 18, 2004



PETER D. VAN BUREN

Deputy Counsel

Bureau of Professional Medical Conduct

Inquiries should be addressed to:

Robert Bogan
Associate Counsel
New York State Department of Health
Office of Professional Medical Conduct
433 River Street – Suite 303
Troy, New York 12180
(518) 402-0828

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

IN THE MATTER
OF
PATRICIO SALVADOR, M.D.
CO-03-03-1265-A

STATEMENT
OF
CHARGES

PATRICIO SALVADOR, M.D., Respondent, was authorized to practice medicine in New York state on June 11, 1974, by the issuance of license number 120163 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about February 26, 2002, the Texas State Board of Medical Examiners (hereinafter "Texas Board"), by a Final Order (hereinafter "Texas Order 1"), REVOKED Respondent's license to practice medicine and imposed a \$50,000.00 administrative penalty, based on Respondent having a committed prohibited acts and practice and unprofessional and dishonorable conduct that is likely to deceive or defraud the public, based on delegating professional medical responsibility to a person he knew was not qualified by license to perform the delegated acts, aiding and abetting unlicensed persons to practice medicine by providing them with pre-signed prescriptions, and approving the treatment and diagnosis of a patient by an unlicensed assistant.

B. On or about April 5, 2002, the Texas Board, by an Order Nunc Pro Tunc (hereinafter "Texas Order 2"), REVOKED Respondent's license to practice medicine and imposed a \$50,000.00 administrative penalty, based on the conduct set forth in Texas Order 1, set forth in Paragraph A, above.

C. The conduct resulting in the Texas Board disciplinary action against Respondent would constitute misconduct under the laws of New York State, pursuant to the following sections of New York State law:

1. New York Education Law §6530(2) (practicing the profession fraudulently);

2. New York Education Law §6530(3) (negligence on more than one occasion);
3. New York Education Law §6530(4) (gross negligence);
4. New York Education Law §6530(11) (permitting, aiding or abetting an unlicensed person to perform activities requiring a license);
5. New York Education Law §6530(25) (delegating professional responsibilities to a person when the licensee delegating such responsibilities knows or has reason to know that such person is not qualified to perform them); and/or
6. New York Education Law §6530(33) (failing to exercise appropriate supervision over persons who are authorized to practice only under the supervision of the licensee).

SPECIFICATIONS

FIRST SPECIFICATION

Respondent violated New York State Education Law §6530(9)(b) by having been found guilty of improper professional practice or professional misconduct by a duly authorized professional disciplinary agency of another state where the conduct upon which the finding was based 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 A, B, and/or C.

SECOND SPECIFICATION

Respondent violated New York State Education Law §6530(9)(d) by having his license to practice medicine revoked or having other disciplinary action taken by a duly authorized professional agency of another state where the conduct resulting in the revocation or other disciplinary action would, if committed in New York state, constitute professional misconduct under the laws of New York state, in that Petitioner charges:

2. The facts in Paragraphs A, B, and/or C.

DATED: *May 18*, 2004
Albany, New York


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