

**AMERICAN BOARD OF INTERNAL MEDICINE
DECISION OF BOARD-DESIGNATED PANEL**

**Appeal of Jaime Antonio Salas Rushford, M.D. (ABIM ID #306779),
of the Recommended Sanction Dated December 7, 2012**

On July 24, 2014 at approximately 9:10 a.m., a hearing was held in this matter before a panel designated by the Board of Directors of the American Board of Internal Medicine ("ABIM") and consisting of David L. Coleman, M.D., Joan M. Von Feldt, M.D., and Naomi P. O'Grady, M.D. (the "Panel"). The Panel convened at ABIM's offices in Philadelphia. Dr. Coleman served as the Chair of the Panel.

Appellant, Jaime Antonio Salas Rushford, M.D., appeared with his counsel, J. Douglas Cortes, Esquire, Jaime A. Salas Soler, Esquire, Catherine Rushford Padilla, Esquire, and Guillermo Luis Mena Irizarry, Esquire, along with their assistant, Yadira G. Adorno Pobomales.

Also present were: Ruth Hafer, the member of ABIM's staff responsible for the administration of appeals; Hara K. Jacobs, Esquire, and Paul Lantieri III, Esquire, of Ballard Spahr LLP, counsel to ABIM; and a professional stenographer.

Documentary Record

The documentary record for this matter consists of the following:

1. E-mails between "Jimmy R." (padrinojr@yahoo.com), Rajender K. Arora, M.D., and various others dated December 18 and 19, 2008, May 14, 26, 27 and 28, 2009, June 2, 2009, July 14, 2009, and August 12, 13, 14, 15, 16, 18, 19, 20, and 24, 2009 – including various attachments to e-mails dated May 14, 26, and 27, 2009, June 2, 2009, and August 12, 13, 15, and 16, 2009;
2. Letter from ABIM to Dr. Salas Rushford, dated May 8, 2012;
3. Letter from Dr. Salas Rushford to ABIM, dated May 10, 2012;
4. E-mail from ABIM's counsel to Dr. Salas Rushford, dated November 15, 2012;
5. Letter from Dr. Salas Rushford to ABIM, dated November 16, 2012;
6. Letter from ABIM to Dr. Salas Rushford, dated December 7, 2012;
7. Letter from Dr. Salas Rushford's counsel to ABIM, dated December 14, 2012;
8. E-mail from Dr. Salas Rushford's counsel to ABIM, dated December 18, 2012;
9. Letter from Dr. Salas Rushford's counsel to ABIM, dated February 6, 2013;

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10. Letter from ABIM's counsel to Dr. Salas Rushford's counsel, dated February 12, 2013;
11. Letter from ABIM's counsel to Dr. Salas Rushford's counsel, dated March 5, 2013, enclosing decision of ABIM's Staff;
12. Letter from Dr. Salas Rushford's counsel to ABIM, dated March 14, 2013;
13. Letter from ABIM's counsel to Dr. Salas Rushford's counsel, dated July 10, 2013, enclosing decision of ABIM's Staff Credentials Committee ("SCC");
14. Letter from Dr. Salas Rushford's counsel to ABIM, dated August 5, 2013;
15. Letter from Dr. Salas Rushford's counsel to ABIM's counsel, received February 2014 (misdated February 10, 2013);
16. Letter from ABIM's counsel to Dr. Salas Rushford's counsel, dated March 6, 2014;
17. Letter from Dr. Salas Rushford's counsel to ABIM's counsel, dated March 7, 2014;
18. E-mail from ABIM's counsel to Dr. Salas Rushford's counsel, dated March 12, 2014;
19. E-mails between ABIM's counsel and Dr. Salas Rushford's counsel, dated March 17, 26, and 28, 2014;
20. Letter from ABIM's counsel to Dr. Salas Rushford's counsel, dated May 20, 2014; and
21. Letter from Dr. Salas Rushford's counsel to ABIM's counsel, dated June 9, 2014.

Procedural Background

Dr. Salas Rushford has been Board Certified in Internal Medicine from August 20, 2009 through the present.

By letter dated May 8, 2012, ABIM advised Dr. Salas Rushford that it intended to revoke his Board Certification based on information obtained in connection with ABIM's investigation of Arora Board Review. (Doc. Record Tab 1.) ABIM also provided Dr. Salas Rushford an opportunity to provide information for ABIM's consideration before ABIM instituted the recommended revocation. In response, Dr. Salas Rushford denied having engaged in unethical or unprofessional conduct, and requested information about the evidence ABIM had obtained concerning his conduct and ABIM's disciplinary and appeal process, which ABIM provided. (Doc. Record Tabs 2-4.) By letter dated December 7, 2012 (Doc. Record Tab 5), ABIM advised Dr. Salas Rushford that it had reviewed his letters dated May 10, 2012 and

November 16, 2012 (Doc. Record Tabs 2 & 4) and determined to institute the recommended revocation.

Dr. Salas Rushford timely appealed the recommended sanction to ABIM staff. (Doc. Record Tabs 6-8.) By letter dated March 5, 2013, ABIM's counsel advised Dr. Salas Rushford's counsel that staff had affirmed the recommended sanction on the grounds that Dr. Salas Rushford collected hundreds of ABIM examination questions prior to taking the August 2009 Certifying Examination in Internal Medicine and disseminated those questions to Arora Board Review, among others, including through the e-mail address padrinojr@yahoo.com under the pseudonym "Jimmy R." (Doc. Record Tab 10.)

Dr. Salas Rushford timely appealed the staff's decision to the SCC. (Doc. Record Tab 11.) By decision dated July 10, 2013, the SCC determined to affirm the recommended revocation of Dr. Salas Rushford's Board Certification. (Doc. Record Tab 12.)

Dr. Salas Rushford timely appealed the SCC's decision to a Board-designated panel. The Panel reviewed the record and heard argument from Dr. Salas Rushford's counsel. Following deliberations, the Panel reached the decision set forth below.

Factual Background

In summary, the record for this matter shows that in May and August 2009, Dr. Salas Rushford collected and compiled hundreds of ABIM examination questions from multiple sources in preparation for his August 2009 Certifying Examination in Internal Medicine ("Internal Medicine Examination"). Dr. Salas Rushford sent those questions to Dr. Arora and others, including through the e-mail address padrinojr@yahoo.com, under the name "Jimmy R."

More specifically, in late May 2009, days after taking an Arora Board Review course, Dr. Salas Rushford sent a series of e-mails under his own name to Dr. Arora attaching multiple documents containing large amounts of ABIM examination content that appears to have been compiled by other physicians. Dr. Salas Rushford did not e-mail Dr. Arora using his own name after late May 2009.

Beginning on August 12, 2009, Dr. Salas Rushford – who uses the names "Jimmy" and "Jaime" – sent a series of e-mails to Dr. Arora about the Internal Medicine Examination under the name "Jimmy R." Though he had identified himself as "Jimmy" in his May 2009 e-mails, he did not sign his August 2009 e-mails. The August 2009 e-mails include two handwritten documents containing a substantial amount of content from the 2009 administration of the Internal Medicine Examination. The e-mails also include a document titled "2009 Learning Points" that was compiled and distributed to Dr. Salas Rushford, among other internal medicine residents, by another physician on August 16, 2009. That same day, Dr. Salas Rushford cut and pasted the content of the 2009 Learning Points document into an e-mail that he sent to Dr. Arora. Dr. Salas Rushford stopped sending e-mails to Dr. Arora on August 19, 2009 – the day before he took the Internal Medicine Examination.

In his written appellate submissions, Dr. Salas Rushford and his counsel

repeatedly asked procedural questions, which ABIM and its counsel answered a number of times. They also argued and submitted evidence purportedly showing that "Jimmy R." was a nickname and that Dr. Salas Rushford used the e-mail address padrinojr@yahoo.com regularly, and not to conceal his identity. They did not, however, meaningfully address the evidence or conduct giving rise to the recommended sanction.

Nor did they do so at the hearing, at which Dr. Salas Rushford appeared but, apparently on the advice of his counsel, chose not to testify. Dr. Salas Rushford's counsel contended that whether or not Dr. Salas Rushford obtained and distributed ABIM examination content before he took the Internal Medicine Examination is irrelevant because ABIM has not provided any evidence that it put Dr. Salas Rushford on notice, prior to his examination, that such conduct was not permitted. In support of this argument, Dr. Salas Rushford's counsel asserted that: (i) the version of ABIM's Policies & Procedures for Certification ("Policies & Procedures") that was in effect at the time Dr. Salas Rushford registered for the Internal Medicine Examination did not explicitly prohibit copying, reconstructing, discussing, or disclosing examination content, as later versions of the Policies & Procedures – including that which ABIM provided Dr. Salas Rushford in the course of this proceeding – did; and (ii) Dr. Salas Rushford did not sign ABIM's Pledge of Honesty, which prohibits, among other things, giving or receiving aid in an examination and disclosing, copying, or reproducing examination content, until the day he took the Internal Medicine Examination. In addition, Dr. Salas Rushford's counsel denied that Dr. Salas Rushford was hiding his identity in his August 2009 emails to Dr. Arora, criticized the process ABIM provided for this proceeding, and presented evidence demonstrating that Dr. Salas Rushford is respected and has been recognized in his community for his patient care and community service.

Decision

Dr. Salas Rushford acted unprofessionally, unethically, and in subversion of the certification process when he collected, compiled, and disseminated a large amount of ABIM examination content before he took the Internal Medicine Examination.

The Panel found unpersuasive Dr. Salas Rushford's contract-based argument that he should not be subject to sanction even if he did collect, compile, and disseminate ABIM examination content in advance of his examination. Such conduct is indisputably unprofessional and unethical and subverts the Board Certification process, and thus is inconsistent with the fundamental tenets of Board Certification. Moreover, the version of ABIM's Policies & Procedures in force at the time Dr. Salas Rushford registered for the Internal Medicine (and all subsequent versions) prohibited cheating of any kind, regardless of whether the specific method of cheating was explicitly identified in the Policies & Procedures. (It also included a notice that the Policies & Procedures are subject to change at any time.) Indeed, as Dr. Salas Rushford's counsel acknowledged at the hearing, even the version of the Policies & Procedures that Dr. Salas Rushford contends applies provided that ABIM may suspend or revoke certification in the event a candidate or diplomate fails to maintain moral, ethical, or professional behavior satisfactory to ABIM or engages in misconduct that adversely affects professional competence or integrity. It also put candidates on notice that ABIM seeks to identify patterns of test fraud, including cheating and piracy, and that irregular or improper behavior in connection with

examinations is considered a subversion of the certification process. The evidence of record – which Dr. Salas Rushford refused to address with the Panel – demonstrates that Dr. Salas Rushford failed to maintain satisfactory ethical and professional behavior, acted in a matter that adversely affected his professional integrity, and subverted the certification process. In that connection, the Panel wishes to express its disappointment that Dr. Salas Rushford chose not to answer its questions about his conduct and the evidence, and refused to confront the core issues presented by the evidence.

The Panel also found that contrary to Dr. Salas Rushford's argument, ABIM administered its sanction and appeal process in this matter appropriately, and provided Dr. Salas Rushford with a full and fair opportunity to present his case before his sanction became final. Dr. Salas Rushford chose not to take full advantage of that opportunity.

Finally, the Panel took into account Dr. Salas Rushford's substantial and admirable accomplishments and contributions to his community.

Based on all of the foregoing, the Panel determined to modify the recommended sanction as follows: Dr. Salas Rushford's Board Certification in Internal Medicine shall be deemed suspended for seven years effective December 7, 2012.

To regain Board Certification, Dr. Salas Rushford must successfully complete ABIM's Maintenance of Certification ("MOC") program, including passing the MOC Examination in Internal Medicine. He shall promptly be eligible to enroll in the MOC program and complete any MOC components except secure examinations. Dr. Salas Rushford shall be eligible to register for the MOC Examination in Internal Medicine beginning with the Spring 2019 administration of that examination. Any MOC components that he completes to regain Board Certification are independent of ABIM's MOC requirements for maintenance of an existing certification, and satisfaction of MOC components to regain certification will not satisfy any of his MOC requirements with respect to maintenance of Board Certification. Should Dr. Salas Rushford successfully complete the MOC program, he would be granted Board Certification in Internal Medicine in accordance with the policies of ABIM then in effect.

During any period after the period of suspension and before Dr. Salas Rushford completes the requirements set forth above, his Board Certification status will be "Not Certified." While his Board Certification is suspended or his Board Certification status is "Not Certified," Dr. Salas Rushford may not represent himself as Board Certified by ABIM.

The terms of this decision will not be shown on Dr. Salas Rushford's personal Home Page on ABIM's website. Dr. Salas Rushford will be assigned a case manager at ABIM who will follow up with him about the requirements of this decision and be available for questions.

This constitutes the final decision of ABIM in this matter.

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A handwritten signature in black ink, appearing to read "David Coleman". The signature is fluid and cursive, with the first name "David" and last name "Coleman" clearly distinguishable.

Date: October 16, 2014

David L. Coleman, M.D.