



STATE OF NEW YORK
DEPARTMENT OF HEALTH

433 River Street, Suite 303

Troy, New York 12180-2299

Public

January 26, 2007

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Joshua D. Salvador, M.D.
7234 West North Avenue
Elmwood Park, Illinois 60707

Joshua D. Salvador, M.D.
7234 West North Avenue
Apartment 205
Elmwood Park, Illinois 60707

Robert Bogan, Esq.
NYS Department of Health
Hedley Building - 4th Floor
433 River Street
Troy, New York 12180

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

Dear Parties:

Enclosed please find the Determination and Order (No. 07-21) 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.

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 Respondent or the Department may seek a review of a committee determination.

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.

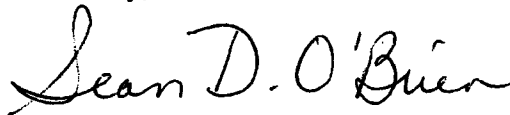
The notice of review served on the Administrative Review Board should be forwarded to:

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 cursive script that reads "Sean D. O'Brien".

Sean D. O'Brien, Director
Bureau of Adjudication

SDO:cah

Enclosure

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

COPY

IN THE MATTER
OF
JOSHUA D. SALVADOR, M.D.

DETERMINATION

AND

ORDER

BPMC #07-21

A hearing was held on January 17, 2007, regarding the Respondent, **Joshua D. Salvador, M.D.**, at the offices of the New York State Department of Health ("the Petitioner"), pursuant to a Commissioner's Order and Notice of Referral Proceeding, dated November 21, 2006, and a Statement of Charges, dated November 20, 2006. Pursuant to Section 230(10)(e) of the Public Health Law, **Donald Cherr, M.D.**, Chairperson, **Edmund A. Egan, II, M.D.**, and **Mr. Henry M. Sloma**, duly designated members of the State Board for Professional Medical Conduct ("the Board"), served as the Hearing Committee in this matter. **John Wiley, Esq.**, Administrative Law Judge, served as the Administrative Officer.

The Petitioner appeared by **Donald P. Berens, Jr., Esq.**, General Counsel, by **Robert Bogan, Esq.**, of Counsel. The Respondent did not appear at the hearing, either in person or by counsel.

Evidence was received and transcripts of these proceedings were made.

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

BACKGROUND

This case was brought pursuant to Public Health Law Section 230(10). This statute provides that when the Petitioner has charged a physician with professional misconduct, an administrative hearing is held by a three-member Hearing Committee of the Board. The Hearing Committee determines whether the charges will be sustained and whether a penalty will be imposed.

In the instant case, the Respondent is charged with professional misconduct pursuant to Education Law Section 6530(2), (9)(b), (9)(d) and (21). Copies of the Commissioner's Order and Notice of Referral Proceeding and the Statement of Charges are attached to this Determination and Order as Appendix 1.

WITNESSES

For the Petitioner: None

For the Respondent: None

FINDINGS OF FACT

The following Findings of Fact were made after a review of the entire record in this matter. Numbers below in parentheses refer to exhibits, denoted by the prefix "Ex." These citations refer to evidence found persuasive by the Hearing Committee in arriving at a particular finding. All Hearing Committee findings were unanimous.

1. Joshua D. Salvador, M.D., the Respondent, was authorized to practice medicine in New York State on March 20, 1972, by the issuance of license number 111922 by the New York State Education Department (Petitioner's Ex. 4).

2. On November 10, 2004, the Illinois Department of Financial and Professional Regulation, Division of Professional Regulation, ("Illinois Agency"), by a Complaint, charged the Respondent with professional medical misconduct (Petitioner's Ex. 5).

3. On January 19, 2005, the Illinois Agency, by an Amended Complaint, charged the Respondent with professional medical misconduct (Petitioner's Ex. 5).

4. On November 29, 2005, an Illinois Agency Administrative Law Judge, after holding a hearing, issued an Administrative Law Judge's Report and Recommendation ("Report I") in which he recommended that disciplinary action be taken against the Respondent for professional misconduct (Petitioner's Ex. 5).

5. On December 7, 2005, the Illinois Agency Administrative Law Judge issued an Amended Administrative Law Judge's Report and Recommendation ("Report II") in which he again recommended that disciplinary action be taken against the Respondent for professional misconduct (Petitioner's Ex. 5).

6. On December 7, 2005, the Illinois Agency's Medical Disciplinary Board, by a Findings of Fact, Conclusions of Law, and Recommendations to the Director, adopted the findings of fact of Report II and recommended that the Illinois Agency's Director indefinitely suspend the Respondent's license to practice medicine for a minimum of ten years, based on the Respondent's professional misconduct (Petitioner's Ex. 5).

7. On December 16, 2005, the Respondent prepared and submitted to the New York State Education Department a Registration Renewal Document, wherein he falsely answered "No" to question 2.d, which asked, "Since your last registration application...Are any charges pending against you in any jurisdiction for any sort of professional misconduct?" (Petitioner's Ex. 4 and 5).

8. On January 20, 2006, the Illinois Agency, by an Order, indefinitely suspended the Respondent's license to practice medicine for a minimum of ten years, based on gross negligence, and unethical and unprofessional conduct of a character likely to deceive, defraud or harm the public (Petitioner's Ex. 5).

HEARING COMMITTEE CONCLUSIONS

The Hearing Committee concludes that the conduct of the Respondent in Illinois would constitute professional misconduct under the laws of New York State, had the conduct occurred in New York State, pursuant to:

- New York Education Law Section 6530(3) - "Practicing the profession with negligence on more than one occasion;"
- New York Education Law Section 6530(4) - "Practicing the profession with gross negligence on a particular occasion;"
- New York Education Law Section 6530(5) - "Practicing the profession with incompetence on more than one occasion;"
- New York Education Law Section 6530(6) - "Practicing the profession with gross incompetence;" and
- New York Education Law Section 6530(32) - "Failing to maintain a record for each patient which accurately reflects the evaluation and treatment of the patient. Unless otherwise provided by law, all patient records must be retained for at least six years. Obstetrical records and records of minor patients must be retained for at least six years, and until one year after the minor patient reaches the age of eighteen years..."

VOTE OF THE HEARING COMMITTEE

FIRST SPECIFICATION

"Respondent violated New York Education Law Section 6530(2) by practicing the profession fraudulently..."

VOTE: Sustained (3-0)

SECOND SPECIFICATION

"Respondent violated New York Education Law Section 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)

THIRD SPECIFICATION

"Respondent violated New York Education Law Section 6530(9)(d) by having his license to practice medicine suspended and/or having other disciplinary action taken by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the license suspension and/or other disciplinary action would, if committed in New York state, constitute professional misconduct under the laws of New York state..."

VOTE: Sustained (3-0)

FOURTH SPECIFICATION

"Respondent violated New York State Education Law Section 6530(21) by willfully making or filing a false report required by law or by the department of health or the education department..."

VOTE: Sustained (3-0)

HEARING COMMITTEE DETERMINATION

The Respondent did not appear at the hearing, either in person or by counsel. The Petitioner acknowledged that the Commissioner's Order and Notice of Referral Proceeding and the Statement of Charges were not served on the Respondent. The hearing record discloses that the Petitioner attempted to serve these papers on the Respondent, both in person and by certified mail, at his last known address, but that he was unknown at this address (Petitioner's Ex. 2 and 3). The Respondent's current address is unknown to the Petitioner. The Administrative Law Judge ruled that the Respondent had a legal duty to inform the New York State Department of Education of

address changes, that the Respondent had not performed this duty, and that, therefore, failure of the Petitioner to serve the Commissioner's Order and Notice of Referral Proceeding and the Statement of Charges was the fault of the Respondent, not the Petitioner. The Administrative Law Judge ruled that the Petitioner had met the requirements of law regarding service of these papers and that the hearing could proceed on the merits despite the absence of the Respondent.

The Illinois Agency found that the Respondent's treatment of three patients was seriously deficient and constituted professional misconduct. Patient One was diagnosed with a uterine fibroid tumor and was scheduled for a myomectomy, which the Respondent performed in his office, despite the patient's history of serious health problems that made surgery in the office an unacceptable risk. The patient went home the day of the surgery and experienced pain and had blood in the urine. The Respondent visited the patient at her home, but did not send her to a hospital. After the Respondent left, the patient went to a hospital where it was discovered that she had a bladder perforation, blood clots in the pelvic area and bleeding from uterine operative sites. The patient underwent a bladder repair, a hysterectomy, bilateral salpingo oophorectomy and 25 days in the intensive care unit. The Illinois Agency concluded that the Respondent committed gross negligence by performing the surgery in his office, by perforating the bladder, by improper post-operative management, and by failing to admit the patient to a hospital.

The Illinois Agency found that the Respondent committed gross negligence regarding Patient Two by failing to diagnose and treat rectal carcinoma and that this failure caused a delay in her treatment resulting in her death.

The Illinois Agency found that the Respondent committed gross negligence regarding Patient Three by failing to insert a pacemaker properly, by failing to monitor vital signs properly during the insertion of the pacemaker and by improper sedation of the

patient during the procedure. Because of the Respondent's gross negligence, Patient Three needed two subsequent surgeries.

In addition to the substandard treatment of these three patients, the Respondent provided a false answer on his December 16, 2005, New York Registration Renewal Document by failing to disclose the Illinois disciplinary proceeding. This constituted practicing the profession fraudulently and willfully making a false report required by law.

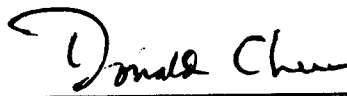
The Petitioner recommended that the Respondent's license to practice medicine be revoked. This recommendation will be adopted. Because the Respondent did not appear at the hearing, the hearing record contains no evidence of mitigation, rehabilitation or remorse. The Respondent's transgressions, both the grossly negligent treatment of patients and his dishonesty, are serious and lead to a conclusion that only a revocation of his license will adequately protect the people of New York State.

ORDER

IT IS HEREBY ORDERED THAT:

1. The License of the Respondent to practice medicine in New York State is revoked.
2. This Order shall be effective upon service on the Respondent in accordance with the requirements of Public Health Law Section 230(10)(h).

DATED: Rochester, New York
January 25, 2007



Donald Cherr, M.D.
Chairperson

Edmund A. Egan, II, M.D.
Henry M. Sloma

APPENDIX I

ORIGINAL

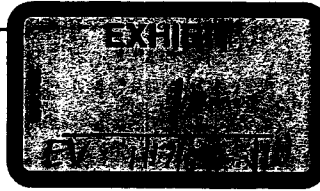
STATE OF NEW YORK
STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

DEPARTMENT OF HEALTH

IN THE MATTER

OF

JOSHUA D. SALVADOR, M.D.
CO-06-02-1256-A



COMMISSIONER'S
ORDER
AND
NOTICE OF
REFERRAL
PROCEEDING

TO: JOSHUA D. SALVADOR, M.D.
7234 W. North Avenue
Elmwood Park, IL 60707

JOSHUA D. SALVADOR, M.D.
7234 W. North Avenue
Apt. 205
Elmwood Park, IL 60707

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 **JOSHUA D. SALVADOR, M.D.**, Respondent, licensed to practice medicine in the State of New York as a physician on March 20, 1972, by license number 111922, has been disciplined by the Department of Financial Regulation and Professional Regulation, Division of Professional Regulation, the duly authorized professional disciplinary agency of the State of Illinois, for acts which if committed in this state would have constituted the basis for summary action.

It is therefore:

ORDERED, pursuant to New York Public Health Law §230(12)(b), that effective immediately **JOSHUA D. SALVADOR, M.D.**, Respondent, shall not practice medicine as a physician in the State of New York or in any other jurisdiction where that practice is predicated on a valid New York State license to practice medicine as a physician. This Order shall remain in effect unless modified or vacated by the Commissioner of Health pursuant to New York Public Health Law §230(12).

PLEASE TAKE NOTICE that a hearing will be held pursuant to the provisions of New York Public Health Law §230, and New York State Administrative Procedure 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 the 17th day of January, 2007, at 10:00 a.m., at Hedley Park Place, 433 River Street, 5th Floor, Troy, New York 12180, at the offices of the New York State Health Department, 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.

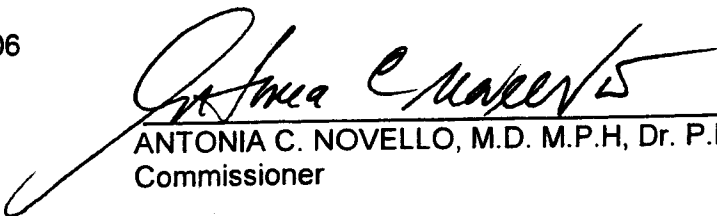
The hearing will proceed whether or not the Respondent appears at the hearing. Scheduled hearing dates are considered dates certain and, therefore, adjournment requests are not routinely granted. Requests for adjournments must be made in writing to the New York State Department of Health, Division of 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

November 21, 2006


ANTONIA C. NOVELLO, M.D. M.P.H, Dr. P.H.,
Commissioner

Inquires should be addressed to:

Robert Bogan
Associate Counsel
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
JOSHUA D. SALVADOR, M.D.
CO-06-02-1256-A

STATEMENT
OF
CHARGES

JOSHUA D. SALVADOR, M.D., Respondent, was authorized to practice medicine in New York state on March 20, 1972, by the issuance of license number 111922 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about November 10, 2004, the State of Illinois, Department of Financial and Professional Regulation, Division of Professional Regulation (hereinafter "Illinois Board"), by a Complaint (hereinafter "Illinois Complaint I"), charged Respondent with professional medical misconduct.

B. On or about January 19, 2005, the Illinois Board, by an Amended Complaint (hereinafter "Illinois Complaint II"), charged Respondent with professional medical misconduct.

C. On or about November 29, 2005, the Illinois Board, by an Administrative Law Judge's Report and Recommendation, (hereinafter "ALJR & R I"), recommended to the Illinois Board, that disciplinary action be taken against Respondent for professional medical misconduct set forth in Illinois Complaint II.

D. On or about December 7, 2005, the Illinois Board, by an Administrative Law Judge's Amended Report and Recommendation (hereinafter "ALJR & R II"), recommended to the Illinois Board, that disciplinary action be taken against Respondent for professional medical misconduct set forth in Illinois Complaint II.

E. On or about December 7, 2005, the Illinois Board, by a Findings and Fact, Conclusions of Law, and Recommendations to the Director (hereinafter "Illinois Recommendation"), adopted and incorporated the Findings of Fact contained in ALJR & R II and recommended to the Director of the Illinois Board, that Respondent's license to practice medicine be INDEFINITELY SUSPENDED for a minimum of ten (10) years, based on professional medical misconduct.

F. On or about December 16, 2005, Respondent prepared and submitted to the New York State, Education Department, a Registration Renewal Document, wherein he falsely answered "No" to question "2. Since your last registration application, d. Are charges pending against you in any jurisdiction for any sort of professional misconduct?"

G. On or about January 20, 2006, the Illinois Board by an Order (hereinafter "Illinois Order"), INDEFINITELY SUSPENDED FOR A MINIMUM OF TEN YEARS Respondent's license to practice medicine, based on gross negligence, and unethical and unprofessional conduct of a character likely to deceive or fraud or harm the public.

H. The conduct resulting in the Illinois 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(3) (negligence on more than one occasion);
2. New York Education Law §6530(4) (gross negligence);
3. New York Education Law §6530(5) (incompetence on more than one occasion);
4. New York Education Law §6530(6) (gross incompetence); and/or
5. New York Education Law §6530(32) (failure to maintain a record for each patient

which accurately reflects the evaluation and treatment of the patient).

SPECIFICATIONS

FIRST SPECIFICATION

Respondent violated New York Education Law §6530(2) by practicing the profession fraudulently, in that Petitioner charges:

1. The facts in Paragraphs A, B, C, D, E, and/or F.

SECOND 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, in that Petitioner charges:

2. The facts in Paragraphs G and/or H.

THIRD SPECIFICATION

Respondent violated New York State Education Law §6530 (9)(d) by having his license to practice medicine suspended and/or having other disciplinary action taken by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the license suspension and/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:

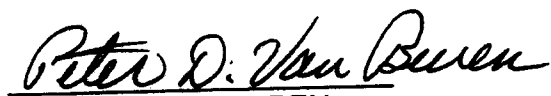
3. The facts in Paragraphs G and/or H.

FOURTH SPECIFICATION

Respondent violated New York State Education Law §6530(21) by willfully making or filing a false report required by law or by the department of health or the education department, in that Petitioner charges:

4. The facts in Paragraphs A, B, C, D, E and/or F.

DATED: *Nov. 20*, 2006
Albany, New York


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