



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.
Commissioner

Dennis P. Whalen
Executive Deputy Commissioner

August 6, 1999

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Kalimah J. Jenkins, Esq.
NYS Department of Health
Empire State Plaza
Corning Tower - Room 2509
Albany, New York 12237

Altagracia Santana-Pichardo, M.D.
1 Droyers Point Blvd.
Jersey City, New Jersey 07305

RE: In the Matter of Altagracia Santana-Pichardo, M.D.

Dear Parties:

Enclosed please find the Determination and Order (No.99-201) of the Hearing Committee in the above referenced matter. This Determination and Order shall be deemed effective upon the receipt or seven (7) days after mailing by certified mail as per the provisions of §230, subdivision 10, paragraph (h) of the New York State Public Health Law.

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required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate.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

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

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

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

review of a committee determination.

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

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

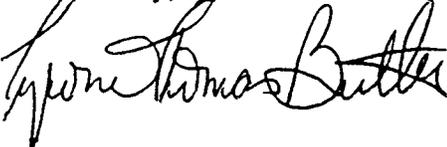
The notice of review served on the Administrative Review Board should be forwarded to:

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

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

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

Sincerely,



Tyrone T. Butler, Director
Bureau of Adjudication

TTB:mla
Enclosure

DETERMINATION
AND
ORDER

IN THE MATTER
OF
ALTAGRACIA SANTANA-PICHARDO, M.D.

BPMC - 99-201

RICHARD D. MILONE, M.D., Chairperson, SHELDON GAYLIN, M.D., and ANTHONY SANTIAGO, duly designated members of the State Board for Professional Medical Conduct, appointed by the Commissioner of Health of the State of New York pursuant to Section 230(1) of the Public Health Law, served as the Hearing Committee in this matter pursuant to Sections 230(10)(e) and 230(12) of the Public Health Law. ELLEN B. SIMON, ESQ., Administrative Law Judge, served as Administrative Officer for the Hearing Committee.

After consideration of the entire record, the Hearing Committee submits this Determination.

STATEMENT OF CHARGES

The Statement of Charges essentially charges the Respondent with professional misconduct by reason of fraudulent practice, moral unfitness, willfully making or filing a false report, and conviction of a crime under New York State Law.

The charges are more specifically set forth in the Statement of Charges, a copy of which is attached to and made a part of this Determination and Order.

SUMMARY OF THE PROCEEDINGS

Statement of Charges Dated:	May 26, 1999
Hearing Date:	July 8, 1999
Deliberation Date:	July 8, 1999
Place of Hearing:	NYS Department of Health 5 Penn Plaza New York, New York
Petitioner Appeared By:	Henry M. Greenberg, Esq. General Counsel NYS Department of Health By: Kalimah J. Jenkins, Esq. Assistant Counsel

Respondent did not appear

WITNESSES

None

FINDINGS OF FACT

Numbers in parentheses refer to Department of Health exhibits, and they denote evidence that the Hearing Committee found persuasive in determining a particular finding. No conflicting evidence was presented.

1. ALTAGRACIA SANTANA-PICHARDO, M.D., the Respondent, was granted, by the New York State Education Department, limited permit number P76691, which authorized her to practice medicine only at the Kings County Hospital Center ("the hospital") and only from June 17, 1993 through June 17, 1995 (Ex. 2, pp. 1, 3, 4).
2. Respondent's limited permit was renewed from May 22, 1995 through June 17, 1997 (Ex. 2, pp. 1, 4).
3. At no time has Respondent had a license to practice medicine in New York (Ex. 2, p. 2).
4. On October 17, 1996, Respondent signed a Kings County Hospital Center Department of Psychiatry Clinical Privilege Delineation Form attesting both that she had from New York State either a valid medical license or a valid limited permit and that she qualified as a Class Ia Psychiatrist, i.e., an assistant attending psychiatrist (Ex. 9).
5. On or about June 17, 1997, Respondent submitted or caused to be submitted to Kings County Hospital Center a document purporting to be a limited permit issued by the New York State Education Department that authorized Respondent to practice medicine at the hospital from May 22, 1997 to June 27, 1999 (Ex. 5, p. 2).
6. Once the four-year term of Respondent's limited permit had expired on June 17, 1997, no further renewals or additional limited permits could be granted under state law and regulations (Ex. 2, p. 4; Ex. 8).
7. Despite the expiration of her permit, Respondent continued to work at the hospital from June 18, 1997 until at least April 9, 1998 (Ex. 5, p. 2).
8. On April 9, 1998, the hospital determined that Respondent could not have been granted an extension of her limited permit past June 17, 1997 (Ex. 5, p. 2).
9. On November 24, 1998 in the Supreme Court of New York, Kings County, Respondent was arraigned and pleaded guilty to criminal possession of a forged instrument in the third degree. She was fined \$90.00 and conditionally discharged for one year; one condition of that discharge was that Respondent refrain from unlicensed medical practice (Ex. 7).
10. Petitioner made all reasonable and legally required efforts to give Respondent fair and adequate notice of the hearing in this matter (Exs. 3 and 4).

CONCLUSIONS

In reaching its findings, the Hearing Committee relied solely on the evidence presented by the Petitioner (Department), since the Respondent made no appearance and presented no evidence.

Accordingly, the Committee concludes as follows:

1. Respondent possessed and presented to Kings County Hospital Center a forged document purporting to be a limited permit to practice medicine, from May 22, 1997 to June 27, 1999, granted to her by the New York State Education Department.
2. Because the hospital did not discover until April 9, 1998 that Respondent's limited permit had not and could not have been renewed past June 17, 1997, the Hearing Committee deems it unlikely that Respondent's duties would have been limited after that expiration date so that she could continue to work at the hospital legally. The Hearing Committee therefore concludes that Respondent continued to work as a physician for at least ten months without either a valid license or a valid limited permit.

VOTE OF THE HEARING COMMITTEE

Based upon the foregoing, the Committee concludes as to the specifications and votes unanimously, with one noted exception, as follows:

FIRST SPECIFICATION:
(Fraudulent practice)

SUSTAINED

SECOND SPECIFICATION:
(Moral unfitness)

NOT SUSTAINED, by a vote of 2 to 1

The majority of the Hearing Committee find that the basis for this specification appears to be the Respondent's single misrepresentation as to her credentials, and they determine that something more is required to sustain a charge of moral unfitness. The Committee wishes that Respondent had afforded it the opportunity to observe and listen to her in order better to evaluate her moral fitness to practice medicine, but even in view of her default, the majority find that there is insufficient evidence to support this specification.

The minority finds that Respondent's conduct violated the trust conferred by virtue of her limited permit to practice and that even her single act of misrepresentation violated the moral standards of her professional community. He believes that there is a trust related to the practice of the profession and that Respondent's submission of a fraudulent document to the Kings County Hospital Center violated that trust.

THIRD SPECIFICATION:
(Willfully making or filing a false report)

SUSTAINED

FOURTH SPECIFICATION:
(Conviction of a crime under New York State law)

SUSTAINED

DETERMINATION OF THE HEARING COMMITTEE AS TO PENALTY

The Hearing Committee unanimously determines that Respondent shall be barred from receiving a license to practice medicine in New York for a period of three years from the date of the final determination in this matter.

The Committee has seriously considered all possible penalties for professional misconduct and has voted for such restriction because of the specific facts in this matter. Since Respondent has never been licensed to practice medicine and no longer has even a limited permit to practice, no revocation, suspension, or other such action is applicable as a penalty.

Neither does the Committee believe that a fine is appropriate in these circumstances. Respondent did not reap significant monetary gain from her misrepresentation; she received her salary, of course, but there is no evidence that she billed for procedures not performed or treatment not rendered or that she performed any procedure or rendered any treatment that was unnecessary.

Finally, because it is not Respondent's actual delivery of medical services that is at issue here but, rather, her misrepresentation as to her credentials, the Committee is unaware of any course of education or training that would be appropriate.

Accordingly, the Hearing Committee determines that only a limitation on the issuance of a license to practice medicine, should Respondent qualify for such license, is an appropriate and practicable penalty in this matter.

This penalty represents the Determination of the Hearing Committee, as does its vote on the charges and specifications.

ORDER

Based upon the foregoing, it is hereby ordered that:

Pursuant to N.Y. Public Health Law 230-a(6), the Hearing Committee orders the **LIMITATION** that no license to practice medicine in the State of New York be issued to Respondent for a period of three years from the date of the final determination in this matter.

Dated: Harrison, New York
July 4, 1999

AUGUST

AM



RICHARD D. MILONE, M.D.
Chairperson

SHELDON GAYLIN, M.D.
ANTHONY SANTIAGO

APPENDIX ONE

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

-----X
IN THE MATTER : NOTICE
OF : OF,
ALTAGRACIA SANTANA-PICHARDO, M.D. : HEARING
-----X

TO:

ALTAGRACIA SANTANA-PICHARDO, M.D.
1 Droyers Point Blvd.
Jersey City, NJ 07305

PLEASE TAKE NOTICE:

A hearing will be held pursuant to the provisions of N.Y. Pub. Health Law Section 230 and N.Y. State Admin. Proc. Act Sections 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 8th of July, 1999, at 10:00 in the forenoon of that day at the NEW YORK STATE DEPARTMENT OF HEALTH, 5 Penn Plaza, 6th Floor, New York, NY and at such other adjourned dates, times and places as the committee may direct.

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. You shall appear in person at the hearing and may be represented by counsel. You have the right to produce witnesses and evidence on your behalf, to issue or have subpoenas issued on your behalf in order to require the production of witnesses and documents and

you may cross-examine witnesses and examine evidence produced against you. A summary of the Department of Health Hearing Rules is enclosed.

The hearing will proceed whether or not you appear at the hearing. Please note that requests for adjournments must be made in writing and by telephone to the Bureau of Adjudication, Hedley Park Place, 5th Floor, 433 River Street, Troy, New York 12180, (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. Adjournment requests are not routinely granted as scheduled dates are considered dates certain. Claims of court engagement will require detailed Affidavits of Actual Engagement. Claims of illness will require medical documentation.

Pursuant to the provisions of N.Y. Pub. Health Law Section 230(10)(c) 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 date of the hearing. Any Charge and Allegation not so answered shall be deemed admitted. You may wish to seek the advice of counsel prior to filing such 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. 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.

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 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 THE OTHER SANCTIONS SET OUT IN NEW YORK PUBLIC HEALTH LAW SECTION 230-a. YOU ARE URGED TO OBTAIN AN ATTORNEY TO REPRESENT YOU IN THIS MATTER.

DATED: Albany, New York
May 26, 1999


PETER D. VAN BUREN
Deputy Counsel

Inquiries should be directed to: KALIMAH J. JENKINS
Assistant counsel
Division of Legal Affairs
Bureau of Professional
Medical Conduct
Corning Tower Building
Room 2509
Empire State Plaza
Albany, New York 12237-0032
(518) 473-4282

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

-----X

IN THE MATTER : STATEMENT
OF : OF
ALTAGRACIA SANTANA-PICHARDO, M.D. : CHARGES

-----X

ALTAGRACIA SANTANA-PICHARDO, M.D., the Respondent was authorized to practice medicine in New York State on June 17, 1993, by the issuance of limited permit number P76691 by the New York State Education Department.

FACTUAL ALLEGATIONS

1. Respondent was issued limited permit number P76691 by the New York State Education Department pursuant to which she was authorized to practice medicine at only the Kings County Hospital and only from approximately June 17, 1993 through approximately June 17, 1995.
2. Respondent was issued limited permit number P76691 by the New York State Education Department pursuant to which she was authorized to practice medicine at only the Kings County Hospital and only from approximately June 17, 1995 through approximately June 17, 1997.
3. Respondent, on or around June 17, 1997, forged or caused to be forged a document purporting to be a limited permit issued by

the New York State Education Department which authorized Respondent to practice medicine at the Kings County Hospital from May 22, 1997 to June 27, 1999 when, in fact, the New York State Education Department had not issued Respondent said permit.

4. Respondent, on or around June 17, 1997 submitted or caused to be submitted to the Kings County Hospital a document purporting to be a limited permit issued by the New York State Education Department which authorized Respondent to practice medicine at the Kings County Hospital from May 22, 1997 to June 27, 1999 when, in fact, the New York State Education Department had not issued Respondent said permit.

5. Respondent practiced medicine at the Kings County Hospital Center from approximately June 18, 1997 until April 14, 1998 under such permits and without New York State Education Department authorization.

6. Respondent, on November 24, 1998, in the case of People v. Altagracia Santana-Richardo, docket # 98K085398 was convicted, pursuant to a guilty plea, of criminal possession of a forged instrument in the third degree, a misdemeanor. More specifically, the conviction involved Respondent's possession of the limited permits described in Paragraphs 3 through 5 above.

SPECIFICATIONS

FIRST SPECIFICATION

FRAUDULENT PRACTICE

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

1. The facts in Paragraphs 3 and/or 4 and/or 5 above.

SECOND SPECIFICATION

MORAL UNFITNESS

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

2. The facts in Paragraphs 3 and/or 4 and/or 5 above.

THIRD SPECIFICATION

WILLFULLY MAKING OR FILING A FALSE REPORT

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

3. The facts in Paragraphs 3 and/or 4 and/or 5 above.

FOURTH SPECIFICATION

CONVICTION OF A CRIME UNDER NEW YORK STATE LAW

Respondent is charged with professional misconduct under N.Y. Education Law §6530(9)(a)(i) by reason of having been convicted of committing an act constituting a crime under New York state law in that Petitioner charges:

4. The facts in Paragraphs 6.

DATED: *May 26*, 1999
Albany, New York

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