

***Health and Hospitals Corp. (Coler Goldwater Specialty  
Hospital) v. Bellinger***

OATH Index No. 133/10 (Oct. 21, 2009)

Hospital police sergeant charged with threatening and using excessive force on a patient. Employee found to have forced patient into office and pushed him against a wall, causing injury. Despite 16-year tenure, termination recommended.

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**NEW YORK CITY OFFICE OF  
ADMINISTRATIVE TRIALS AND HEARINGS**

*In the Matter of*  
**HEALTH AND HOSPITALS CORPORATION  
(COLER GOLDWATER SPECIALTY HOSPITAL)**

*Petitioner*

*- against -*

**JOSEPH BELLINGER**

*Respondent*

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**REPORT AND RECOMMENDATION**

**JOHN B. SPOONER**, *Administrative Law Judge*

This is an employee disciplinary proceeding referred by petitioner, the Health and Hospitals Corporation (Coler Goldwater Specialty Hospital), pursuant to Rule 7:5 of its Personnel Rules and Regulations. Respondent Joseph Bellinger, a hospital police sergeant, is alleged to have threatened and used excessive force on a patient.

A hearing on the charges was conducted before me on August 10, 2009. At the hearing, respondent admitted pulling a patient into a control room and pushing him against a wall. The patient's hearsay statements indicated that respondent made profane and coercive remarks and pushed him so hard that his feet left the floor, all of which respondent denied. The record was left open until September 4, 2009, for petitioner to supply certified copies of the patient's hospital records. Both parties submitted written closings on September 17, 2009.

For the reasons analyzed below, I recommend that the use-of-force charge be sustained and that the other charges be dismissed. I further recommend that respondent be terminated.

## ANALYSIS

The four charges here allege that respondent used excessive force against a patient, spoke unprofessionally to and threatened him, and later made inconsistent statements concerning the incident, which occurred on February 18, 2009. Both respondent and the patient agreed that the confrontation concerned the patient's compliance with hospital's no-smoking rules. The parties presented conflicting proof on the harshness of respondent's statements and the degree of force used.

The February 18 incident was not reported by the patient until several weeks after it occurred. On March 6, 2009, patient ED complained about the incident for the first time to staff at Mount Sinai Hospital. The State Department of Health was notified of the complaint and they, in turn, notified Coler.

The details of ED's complaint about respondent was offered in two forms, the first a written summary of an initial interview with ED and the other a typewritten statement copied from the earlier summary and signed by ED. On March 6, Jenny Rosario, the director of patient relations, first interviewed patient ED and completed a case sheet (Pet. Ex. 6) regarding what the patient told her. ED, whom Ms. Rosario found to be "alert and oriented" although he was being treated for neck and brain cancer (Tr. 47), told Ms. Rosario that, on February 18, he was leaving the hospital with a pass when he was stopped at the exit by the hospital police, who notified respondent. Respondent told ED that he had a "tip" that ED had been smoking in the bathroom. ED replied that he smokes "only one a day because I am on the patch." ED told respondent to "do his research" and to "have a nice day." Respondent said, "Hey, come back here. I'm not finished with you."

ED told Ms. Rosario that respondent then grabbed ED and took him into the police office. There respondent pressed his forearm against ED's chest, moved the arm to ED's neck, and finally lifted him off the ground. Respondent said, "I run this place and if you don't like it, sign the fuck out!" ED said no one else was in the office at first, but someone entered as he was being held up in the air. Respondent "repeated himself again once they were outside of the office because he knew that the camera was there." ED claimed that he went to Mount Sinai as a result of the abuse and provided copies of Mount Sinai treatment records, dated February 18. He further claimed that he also reported the abuse to a Coler Hospital doctor named Shukla and a clerk the day after the incident, although no evidence was offered confirming this claim.

ED was interviewed a second time by Ms. Rosario and Labor Relations Associate Director Matthew Driscoll on April 2 and his statements were typed out by Ms. Rosario on a report (Pet. Ex. 7), which ED signed. The language of the narrative in the written statement was exactly the same as Ms. Rosario's March 6 summary.

The other evidence offered by petitioner, in an effort to corroborate ED's complaint, included the testimony of another officer and a surveillance video. Officer Eboni Hicks-Johnson testified that she observed respondent take ED into the office. A few minutes later, Officer Hicks-Johnson entered the office herself and saw respondent standing next to the safe with ED in front of him. Respondent was speaking to the patient, in a "raised" and authoritative voice (Tr. 23-24). Officer Hicks-Johnson answered the telephone and, a minute or so later, heard the office door open (Tr. 25).

Respondent admitted using some force on ED, but denied most of ED's accusations of abuse. In respondent's testimony, he stated that he was told by ED's roommate, who was on oxygen, that ED had been smoking in the room. Respondent dispatched some officers to bring ED to him. Officer Briones escorted ED into the office, saying, "Here he is" (Tr. 89-90). Respondent told ED that his roommate had complained about his smoking. The phone rang and respondent had to dispatch Officer Briones to another call. After he left, respondent explained the smoking policy. ED was "ranting and raving" about a previous incident, which was "squashed." ED said he did not have to listen to respondent and walked out (Tr. 91).

Respondent told other officers to stop ED but they "froze" and did not act fast enough. Respondent caught up with ED, grabbed him by the jacket, and escorted him back into the office. Respondent pressed ED "up against the wall," as ED was "resisting" (Tr. 91). Respondent placed his arm on ED's chest and told him to calm down, because he was "screaming and yelling." Respondent told ED that he could "sign out if he doesn't like the policy." As ED cursed and respondent tried to explain the smoking policy, Officer Hicks-Johnson entered. ED left and respondent told him to "have a nice day" (Tr. 92). Respondent denied touching ED's neck and insisted that, due to his own "frozen shoulder," he would have been unable to lift ED any further than shoulder height (Tr. 107-08).

As proof that ED was not angry at respondent for mistreating him, respondent stated that, a few weeks later, ED thanked respondent when he assisted ED in signing out (Tr. 108).

Other than respondent's admission that he placed his arm across ED's chest in order to restrain him, the only evidence of excessive force consisted of the two hearsay accounts from ED himself. As hearsay, these accounts seemed somewhat reliable in that they provided a fair amount of detail as to what respondent said and did, including quotation of remarks allegedly made and a description of ED being lifted off the ground. Portions of the account, including respondent's pushing ED against the wall and telling him he could "sign out," were corroborated by respondent himself. The statements were also partially corroborated by the Mount Sinai hospital records (Pet. Ex. 8) given to Ms. Rosario by ED. These records indicated that ED was treated on February 18 for a chest wall contusion and neck pain. Respondent opposed the admission of these records (Tr. 43-44) and petitioner agreed to attempt to obtain certified copies of the records to meet this objection (Tr. Tr. 80). The records were ultimately admitted after trial after Mount Sinai refused petitioner's certification request due to concerns about patient confidentiality (*see* Sept. 4, 2009 Letter from Andrew Hodes). The foundation testimony of Ms. Rosario, that she received the records from the patient, was ultimately found sufficient to admit them.

The credibility of the hearsay statements from ED was also undermined by a number of factors. The first statement was not made until some three weeks later, which was in fact the first record that ED had ever complained about respondent's behavior. In addition, Officer Hicks-Johnson stated that she did not see respondent using force on ED when she entered the control room. There is also very little evidence, other than the Mount Sinai records, to support a finding that respondent used more than minimal force in speaking with ED.

In particular, the video surveillance evidence offered little to corroborate a use of force by respondent upon patient ED. According to the video, the crucial encounter between respondent and ED lasted less than two minutes. At 9:25:14 a.m., ED is shown leaving the control room office, followed almost immediately by respondent. At 9:25:23 a.m. respondent is shown following ED and then guiding him back through the control room door with his hands on his shoulders. At 9:25:46 a.m., ED sets his newspaper down on a counter in the control room. Respondent's head appears a couple of times on the security office camera. Then, at 9:27:09, the patient exits the command room and goes past the security counter to the hospital exit. At this point, ED appears to walk casually, holding a newspaper in his left hand and a handkerchief in his right hand. He puts the handkerchief up to his nose just as he moves out of the camera view.

None of the images captured by the video show any force used on the patient, other than the contact on his shoulders to steer him back into the control room. Furthermore, from ED's casual exit from the hospital seconds after the encounter in the control room, it would appear he was not seriously injured or even upset.

Charge 1 alleges that respondent used "excessive and unnecessary physical force" on patient ED. As to the degree of force used by respondent, the proof was straightforward as two types of force. The video shows and respondent admitted that he first touched or grabbed ED's clothing, as he directed him back into the office. Notably, the video does not show respondent "dragging" ED, as contended by petitioner's counsel, but depicts instead that respondent guided ED by placing his hands on ED's shoulders and that ED complied with respondent's directions. Respondent himself further admitted that, inside the control room, he used his arm to push on ED's upper chest as he spoke to him about the smoking issue. The use of force on ED's chest was corroborated by the Mount Sinai records, showing that ED was treated for a chest contusion later that day.

However, as to the third alleged use of force in lifting ED off the ground by pushing on ED's neck, the proof was far less convincing. Officer Hicks-Johnson, who seems to have entered the control room in the middle of the incident, testified that she observed no force at all. Although the Mount Sinai records indicated that ED complained of neck pain, it was not clear that he connected this pain to the encounter with respondent. The fact that ED was suffering from neck cancer raised the possibility that his neck pain might be the result of his illness and was not caused by respondent. ED's fairly casual exit from the hospital, as shown by the surveillance videos, was also incompatible with a patient who had just had his neck injured in the manner ED described. Respondent's account of only placing his arm across ED's chest as he spoke to him was plausible and generally consistent with the video evidence.

Other portions of respondent's account were not credible. Respondent's description of ED being disruptive was inconsistent with the surveillance video, showing the patient complying with respondent's directions for him to enter the office and standing calmly by the counter as he places a newspaper there. Respondent's description of the patient ranting and raving while he told him to have a nice day sounded self-serving and unlikely. Like ED's account as to respondent's remarks, respondent's version of what ED said sounded improbably defensive, as

if, by references to the alleged cursing and the incendiary reference to blowing up the hospital, respondent was offering justification for the force he had used.

Based upon the above analysis, I find that the evidence established that respondent placed his hand on ED's shoulder and escorted him into the control room office, with the patient complying with respondent's directions. Inside, when the patient tried to leave, respondent pushed the patient against a wall and held his arm across the top of his chest while he reminded him of the hospital's no-smoking policy and warned him of the consequences of non-compliance. The force exerted by respondent's arm was considerable and sufficient to cause the patient pain.

As to specification 1, I find that respondent's holding patient ED and guiding him into the control room was a violation of the security rules regarding use of force. It is true that the hospital provides little in the way of written rules to guide security staff in employing force. The hospital's force policy is contained in a two-sentence statement: "Remember that the type of force used, its duration and intensity is dependent on the resistance offered by the offender. Touching, pushing, pulling, use of soft techniques, closed hand strikes, pain compliant holds, arrest restraint techniques, use of handcuffs and batons are ALL physical force." (Pet. Ex. 12). The vagueness of this policy suggests two things: that considerable discretion is vested in security staff to determine the appropriate amount of force to be used in a given situation and that any other guidance as to the amount of force permitted must be provided in training, although no proof was offered on this issue.

As found above, I did not credit respondent's description that ED was being physically and verbally combative. Notably, even assuming that ED made the remarks quoted by respondent, the force used by respondent in forcing him into the control room and pinning him against a wall would not have been justified. The only credible justification offered by respondent for holding patient ED against the wall was to speak with him about the no-smoking policy. Under the circumstances shown here, the need for respondent to speak with the patient at all was not urgent. Respondent was acting upon only a single smoking complaint by another patient which had apparently not been confirmed by staff. While it was probably appropriate for respondent to ask the patient if he could speak to him about this complaint, there was no justification for respondent to use force to compel the patient into an office, partially against the patient's will, particularly where the patient was about to leave the hospital. It was certainly

improper to then use even greater force on the patient's upper chest to pin him up against a wall, force sufficient to cause the patient pain. Specification 1, alleging that respondent used excessive and unnecessary physical force, must be sustained.

As to the use-of-force charge, one further point warrants mention. Petitioner asserted at trial and in various documents that, in bringing ED back into the control room, respondent deliberately positioned him in an area outside the view of the surveillance cameras. Although the proof as to the size of the control room was somewhat equivocal, it did indicate that most of the room was not under surveillance by cameras, which were trained only on the control desk. Speaking to ED at the desk, in front of the surveillance monitors, would have been neither logical nor convenient. Thus, the proof did not support a finding that respondent made a deliberate effort to use force without being detected.

The evidence as to respondent's allegedly unprofessional and threatening remarks to ED, as charged in specifications 2 and 3, was also limited solely to the hearsay statements from the patient, first as written down on a casesheet by Ms. Rosario and then as commemorated in a typewritten statement signed by the patient. In both versions, the patient attributes the identical statement to respondent: "I run this place and if you don't like it, sign the fuck out!" Since respondent admitted telling the patient that hospital rules prohibited him from smoking in his room, there is little doubt that respondent told the patient that he must obey the no smoking policy and that, if he did not, he might be forced to leave. However, for a number of reasons, I found the proof insufficiently reliable to support a finding that ED's quotation was exactly what respondent said.

First, it appears that ED provided this quotation once, not twice. The second written account signed by respondent was typed by the hospital staff based upon Ms. Rosario's casesheet narrative. Thus, the second written statement would appear to have no independent value in corroborating details in the first account. More importantly, ED's recollection of what respondent said was never told to anyone until some three weeks after the event. At that time, ED was clearly upset by what happened and angry at respondent. Under these circumstances, even assuming that ED was essentially truthful with Ms. Rosario, ED's memory of the exact words respondent used would not likely have been clear. In addition, it would seem likely that ED's emotions would color his account of what respondent said, perhaps prompting him to add profanity and make respondent's words sound as menacing as possible. The alleged statement

that respondent boasted of running the hospital sounded odd. It also seemed improbable that an order for ED to “sign out,” made as he was exiting the hospital as a result of having a pass, would be perceived by him as a threat.

The hearsay from ED exhibited other problems. According to the informal conference decision (Pet. Ex. 10), ED had “limited English language ability,” raising further issues as to the completeness and accuracy of the translation. The fact that no cross-examination was possible on these issues going to the reliability and credibility of ED’s hearsay statements precluded a meaningful analysis of ED’s general credibility and, more importantly, of the accuracy of his statements as to respondent’s use of profanity and demand that ED “sign out.” The exact words used by respondent were essential to proving the charges since, had respondent simply told ED that he must abide by the hospital rules so long as he was a patient there, without profanity and without ordering the patient to “sign out,” respondent’s statement would not have been improper. Thus, while I found it credible that respondent told ED that as a patient he must abide by the hospital’s no-smoking rules, I found the hearsay offered here inadequate to establish that respondent used profanity, that respondent identified himself as in charge of the hospital, or that he ordered the patient to sign out.

Under these fact-findings, specifications 2 and 3, alleging that respondent spoke “in an unprofessional manner” and “verbally threatened” ED, must be dismissed as not proven.

The final specification alleges that respondent “provided inconsistent statements in the course of an official Hospital Police investigation.” As a preliminary matter, I do not believe that, as framed, this specification alleges misconduct. While it is certainly improper for employees to make false statements, it is not and cannot be improper for employees merely to make inconsistent statements, even where the statements are provided in the course of an investigation. For example, employees who initially state that they do not recall some event and later come forward to state that they do recall have certainly provided inconsistent statements. To suggest, as petitioner’s charge here does, that these employees should be subject to misconduct charges simply because they attempt to correct an earlier statement, perhaps upon a refreshed recollection or a misunderstanding of what was being asked, is unreasonable. Rather I construe petitioner to be charging respondent with making untruthful or false statements. It is clear that such an interpretation is not prejudicial to respondent, who was on notice that the truthfulness of his statements was being challenged by the other specifications.

It is true that respondent's first two written reports were inconsistent with the subsequent statements in that they omitted mention of respondent's using any force. On the command log entry (Pet. Ex. 1), made on February 18 at 9:28 am, respondent made the following notation:

Pt ED brought to HP command due to tip of same smoking in bathroom on ward. Same became verbally abusive towards Sgt. Bellinger and disrespectful and walked out of office. Same brought back in by Sgt Bellinger and advised of the smoking policy and where to go smoke. Same responded, "Have cancer and dying and don't care."

Respondent also filled out a "call for assistance" report (Pet. Ex. 2), indicating that patient ED became "verbally abusive and disrespectful towards" him when he told him of the smoking policy. He wrote, "Pt walks out stating, 'I'm dying of cancer and don't care about whatever is done to him.'" Respondent went on, "Same brought back into office . . . and again told about the policy and for him to refrain from that behavior in the future."

At the direction of the Coler management, respondent then submitted two more written reports about the incident, both of which included greater detail and admissions that some force was employed on ED. In the first report (Pet. Ex. 3), dated March 9, 2009, respondent wrote that patient ED was reported to be smoking in the same room where another patient was on oxygen. Respondent confronted ED with the complaint and he said, "I don't give a fuck about what you have to say or care. You stupid fucking guys . . . have been harassing me since you caught me with those pills." ED attempted to walk out of the office and respondent left the desk to stop him. Respondent used ED's coat to stop him. He again explained the smoking policy and said ED had to respect other people. Respondent then "stood" ED "at the wall" and again explained the policy as Officer Hicks-Johnson entered. ED said he didn't "give a shit about it or anyone else because he's dying of cancer." ED then said he did not care if he "blows the place up." Respondent told ED to "have a nice day." A few moments later ED came up to respondent and asked for his name and shield, which respondent supplied and repeated for ED to "have a nice day." ED then left.

In the second statement (Pet. Ex. 4), written on March 30, 2009, respondent wrote that the tip about ED smoking was from his roommate. Respondent dispatched an order for security staff to find ED, and soon Officer Barones spotted ED in the gift shop and "brought him to the office." Respondent told ED about the smoking complaint. ED cursed at respondent about a past incident and left the office. Respondent had other officers try to stop ED, but they failed to

do so. Respondent caught up to ED, “grabbed his jacket,” and “escorted him back to the office and stood him against the wall, with my hand on his chest.” Respondent again explained the smoking policy that “smoking in the rooms or hallways are not allowed.” ED continued “to curse at me” and said that he “is dying of cancer and doesn’t care if he blows the place up.” Respondent repeated the smoking policy and stepped back, telling ED to “have a nice day.” Shortly afterwards, while respondent was “standing in the lobby,” ED came up and cursed about the smoking policy. He also asked for respondent’s shield number and name, which respondent supplied. Respondent told ED that, “if he didn’t like the policies and procedures of the facility, he could sign himself out.” Respondent told ED to “have a nice day” and went back inside the command office.

I cannot find that respondent’s omission of mentioning his use of force in the command log or in the call for assistance report was a violation of hospital rules. Petitioner offered no evidence that security staff are required to report all uses of force, either in a command log or other reports, unless specifically ordered to do so. I note that Director of Police Aleo was asked no questions as to the hospital use-of-force policy by either party. In short, in the absence of any evidence that respondent was required to report a use of force on patient ED, I do not find that his failure to do so in the command log entry or in the call for assistance report constituted misconduct. Nor do I find any of the other facts as stated in these two reports so at odds with the other proof that they constitute false statements.

It is certainly true that the more detailed and complete written reports which respondent was ordered to write are inconsistent with the two earlier accounts in that they mention force being used. However, there is no evidence to show that any of the statements in either report are false. The only evidence in conflict with the information in the reports is the hearsay account from ED himself. As analyzed above, this largely uncorroborated hearsay was found insufficient to sustain fact-findings that respondent made improper remarks or that he used force other than that admitted to respondent. The two reports also attribute a number of comments to the patient which were never contained in the ED’s account or mentioned in Officer Hicks’s testimony. It is true that, as discussed above, many of these comments sounded improbable and likely to have been exaggerated somewhat in an effort to justify force being used. On the other hand, ED did not expressly deny making any of the comments and it seemed plausible that ED might raise his cancer as a reason for not caring about no-smoking violations. Thus, while some of the details in

respondent's reports seemed unreliable and perhaps inaccurate, there was no evidence on which to base a finding that they were intentionally false, particularly where the two reports both contained admissions that force was, indeed, used. *See Dep't of Correction v. Holder*, OATH Index No. 2208/07 at 4 (Sept. 14, 2007) (imprecise or inaccurate statements held not to be false in absence of proof that the author intended to conceal or deceive); *Dep't of Correction v. Galarza*, OATH Index Nos. 348/90, 433/90 at 23 (June 11, 1990) (to be misconduct, the inaccuracy must be due to "some fault, not mere inadvertence or poor drafting."). For these reasons, I conclude that specification 4, even as interpreted to charge that respondent made false statements, should also be dismissed as unproven.

In sum, specification 1 should be sustained and the other specifications dismissed as unproven.

### **FINDINGS AND CONCLUSIONS**

1. Specification 1 must be sustained in that, on February 18, 2009, respondent used excessive force on patient ED by physically guiding him into a control room and pushing him against a wall with his arm, in violation of hospital rules.
2. Specification 2 must be dismissed in that petitioner failed to prove by a preponderance of the evidence that respondent spoke to a patient in an unprofessional manner.
3. Specification 3 should be dismissed in that petitioner failed to prove by a preponderance of the evidence that respondent verbally threatened a patient.
4. Specification 4 should be dismissed in that petitioner failed to prove by a preponderance of the evidence that respondent provided false statements.

### **RECOMMENDATION**

Upon making the above findings, I requested and received a copy of respondent's personnel file. He was appointed as a special officer in 1993 and promoted to senior special officer in 2006. Respondent's 16 years of service should serve to mitigate the penalty in this case. In addition, respondent is not viewed by supervisors as a poor officer. When asked for his opinion of respondent "as a police officer," Director Aleo replied only that respondent may show

a “lack of judgment on certain situations” but “all in all, his performance is, standard or above standards.”

On the other hand, respondent’s work record is far from perfect. In February 2002, he accepted a penalty of five days’ suspension for excessive lateness. While respondent received no other disciplinary penalties, his file contains numerous and frequent warnings and counselings regarding various rule violations. In 1993 and 1994, he was warned about excessive unscheduled absences. In 1993, he was counseled for losing some facility keys. In 1999, he was again counseled for sick leave violations. In 2003, he was warned about various derelictions of duty, including failing to properly document incidents, further excessive lateness, using a cell phone while on duty, and not performing his duties by sitting in the hospital lobby, and failing to properly convey information about a belligerent visitor. In 2004, he was warned about being “verbally abusive” to a nurse and about failing to tell security staff at roll call that a discharged patient must not be allowed to enter the hospital. In 2005, he was counseled for failing to ensure that timesheets were coded properly. In 2006, he was initially demoted from the title of senior special officer due to a failure to report an incident, to file a report, and to follow instructions regarding denying entry to a hostile visitor. He was also counseled for sick leave violations and lateness. In 2007, he was counseled for failing to respond promptly to an alarm. Finally, in October 2008, he was counseled about an incident where several nurses reported that he had yelled and threatened a nurse when she complained that security staff had failed to follow instructions to refuse to let a discharged patient into the hospital. It is appropriate to consider respondent’s history of marginal performance and prior warnings in assessing both the mitigatory effect to be given his 16 years of service and also the penalty for subsequent similar violations. *See Dep’t of Finance v. Anderson*, OATH Index No. 1485/08 (May 6, 2008).

Under the facts proven in this case, respondent’s misuse of his authority and mistreatment of a patient demands a severe penalty. His actions resulted in a chest injury to the patient. Not surprisingly, petitioner’s counsel has requested that respondent be terminated for the misconduct here.

Past cases demonstrate that hospital officers who failed to properly fulfill their security duties have generally received suspension penalties. *Health and Hospitals Corp. (Woodhull Medical and Mental Health Center) v. Goodman*, OATH Index No. 1425/06 (Aug. 1, 2006) (officer who failed to guard prisoner suspended for eight days); *Health and Hospitals Corp.*

*(Harlem Hospital Center) v. Nesbitt*, OATH Index No. 676/04 (June 2, 2004) (officer who was disrespectful toward hospital administrator suspended for 10 days); *Health and Hospitals Corp. (Jacobi Medical Center) v. Solomon*, OATH Index No. 334/02 (Jan. 25, 2002) (officer who was repeatedly insubordinate to supervisor suspended for 10 days). On the other hand, hospital officers who abused staff or intentionally assaulted patients may be terminated. *Health & Hospitals Corp. (Lincoln Medical & Mental Health Center) v. Huling*, OATH Index No. 1342/08 (June 26, 2008) (officer who forcibly arrested the hospital's administrator without cause and detained him in handcuffs for over an hour terminated); *Health and Hospitals Corp. (Kings County Hospital Center) v. Wright*, OATH Index No. 467/02 (Mar. 22, 2002) (officer who struck patient in face causing fracture terminated).

Despite respondent's tenure, I have concluded that suspension is inadequate to address his act of forcibly injuring a patient. As past cases have held, hospital staff members who cause injury to patients compromise the integrity and safety of the entire facility. Nothing in respondent's personnel record provides a reason to exempt him from the penalties given to employees with similar violations. Thus, I recommend that respondent be terminated for the misconduct found to have occurred here.

John B. Spooner  
Administrative Law Judge

October 21, 2009

SUBMITTED TO:

**ROBERT K. HUGHES**  
*Executive Director*

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