

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

IN THE MATTER

OF

ALAN JAPZON BAUTISTA, M.D.

COMMISSIONER'S
ORDER AND
NOTICE OF
HEARING

TO: Alan Japzon Bautista, M.D.
385 South End Avenue #1H
New York, New York 10280

APR 13 2005

The undersigned, Antonia C. Novello, M.D., M.P.H., Dr.P.H., Commissioner of Health, after an investigation, upon the recommendation of a Committee on Professional Medical Conduct of the State Board for Professional Medical Conduct, and upon the Statement of Charges attached hereto and made a part hereof, has determined that the continued practice of medicine in the State of New York by Alan Japzon Bautista, M.D., the Respondent, constitutes an imminent danger to the health of the people of this state.

It is therefore:

ORDERED, pursuant to N.Y. Pub. Health Law §230(12), that effective immediately Alan Japzon Bautista, M.D., Respondent, shall not practice medicine in the State of New York. This Order shall remain in effect unless modified or vacated by the Commissioner of Health pursuant to N.Y. Pub. Health Law §230(12).

PLEASE TAKE NOTICE that a hearing will be held pursuant to the provisions of N.Y. Pub. Health Law §230, and N.Y. State Admin. Proc. Act §§301-307 and 401. The hearing will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct on April 13, 2005, at 10:00 a.m., at the offices of the New York State Health Department, 90 Church Street, 4th floor, N.Y., N.Y. 10007, and at such other adjourned dates, times and places as the committee may direct. The Respondent may file an answer to the Statement of

Charges with the below-named attorney for the Department of Health.

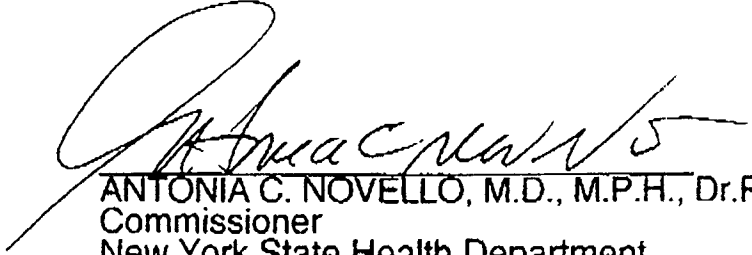
At the hearing, evidence will be received concerning the allegations set forth in the Statement of Charges, which is attached. A stenographic record of the hearing will be made and the witnesses at the hearing will be sworn and examined. The Respondent shall appear in person at the hearing and may be represented by counsel. The Respondent has the right to produce witnesses and evidence on his behalf, to issue or have subpoenas issued on his behalf for the production of witnesses and documents and to cross-examine witnesses and examine evidence produced against him. A summary of the Department of Health Hearing Rules is enclosed. Pursuant to §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 hearing will proceed whether or not the Respondent appears at the hearing. Scheduled hearing dates are considered dates certain and, therefore, adjournment requests are not routinely granted. Requests for adjournments must be made in writing to the New York State Department of Health, Division of Legal Affairs, Bureau of Adjudication, Hedley Park Place, 433 River Street, Fifth Floor South, Troy, NY 12180, ATTENTION: HON. SEAN D. O'BRIEN, DIRECTOR, BUREAU OF ADJUDICATION, and by telephone (518-402-0748), upon notice to the attorney for the Department of Health whose name appears below, and at least five days prior to the scheduled hearing date. Claims of court engagement will require detailed affidavits of actual engagement. Claims of illness will require medical documentation.

At the conclusion of the hearing, the committee shall make findings of fact, conclusions concerning the charges sustained or dismissed, and, in the event any of the charges are sustained, a determination of the penalty or sanction to be imposed or appropriate action to be taken. Such determination may be reviewed by the administrative review board for professional medical conduct.

THESE PROCEEDINGS MAY RESULT IN A DETERMINATION THAT YOUR LICENSE TO PRACTICE MEDICINE IN NEW YORK STATE BE REVOKED OR SUSPENDED, AND/OR THAT YOU BE FINED OR SUBJECT TO OTHER SANCTIONS SET FORTH IN NEW YORK PUBLIC HEALTH LAW §230-a. YOU ARE URGED TO OBTAIN AN ATTORNEY TO REPRESENT YOU IN THIS MATTER.

DATED: Albany, New York
April / , 2005


ANTONIA C. NOVELLO, M.D., M.P.H., Dr.P.H.
Commissioner
New York State Health Department

Inquiries should be directed to:

Dianne Abeloff
Associate Counsel
N.Y.S. Department of Health
Division of Legal Affairs
90 Church Street, 4th fl.
N.Y., N.Y. 10001

SECURITY NOTICE TO THE LICENSEE

The proceeding will be held in a secure building with restricted access. Only individuals whose names are on a list of authorized visitors for the day will be admitted to the building.

No individual's name will be placed on the list of authorized visitors unless written notice of the individual's name is provided by the licensee or the licensee's attorney to one of the Department offices listed below.

The written notice may be sent via facsimile transmission, or any form of mail, but must be received by the Department **no less than two days prior to the date** of the proceeding. The notice must be on the letterhead of the licensee or the licensee's attorney, must be signed by the licensee or the licensee's attorney, and must include the following information:

Licensee's Name _____ Date of Proceeding _____

Name of person to be admitted _____

Status of person to be admitted _____
(Licensee, Attorney, Member of Law Firm, Witness, etc.)

Signature (of licensee or licensee's attorney) _____

This written notice must be sent to:

New York State Health Department
Bureau of Adjudication
Hedley Park Place
433 River Street, Fifth Floor South
Troy, NY 12180
Fax: 518-402-0751

IN THE MATTER
OF
ALAN JAPZON BAUTISTA, M.D.

STATEMENT
OF
CHARGES

ALAN JAPZON BAUTISTA, M.D., the Respondent, was authorized to practice medicine in New York State on or about July 5, 1994, by the issuance of license number 196406 by the New York State Education Department.

FACTUAL ALLEGATIONS

- A. On or about November 13, 2002, Patient A (Patients are identified in Appendix A) went to the emergency room of Our Lady of Mercy Medical Center (OLOM) with complaints of severe pain in her left buttocks and leg following a fall sustained while jumping hurdles. Respondent's care deviate from accepted medical standards in that Respondent:
 - 1. Failed to order appropriate x-rays.
 - 2. Failed to appropriately diagnose the patient's injury.
 - 3. Failed to appropriately control the patient's pain.
 - 4. Failed to ascertain and document patient's ability to ambulate prior to discharge from the OLOM emergency room (ER).

- B. On or about September 1, 1999, Patient B went to OLOM E.R. with complaints c headache, nausea, vomiting and she was noted to be febrile. Respondent's car deviated from accepted medical standards in that Respondent:
 - 1. Failed to appropriately evaluate patient for ventricular peritoneal (vp) shunt infection.

2. Failed to contact patient's treating neurologist and neurosurgeon prior to discharging a patient with a vp shunt.
 3. Inappropriately diagnosed a urinary tract infection (UTI) in the absence of UTI symptoms.
- C. On or about December 11, 1999, Patient C was brought to OLOM E.R. with complaints of abdominal pain. Respondent's care deviated from accepted medical standards in that Respondent:
1. Failed to appropriately evaluate the cause of abdominal pain in a woman of reproductive age.
 2. Failed to appropriately evaluate the patient's abnormal vital signs.
- D. On or about November 20, 2000, Patient D, blind in her left eye, went to OLOM E.R. with complaints of two weeks of decreased vision in her right eye and pain to the back of her head. Respondent's care deviated from accepted medical standards in that Respondent:
1. Failed to appropriately evaluate a patient for a possible intracranial mass.
 2. Failed to appropriately treat a patient with evidence of an intracranial mass and increased intracranial pressure.
 3. Failed to obtain a visual acuity in a patient's only seeing eye.
 4. Failed to obtain an ophthalmology consult in the E.R.
- E. On or about August 21, 1998, Patient E was brought by ambulance to the OLOM E.R. with complaints of altered mental status, weakness and dizziness. Respondent's care deviated from accepted medical standards in that Respondent:

1. Performed a lumbar puncture on a patient with mass effect of the brain and midline shift of the brain.
2. Failed to inform consult with the attending neurologist concerning the results of the CT scan prior to performing the lumbar puncture.
3. Failed to appropriately evaluate and treat a patient with increased intracranial pressure and with previously diagnosed intracranial pathology.

F. On or about April 7, 2003, Patient F was brought by ambulance to Montefiore Medical Center E.R. with complaints of light headedness, slurred speech and difficulty speaking. Respondent's care deviated from accepted medical standards in that Respondent:

1. Failed to appropriately diagnose the patient's condition.
2. Failed to follow up on the abnormal findings of critical blood tests he had ordered.
3. Failed to obtain a cardiac consult to determine whether the patient's symptoms were precipitated by cardiac etiology.
4. Failed to order a full cardiac and central nervous system assessment.
5. Failed to admit the patient to the hospital for observation.

G. On or about June 27, 2003, Patient G went to Montefiore Medical Center E.R. with complaints of abdominal pain, vomiting and diarrhea. Respondent's care deviated from accepted medical standards in that Respondent:

1. Failed to timely evaluate and treat a patient with documented coronary artery disease who presented to the E.R. with complaints of chest pain.

2. Failed to timely notify the patient's cardiologist of the patient's symptoms, clinical findings and abnormal EKG.
3. Failed to appropriately evaluate and treat a patient with non-insulin dependent diabetes with a finger stick glucose determination of 518 mg. %
4. Failed to appropriately respond to findings of an abnormal EKG.
5. Failed to perform a rectal exam and draw a hematocrit on patient with gastrointestinal symptoms.

SPECIFICATION OF CHARGES

FIRST THROUGH SEVENTH SPECIFICATION

GROSS NEGLIGENCE

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(4) by practicing the profession of medicine with gross negligence on a particular occasion as alleged in the facts of the following:

1. Paragraph A and its subparagraphs;
2. Paragraph B and its subparagraphs;
3. Paragraph C and its subparagraphs;
4. Paragraph D and its subparagraphs;
5. Paragraph E and its subparagraphs;
6. Paragraph F and its subparagraphs;
7. Paragraph G and its subparagraphs.

EIGHTH SPECIFICATION

NEGLIGENCE ON MORE THAN ONE OCCASION

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(3) by practicing the profession of medicine with

negligence on more than one occasion as alleged in the facts of two or more of the following:

8. Paragraph A and its subparagraphs; Paragraph B and its subparagraphs; Paragraph C and its subparagraphs; Paragraph D and its subparagraphs; Paragraph E and its subparagraphs; Paragraph F and its subparagraphs; and/ or Paragraph G and its subparagraphs.

NINTH SPECIFICATION
GROSS INCOMPETENCE

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(6) by practicing the profession of medicine with gross incompetence as alleged in the facts of the following:

9. Paragraph A and its subparagraphs; Paragraph B and its subparagraphs; Paragraph C and its subparagraphs; Paragraph D and its subparagraphs; Paragraph E and its subparagraphs; Paragraph F and its subparagraphs; Paragraph G and its subparagraphs.


TENTH SPECIFICATION
INCOMPETENCE ON MORE THAN ONE OCCASION

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(5) by practicing the profession of medicine with incompetence on more than one occasion as alleged in the facts of two or more the following:

10. Paragraph A and its subparagraphs; Paragraph B and its subparagraphs; Paragraph C and its subparagraphs; Paragraph

D and its subparagraphs; Paragraph E and its subparagraphs;
Paragraph F and its subparagraphs; and/ or Paragraph G and
its subparagraphs.

DATED: March 30, 2005
New York, New York


Roy Nemerson
Deputy Counsel
Bureau of Professional
Medical Conduct