



STATE OF NEW YORK  
DEPARTMENT OF HEALTH

433 River Street, Suite 303

Troy, New York 12180-2299

Barbara A. DeBuono, M.D., M.P.H.  
*Commissioner*

Dennis P. Whalen  
*Executive Deputy Commissioner*

September 16, 1998

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

Dominic L. Addabo, Esq.  
118-21 Queens Boulevard  
Forest Hills, New York 11375

Emilio Salazar, M.D.  
338 Shea Drive  
New Milford, New Jersey 07646

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

**RE: In the Matter of Emilio Salazar, M.D.**

Dear Parties:

Enclosed please find the Determination and Order (No. 98-213) 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required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate.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,

A handwritten signature in cursive script that reads "Tyrone T. Butler".

Tyrone T. Butler, Director  
Bureau of Adjudication

TTB:nm  
Enclosure

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

**COPY**

**IN THE MATTER  
OF  
EMILIO SALAZAR, M.D.**

**DETERMINATION  
AND  
ORDER**

**BPMC-98-213**

**STEPHEN E. GETTINGER, M.D., Chairperson, EUGENIA HERBST, and ARTHUR  
TESSLER, M.D.,** 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 Section 230 (10) (e) of the Public Health Law. **BARRY E. LICHTENBERG, ESQ.,** Administrative Law Judge, served as Administrative Officer for the Hearing Committee.

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

**SUMMARY OF THE PROCEEDINGS**

Notice of Hearing and Statement of Charges:	May 18, 1998
Pre-Hearing Conference:	June 22, 1998
Hearing Date:	June 22, 1998
Place of Hearing:	NYS Department of Health 5 Penn Plaza New York, New York
Date of Deliberations:	July 13, 1998

Petitioner appeared by:

Henry M. Greenberg, Esq.  
General Counsel  
NYS Department of Health  
By: Kalimah Jenkins, Esq.

Respondent appeared by:

Dominic L. Addabo, Esq.  
118-21 Queens Blvd.  
Forest Hills, NY 11375

### **WITNESSES**

#### **For the Petitioner:**

None; Petitioner offered documentary evidence only.

#### **For the Respondent:**

Wayne D. Longmore, M.D. (character witness).

### **STATEMENT OF THE CHARGES**

Essentially, the Statement of Charges charges the Respondent with denial of licensure in another state, moral unfitness, willful filing of false report and fraudulent practice.

The charges are more specifically set forth in the Statement of Charges, a copy of which is attached hereto and made a part hereof.

## FINDINGS OF FACT

Numbers in parentheses preceded by "T" refer to pages of the hearing transcript. Letters in parentheses preceded by "Ex." refer to exhibits of Petitioner ("Pet. Ex.") or Respondent ("Resp. Ex."). These citations represent evidence found persuasive by the Hearing Committee in arriving at a particular finding. Conflicting evidence, if any, was considered and rejected in favor of the cited evidence. All the Hearing Committee findings were unanimous unless otherwise specified.

1. Respondent, on May 24, 1994, submitted an affidavit of good moral character to the State of New Jersey Board of Medical Examiners which falsely indicated that he had never been terminated from or been asked to resign from a hospital staff or residency position [Pet. Ex. 5].
2. Respondent, in September 1995, submitted a second affidavit of good moral character to the State of New Jersey Board of Medical Examiners which truthfully indicated that he had been terminated from a Residency program [Pet. Ex. 5].
3. Respondent failed to note in his application to the State of New Jersey Board of Medical Examiners that he was employed as a surgical assistant from May 1990 through December 1991 [Pet. Ex. 5].
4. Respondent was denied licensure by the State of New Jersey Board of Medical Examiners [Pet. Ex. 5].

5. Respondent was denied licensure in the State of New Jersey because he had not established that he possessed the requisite good moral character for licensure; that he had employed dishonest, fraud, deception and misrepresentation in his application; and that he had engaged in professional misconduct [Pet. Ex. 5, p. 3].
6. Respondent first applied for licensure in the State of New York in October 1994 [Pet. Ex. 3].
7. Respondent was initially licensed to practice in New York on January 18, 1995 [Pet. Ex. 3].
8. Respondent began a Residency program at the Jewish Hospital, Cincinnati, Ohio in November 1980 [Resp. Ex. B].
9. Respondent was terminated from the Residency program at The Jewish Hospital of Cincinnati, Ohio ("The Jewish Hospital") in March 1981 because of his immigration status [Resp. Ex. B].
10. Respondent was aware of the termination from the residency program at The Jewish Hospital in March 1981 [Resp. Ex. B].
11. Respondent did not disclose The Jewish Hospital residency on his New York State Application for License and First Registration and Candidate Education and Training Record [Pet. Ex. 3].
12. Respondent worked as a surgical assistant at St. Joseph's Hospital and Medical Center in Patterson, New Jersey from May 1990 - December 1991 [Pet. Ex. 5].

13. Respondent disclosed the surgical assistant position on his New York State Application for License and First Registration and Candidate Education and Training Record [Pet. Ex. 3, p. 6].
14. The termination from The Jewish Hospital was not disclosed by Respondent in response to question 14 on the New York State Application for License and First Registration and Candidate Education and Training Record [Pet. Ex. 3, p. 2].
15. On January 23, 1995, Respondent filed an Application for Appointment to the Medical/Dental Staff, Department of Emergency, of the Bronx Lebanon Hospital Center [Pet. Ex. 4].
16. Respondent did not disclose his termination from The Jewish Hospital in response to question 18 (H) on the Application for Appointment to the Medical/Dental Staff, Department of Emergency, of the Bronx Lebanon Hospital Center.
17. On February 2, 1996, Respondent filed an Application for Re-Appointment to the Medical/Dental Staff, Department of Emergency, of the Bronx-Lebanon Hospital Center [Pet. Ex. 4].
18. Respondent did not disclose his termination from The Jewish Hospital in response to question 9(f) on the Application for Re-Appointment to the Medical/Dental Staff, Department of Emergency, of the Bronx-Lebanon Hospital Center.

## GENERAL FINDINGS

19. The Committee found the character witness testimony of Dr. Wayne Longmore of Bronx-Lebanon Hospital to be credible. The Committee accepted Dr. Wayne Longmore's testimony that Respondent was well-respected by the residents and attending staff and that he never had any credibility issues with Respondent (T. p. 55).
  
20. The conclusion of the Committee was not affected by Respondent's failure to testify.
  
21. The Committee took a serious view of Respondent's failure to truthfully file his application with the licensing authorities in New Jersey, New York and the Bronx-Lebanon Hospital.
  
22. At the same time, the Committee realized that Respondent's false filings all related to the same issues: the termination of employment by Jewish Hospital in Cincinnati, Ohio, due to Respondent's immigration status, and employment as a surgical assistant at St. Joseph's Hospital. In essence, Respondent repeated several times these two acts of professional misconduct.
  
23. The Committee felt that Respondent's position with his brother was not that of an employee or as a provider of medical services, and therefore Respondent did not violate any rule or regulation by failing to include it in his curriculum vitae.

24. In determining the appropriate penalty, mitigating factors included:
- a. Termination of employment by Jewish Hospital in Cincinnati, Ohio, was not due to any professional deficiency in the level of patient care provided by Respondent. He was invited to return when his immigration status allowed.
  - b. Respondent was highly commended for his work and character as a resident at Bronx-Lebanon Hospital.
  - c. Respondent is currently a highly regarded physician in the emergency room of Bronx-Lebanon Hospital.
  - d. The quality of patient care has never been an issue at any of the institutions where Respondent had been employed.
  - e. The Committee is also of the opinion that had Respondent truthfully listed the termination of employment at Jewish Hospital in Cincinnati, Ohio, because of his immigration status, it would not have disqualified him from licensure or employment.

### CONCLUSIONS

1. The conduct underlying New Jersey's denial of Respondent's license would, if committed in New York State, constitute misconduct under Education Law section 6530(2)—Practicing the profession fraudulently.
2. The conduct underlying New Jersey's denial of Respondent's license would, if committed in New York State, constitute misconduct under Education Law section 6530 (20)—willfully filing a false report.

3. Respondent's failure to disclose his Residency at the Jewish Hospital on his New York State Application for License and First Registration and Candidate Education and Training Record constituted a false representation, and that he had been terminated from his Residency program at the Jewish Hospital, Cincinnati, Ohio on his New York State Application for License and First Registration and Candidate Education and Training Record constituted a false representation.
4. Respondent's failure to indicate that he had been terminated from his Residency program at The Jewish Hospital on his January 23, 1995 Application for Appointment to the Medical/Dental Staff, Department of Emergency, of the Bronx-Lebanon Hospital Center constituted a false representation.
5. Respondent's failure to indicate that he had been terminated from his Residency program at Jewish Hospital, Cincinnati, Ohio on his February 2, 1996 Application for Re-Appointment to the Medical/Dental Staff, Department of Emergency, of the Bronx-Lebanon Hospital Center constituted a false representation.
6. Respondent was aware that these representations were false.
7. Based on these false representations made by Respondent and the fact that Respondent was aware that these representations were false, Respondent's intent to defraud can be inferred from the surrounding facts.
8. Respondent's actions constitute a violation of Education Law section 6530 (2)—Practicing the professional fraudulently.

9. Respondent's action constitute a violation of Education Law section 6530 (21)—willfully filing a false report.

**VOTE OF THE HEARING COMMITTEE**

**(The Hearing Committee votes unanimously as follows:)**

**FIRST SPECIFICATION: (DENIAL OF LICENSE IN ANOTHER STATE)**

1(a) **SUSTAINED**

1(b) **SUSTAINED**

1(c) **SUSTAINED**

2 **SUSTAINED** as to practicing the profession fraudulently.

**SUSTAINED** as to willfully making or filing a false report.

**NOT SUSTAINED** as to conduct in the practice of medicine which evidences moral unfitness to practice medicine.

**SECOND THROUGH FIFTH SPECIFICATIONS: (MORAL UNFITNESS)**

3(a) **NOT SUSTAINED**

3(b) **NOT SUSTAINED**

3(c) **NOT SUSTAINED**

4(a) **NOT SUSTAINED**

5(a) **NOT SUSTAINED**

**SIXTH THROUGH EIGHTH SPECIFICATIONS: (WILLFULLY FILING A FALSE REPORT)**

- 3(a) SUSTAINED
- 3(b) NOT SUSTAINED
- 3(c) SUSTAINED
- 4(a) SUSTAINED
- 5(a) SUSTAINED

**NINTH THROUGH ELEVENTH SPECIFICATIONS: (PRACTICING FRAUDULENTLY)**

- 3(a) SUSTAINED
- 3(b) NOT SUSTAINED
- 3(c) SUSTAINED
- 4(a) SUSTAINED
- 5(a) SUSTAINED

**DETERMINATION OF THE HEARING COMMITTEE AS TO PENALTY**

The Hearing Committee unanimously determines that the penalty of revocation should not be invoked. Rather, given the facts of this case and the mitigating circumstances as previously noted, a fine in the sum of \$10,000.00 shall be imposed on Respondent. In addition, Respondent shall be suspended from the practice of medicine for a period of twelve months, the last ten of which shall be stayed. Finally, Respondent shall be placed on probation for a period of three years, conditioned upon Respondent not filing any false reports during this period.

**ORDER**

**IT IS HEREBY ORDERED THAT:**

1. A fine in the sum of \$10,000.00 is hereby imposed on Respondent.
2. Respondent is hereby **SUSPENDED** from the practice of medicine for a period of twelve months, the last ten months of which shall be **STAYED**.
3. Respondent is hereby placed on probation for a period of three years. The filing of any false reports during this period shall be deemed a violation of probation.
4. This **ORDER** shall be effective upon service on the Respondent or Respondent's attorney by personal service or certified or registered mail.

**DATED: New York, New York**  
Sept 9, 1998

  
**STEPHEN A. GETTINGER, M.D.**

**ARTHUR TESSLER, M.D.**  
**EUGENIA HERBST**

APPENDIX I

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

-----X

IN THE MATTER : STATEMENT  
OF : OF  
EMILIO ANTONIO SALAZAR, M.D. : CHARGES

-----X

EMILIO ANTONIO SALAZAR, M.D., the Respondent, was authorized to practice medicine in New York State on January 18, 1995, by the issuance of license number 198262 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, 1997, through July 31, 1998, with a registration address of 133B Suburbia Terrace, Jersey City, NJ 07305.

**FACTUAL ALLEGATIONS**

1. Respondent on June 24, 1996 appeared before the Credentials Committee of the New Jersey Board of Medical Examiners after the Board denied his March 1996 request to withdraw his licensing application. The Board denied licensure on the basis that Respondent had not established that he possessed the requisite good moral character for licensure; that he had employed dishonesty, fraud, deception and misrepresentation in his application; and that he engaged in professional misconduct. Specifically, the New Jersey Board of Medical Examiners made the following findings:

- a. On or about May 24, 1994, Respondent filed an affidavit of Good Moral Character wherein he indicated that he had never been terminated from or been asked to resign from a hospital staff membership, internship, or residency program, despite being terminated in March 1981 from his internship at Jewish Hospital, Cincinnati, Ohio.
  - b. On or about September 8, 1995, Respondent filed a second Affidavit of Good Moral Character wherein he admitted to being terminated in March 1981 from the internship at the same Jewish Hospital, Cincinnati, Ohio.
  - c. Respondent failed to note on his curriculum vitae submitted in conjunction with his licensure application that from approximately May 1990 through approximately December 1991, Respondent was employed as a Cardiothoracic Assistant at the St. Joseph's Hospital and Medical Center, Paterson, NJ.
2. The conduct underlying Respondent's actions would, if committed in New York State, constitute professional misconduct under N.Y. Education Law § 6530 (2) -- Practicing the profession fraudulently, (20) -- Conduct in the practice of medicine which evidences moral unfitness to practice medicine, and (21) -- Willfully making or filing a false report, or failing to file a report required by law.
3. Respondent, on or about October 26, 1994, filed Licensing Documents, specifically, an Application for License and First Registration and a Candidate Education and Training Record with the New York State Education Department.
  - a. Respondent failed to disclose that beginning in approximately November 1980, he began an internship with the Jewish Hospital, Cincinnati, Ohio.
  - b. Respondent failed to disclose that from approximately April 1981 through approximately July 1982, Respondent was a Surgical Observer in the office of Pedro Salazar, M.D.

- c. Respondent answered "No" to the application question "Has any hospital or licensed facility restricted or terminated your professional training, employment, or privileges or have you ever voluntarily or involuntarily resigned or withdrawn from such association to avoid imposition of such measures", when, in fact, Respondent was terminated from his internship with Jewish Hospital, Cincinnati, Ohio in March 1981.
4. Respondent, on or about January 23, 1995, filed an Application for Appointment to the Medical/Dental Staff, Department of Emergency, with the Bronx-Lebanon Hospital Center.
- a. Respondent answered "No" to the application question "Has employment at any Hospital or Health Care-Facility ever been discontinued", when, in fact, Respondent was terminated from his internship with Jewish Hospital, Cincinnati, Ohio in March 1981.
5. Respondent, on or about February 2, 1996, filed an Application for Appointment to the Medical/Dental Staff, Department of Emergency, with the Bronx-Lebanon Hospital Center.
- a. Respondent answered "No" to the application question "Has your employment at any Hospital or Health Care-Facility ever been terminated", when, in fact, Respondent was terminated from his internship with Jewish Hospital, Cincinnati, Ohio in March 1981.

**SPECIFICATIONS**  
**FIRST SPECIFICATION**

**DENIAL OF LICENSURE IN ANOTHER STATE**

Respondent is charged with professional misconduct under N.Y. Education Law § 6530(9)(d) by reason of having his license to practice medicine revoked, suspended or having other disciplinary action taken, or having his or her application for a license refused, revoked or suspended or having voluntarily or otherwise surrendered his or her license after a disciplinary action was instituted by a duly authorized professional disciplinary agency of another state, were the conduct resulting in the revocation, suspension or other disciplinary action involving the license or refusal, revocation or suspension of an application for a license or the surrender of the license 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 1 and 1a, 1 and 1b, and/or 1 and 1c.
2. The facts in Paragraph 2.

**SECOND THROUGH FIFTH SPECIFICATIONS**

**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:

3. The facts in Paragraph 3 and 3a, 3 and 3b and/or 3 and 3c.
4. The facts in Paragraphs 4 and 4a.
5. The facts in Paragraphs 5 and 5a, 5 and 5b and/or 5 and 5c.

**SIXTH THROUGH EIGHTH SPECIFICATIONS**

**WILLFULLY 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:

6. The facts in Paragraphs 3 and 3a, 3 and 3b and/or 3 and 3c.
7. The facts in Paragraphs 4 and 4a.
8. The facts in Paragraphs 5 and 5a.

**NINTH THROUGH ELEVENTH SPECIFICATIONS**

**PRACTICING FRAUDULENTLY**

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:

9. The facts in Paragraphs 3 and 3a, 3 and 3b and/or 3 and 3c.
10. The facts in Paragraphs 4 and 4a.
11. The facts in Paragraphs 5 and 5a.

DATED: *May 18*, 1998  
Albany, New York

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