



STATE OF NEW YORK DEPARTMENT OF HEALTH

Corning Tower The Governor Nelson A. Rockefeller Empire State Plaza Albany, New York 12237

Mark R. Chassin, M.D., M.P.P., M.P.H.
Commissioner

Paula Wilson
Executive Deputy Commissioner

October 28, 1994

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Omar Rodriguez, M.D.
1735 Madison Ave.
New York, New York, 10029

Franklin Wilks, Esq.
594 Grand Concourse
Bronx, New York 10451

Claudia Morales Bloch, Esq
NYS Dept. of Health
5 Penn Plaza - Sixth Floor\
New York, New York 10001

Effective Date: 02/02/95

RE: In the Matter of Omar Rodriguez, M.D.

Dear Dr. Rodriguez, Ms. Bloch and Mr. Wilks:

Enclosed please find the Determination and Order (No. 94-140) of the Professional Medical Conduct Administrative Review Board in the above referenced matter. This Determination and Order shall be deemed effective upon 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.

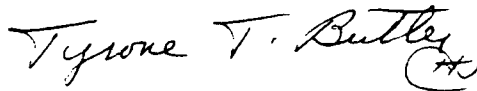
Five days after receipt of this Order, you will be required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate. Delivery shall be by either **certified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

Office of Professional Medical Conduct
New York State Department of Health
Empire State Plaza
Corning Tower, Room 438
Albany, New York 12237

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.

This exhausts all administrative remedies in this matter [PHL §230-c(5)].

Sincerely,

A handwritten signature in cursive script that reads "Tyrone T. Butler". The signature is written in black ink and includes a small circled mark at the end.

Tyrone T. Butler, Director
Bureau of Adjudication

TTB:

Enclosure

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

**IN THE MATTER
OF
OMAR RODRIGUEZ, M.D.**

**ADMINISTRATIVE
REVIEW BOARD
DECISION AND
ORDER NUMBER
ARB NO. 94-140**

A quorum of the Administrative Review Board for Professional Medical Conduct (hereinafter the "Review Board"), consisting of **ROBERT M. BRIBER, WINSTON S. PRICE, M.D., EDWARD C. SINNOTT, M.D.** and **WILLIAM A. STEWART, M.D.**¹ held deliberations on October 11, 1994 to review the Hearing Committee on Professional Medical Conduct's (Hearing Committee) August 11, 1994 Determination finding Dr. Omar Rodriguez (Respondent) guilty of professional misconduct. The Respondent requested the Review through a Notice which the Board received on August 22, 1994. James F. Horan served as Administrative Officer to the Review Board. Franklin Wilks, Esq. filed a brief for the Respondent on September 27, 1994. Claudia Morales Bloch, Esq. filed a reply brief for the Office of Professional Medical Conduct (Petitioner) on September 30, 1994.

SCOPE OF REVIEW

New York Public Health Law (PHL) §230(10)(i), §230-c(1) and §230-c(4)(b) provide that the Review Board shall review:

- whether or not a hearing committee determination and penalty are consistent with the hearing committee's findings of fact and conclusions of law; and
- whether or not the penalty is appropriate and within the scope of penalties permitted by PHL §230-a.

Public Health Law §230-c(4)(b) permits the Review Board to remand a case to the

¹ Sumner Shapiro did not participate in the deliberations. Dr. Sinnott participated in the deliberations by conference call.

Hearing Committee for further consideration.

Public Health Law §230-c(4)(c) provides that the Review Board's Determinations shall be based upon a majority concurrence of the Review Board

HEARING COMMITTEE DETERMINATION

The Petitioner brought this case pursuant to Public Health Law Section 230(10)(p) and Education Law Section 6530(9)(a)(i) , which provide an expedited hearing in cases in which professional misconduct charges against a Respondent are based upon a prior criminal conviction in New York or another jurisdiction or upon a prior administrative adjudication which would amount to misconduct if committed in New York State. The expedited hearing determines the nature and severity of the penalty which the Hearing Committee will impose based upon the criminal conviction or prior administrative adjudication.

The Hearing Committee in this case found that the Petitioner had met its burden of proof in establishing that the Respondent was convicted, following a guilty plea, for one count of attempted grand larceny in the third degree (a felony) and one count of conspiracy in the fifth degree (a class A misdemeanor) for signing prescriptions and prior authorization forms for dispensation of medical equipment, which he knew was not needed by the patients and for which he intended that the Medicaid Program would be billed and subsequently pay in excess of Three Thousand (\$3000.00) Dollars. The Committee found that at the time of the plea, the presiding judge had indicated that the Respondent's sentence would be a conditional discharge and a Two Thousand Five Hundred (\$2,500.00) fine. The Committee found further that at the sentencing, it became apparent that the Attorney General's Office had learned that the Respondent had been employed in a Medicaid facility, between the time of the plea and the sentencing date, and that the Respondent was signing prescriptions in the name of another physician. In consideration of that information, the presiding judge increased the sentence to five years probation and left the fine in the same amount.

The Committee noted in their Determination, that the Respondent's Counsel had requested adjournments in the hearing date twice, on May 9, 1994 and June 21, 1994, which the Committee's Administrative Officer had granted. The Administrative Officer refused to grant a further adjournment of the hearing date that had been rescheduled to July 14, 1994. On that date, the

Respondent's Counsel appeared with a statement indicating that the Respondent was ill and unable to attend the hearing and again requested an adjournment. The Hearing Committee then met in Executive Session with the Administrative Officer. At the conclusion of the Executive Session the Administrative Officer announced that there would be no further adjournments. The Respondent's Counsel then left the hearing room and did not participate further in the hearing.

Based upon their Determination that the Respondent was guilty of misconduct, the Hearing Committee voted to revoke the Respondent's license to practice medicine. The Committee concluded that the Respondent had been placed in a position of public trust and that he had violated that trust by defrauding the Medicaid Program. The Committee found that the Respondent had then continued that fraudulent conduct after his conviction by writing prescriptions in another physician's name. The Committee determined that revocation was the only appropriate sanction.

REQUESTS FOR REVIEW

The Respondent asserts that the Hearing Officer's refusal to grant an adjournment on the hearing day due to the Respondent's illness was a denial of due process. The Respondent requests that the Review Board remand the case to the Hearing Committee for an opportunity to offer testimony by the Respondent and other evidence in mitigation.

The Petitioner contends that the Respondent had an adequate opportunity to present evidence and that the request to adjourn on the hearing day was the Respondent's fourth different request for an adjournment in this case.

REVIEW BOARD DETERMINATION

The Review Board has considered the entire record below and the briefs which counsel have submitted.

The Review Board denies the Respondent's request to remand this case to the hearing Committee for further proceedings. The Respondent was provided two adjournments in this case before the final hearing date. The Respondent's attorney was present on the hearing date and had the opportunity to present evidence. The Hearing Committee did not act improperly in refusing to allow

any further delays in this matter.

The Review Board sustains the Hearing Committee's Determination finding the Respondent guilty of professional misconduct as a result of the Respondent's criminal conviction for participating in a scheme to defraud the Medicaid Program. The Review Board sustains the Respondent's Determination revoking the Respondent's license to practice medicine in New York State. Revocation is the appropriate penalty in this case in which the Respondent violated the public trust in the medical profession by defrauding the Medicaid Program.

ORDER

NOW, based upon this Determination, the Review Board issues the following **ORDER**:

1. The Review Board **sustains** the Hearing Committee's August 11, 1994 Determination finding the Respondent Omar Rodriguez guilty of professional misconduct.
2. The Review Board **denies** the Respondent's request that the Board remand this case to the Hearing Committee.
3. The Review Board **sustains** the Hearing Committee's Determination revoking the Respondent's license to practice medicine in New York State.

ROBERT M. BRIBER

WINSTON S. PRICE, M.D.

EDWARD SINNOTT, M.D.

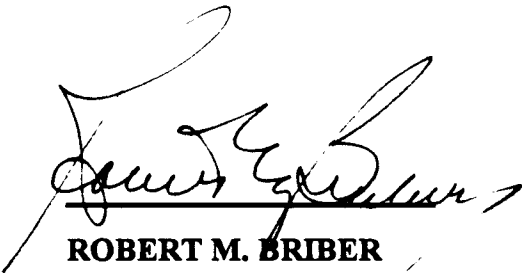
WILLIAM A. STEWART, M.D.

IN THE MATTER OF OMAR RODRIGUEZ, M.D.

ROBERT M. BRIBER, a member of the Administrative Review Board for Professional Medical Conduct, concurs in the Determination and Order in the Matter of Dr. Rodriguez.

DATED: Albany, New York

10/26, 1994



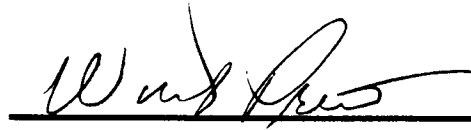
ROBERT M. BRIBER

IN THE MATTER OF OMAR RODRIGUEZ, M.D.

WINSTON S. PRICE, M.D., a member of the Administrative Review Board for Professional Medical Conduct, concurs in the Determination and Order in the Matter of Dr. Rodriguez.

DATED: Brooklyn, New York

_____, 1994

A handwritten signature in cursive script, appearing to read "Winston Price", is written over a solid horizontal line.

WINSTON S. PRICE, M.D.

IN THE MATTER OF OMAR RODRIGUEZ, M.D.

EDWARD C. SINNOTT, M.D., a member of the Administrative Review Board for Professional Medical Conduct, concurs in the Determination and Order in the Matter of Dr. Rodriguez.

DATED: Roslyn, New York

October 26, 1994

A handwritten signature in black ink, reading "Edward C. Sinnott, M.D.", written over a horizontal line.

EDWARD C. SINNOTT, M.D.

IN THE MATTER OF OMAR RODRIGUEZ, M.D.

WILLIAM A. STEWART, M.D., a member of the Administrative Review Board for Professional Medical Conduct, concurs in the Determination and Order in the Matter of Dr. Rodriguez.

DATED: Syracuse, New York

26 Oct, 1994

A handwritten signature in cursive script that reads "William A. Stewart". The signature is written in black ink and is positioned above a horizontal line.

WILLIAM A. STEWART, M.D.



STATE OF NEW YORK DEPARTMENT OF HEALTH

Corning Tower The Governor Nelson A. Rockefeller Empire State Plaza Albany, New York 12237

Mark R. Chassin, M.D., M.P.P., M.P.H.
Commissioner

Paula Wilson
Executive Deputy Commissioner

August 11, 1994

AUG 11 1994

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Omar Rodriguez, M.D.
1735 Madison Avenue, Apt. 6A
New York, New York 10029

Claudia Morales Bloch, Esq.
NYS Department of Health
5 Penn Plaza - Sixth Floor
New York, New York 10001

Franklin Wilks, Esq.
594 Grand Concourse
Bronx, New York 10451

RE: In the Matter of Omar Rodriguez, M.D.

Dear Dr. Rodriguez, Mr. Wilks and Ms. Bloch :

Enclosed please find the Determination and Order (No. 94-140) 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
Corning Tower - Fourth Floor (Room 438)
Empire State Plaza
Albany, New York 12237

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), "(t)he 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 all action 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.

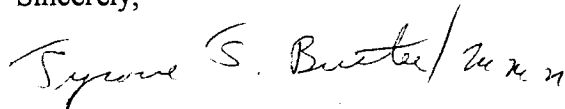
The notice of review served on the Administrative Review Board should be forwarded to:

James F. Horan, Esq., Administrative Law Judge
New York State Department of Health
Bureau of Adjudication
Empire State Plaza
Corning Tower, Room 2503
Albany, New York 12237-0030

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". To the right of the signature, there is a date "2/22/21" written in a similar cursive style.

Tyrone T. Butler, Director
Bureau of Adjudication

TTB:mmn

Enclosure

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

-----X
IN THE MATTER : DETERMINATION
OF :
OMAR RODRIGUEZ, M.D. : ORDER
-----X

BPMC NO-94-140

A Notice of Referral Proceeding and Statement of Charges, both dated March 9, 1994, were served upon the Respondent, Omar Rodriguez, M.D. **ROBERT J. O'CONNOR, M.D.** (Chair), **JAY I. POMERANTZ, M.D.**, and **LYNNE HENNECKE, Ph.D.**, duly designated members of the State Board for Professional Medical Conduct, served as the Hearing Committee in this matter pursuant to Section 230(10)(e) of the Public Health Law. **LARRY G. STORCH, ESQ., ADMINISTRATIVE LAW JUDGE**, served as the Administrative Officer. The Department of Health appeared by Claudia Morales Bloch, Esq., Associate Counsel. The Respondent appeared by Franklin Wilks, Esq. A hearing was held on July 14, 1994. Evidence was received and witnesses sworn and heard and transcripts of these proceedings were made.

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

STATEMENT OF CASE

This case was brought pursuant to Public Health Law Section 230(10)(p). The statute provides for an expedited hearing where a licensee is charged solely with a violation of Education Law §6530(9). In such cases, a licensee is charged with misconduct based upon a prior criminal conviction in New York or another jurisdiction, or upon a prior administrative adjudication regarding conduct which would amount to professional misconduct, if committed in New York. The scope of an expedited hearing is limited to a determination of the nature and severity of the penalty to be imposed upon the licensee.

In the instant case, Respondent is charged with professional misconduct, pursuant to Education Law §6530(9)(a)(i). A copy of the Notice of Referral Proceeding and Statement of Charges is attached to this Determination and Order in Appendix I.

This case was originally scheduled to be heard on May 11, 1994. On May 9, 1994, the Bureau of Adjudication received a Notice of Appearance and Affidavit of Engagement sent by Franklin Wilks, Esq., counsel for Respondent. Mr. Wilks gave notice that he was attorney-of-record for Respondent in this matter, and requested an adjournment due to his actual engagement in a criminal trial to be heard in New York County. The hearing was then re-scheduled for June 29, 1994. Counsel for Respondent submitted another Affidavit of Engagement and Notice of Appearance, dated June 21, 1994. Counsel requested another

adjournment due to his continued engagement in the criminal trial. The case was re-scheduled for July 14, 1994. On July 8, 1994, a telephone conference was held between Administrative Law Judge Storch, Mr. Wilks, and Roy Nemerson, Esq., Deputy Counsel for the Department of Health. Mr. Wilks requested another adjournment, for more time to prepare his case and obtain witnesses. The request was opposed by the Department and ultimately denied by Judge Storch.

At the hearing held on July 14, 1994, Mr. Wilks submitted an "Affirmation of Disability". Mr. Wilks claimed that on July 13, 1994, his office was notified that Respondent was suffering from "gastoentitus [sic] and dehydration" which rendered him "unable to work and participate in any out of the home activities". Attached to this "Affirmation of Disability" was a hand-written note signed by someone purporting to be "Fred Ast, M.D.". The note, addressed "To whom it may concern" affirmed that Respondent was "examined today for viral gastroenteritis [sic] and dehydration. He is unable to appear 7/14/94 for his hearing." No documentation of Respondent's medical condition was provided.

Mr. Wilks requested an adjournment of the hearing. The Department opposed the request. The Hearing Committee went into executive session to consider the request. Following consultation with the Hearing Committee during the executive session, ALJ Storch ruled that the adjournment should be denied. The Notice of Referral Proceeding (Petitioner's Exhibit #1) expressly provides that "Claims of illness will require medical documentation." A

hand-written note claiming that Respondent was "examined" for gastroenteritis and dehydration, absent more definitive documentation, is insufficient. Mr. Wilks argued that his "affirmation of disability", as well as that of Dr. Ast, was a sufficient basis for granting an adjournment. We disagree.

CPLR §2106 provides, in pertinent part, that "The statement of an attorney admitted to practice in the courts of the state, or of a physician ... authorized to practice in the state, who is not a party to an action, **when subscribed and affirmed by him to be true under the penalties of perjury**, may be served or filed ... with the same force and effect as an affidavit". (Emphasis supplied).

Neither the "Affirmation" submitted by Mr. Wilks, nor the note written by Dr. Ast, indicate that their contents are affirmed to be true under penalties of perjury. As a result, they do not have the same force and effect as an affidavit and were properly disregarded.

Following the denial of his request for an adjournment, Mr. Wilks stated that he could not "ethically participate" in the proceeding. He then left the hearing room and did not return. (See, Tr., pp. 11-12).

The Notice of Referral Proceeding (Petitioner's Exhibit #1) explicitly states that "The proceeding may be held whether or not you appear." Mr. Wilks appeared on behalf of Respondent via his Notice of Appearance, dated May 5, 1994. By leaving the hearing room, Mr. Wilks placed Respondent in default. The hearing proceeded in his absence.

FINDINGS OF FACT

The following Findings of Fact were made after a review of the entire record in this matter. Numbers in parentheses refer to transcript page numbers or exhibits. 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.

1. Omar Rodriguez, M.D. (hereinafter, "Respondent"), was authorized to practice medicine in New York State on June 24, 1983 by the issuance of license number 154467 by the New York State Education Department. Respondent is currently registered with the New York State Education Department to practice medicine for the period January 1, 1993 through December 31, 1994 at 1735 Madison Avenue, Apt. A, New York, New York 10029. (Pet. Ex. #3).

2. On or about April 25, 1991, Respondent was convicted, upon a plea of guilty, of one count of attempted grand larceny in the third degree and one count of conspiracy in the fifth degree, in violation of N.Y. Penal Law §§110.00; 155.35; and 105.05. By his guilty plea, Respondent admitted that on or about and on or between December 8, 1988 and February 23, 1989, Respondent, in agreement with other persons, signed prescriptions and prior authorization forms for the dispensation of medical equipment, which he knew was not needed by the patients and for which he intended that the New York State Medical Assistance Program (Medicaid) would be billed and subsequently pay in excess of \$3,000.00. At the time that the guilty plea was entered into, the presiding judge indicated that a conditional discharge and a

fine of \$2,500.00 would be imposed. (Pet. Ex. #4).

3. At the sentencing hearing held on September 4, 1991, it became apparent that between the time of the taking of the guilty plea on April 25, 1991 and the initial sentencing date, the Attorney General's office became aware that Respondent was employed in another Medicaid facility and was signing prescriptions in the name of another physician. In consideration of this new information, the sentence to be imposed was increased to five years of probation and fined \$2,500.00 on the felony count and three years of probation on the conspiracy count, to be served concurrently. (Pet. Ex. #5).

CONCLUSIONS OF LAW

The following conclusions were made pursuant to the Findings of Fact listed above. All conclusions resulted from a unanimous vote of the Hearing Committee unless noted otherwise.

The Hearing Committee unanimously concluded that the Department has sustained its burden of proof. The preponderance of the evidence demonstrates that on April 25, 1991, Respondent was convicted, upon a guilty plea, to one count of attempted grand larceny in the third degree (a felony) and one count of conspiracy in the fifth degree (a class A misdemeanor). This constitutes a conviction of a crime under New York State Law and is professional misconduct as defined by Education Law §6530(9)(a)(i). As a result, the Hearing Committee voted to sustain the Specification of professional misconduct.

DETERMINATION AS TO PENALTY

The Hearing Committee, pursuant to the Findings of Fact and Conclusions of Law set forth above, unanimously determined that Respondent's license to practice medicine in New York State should be revoked. This determination was reached upon due consideration of the full spectrum of penalties available pursuant to statute, including revocation, suspension and/or probation, censure and reprimand, and the imposition of monetary penalties.

The record established that Respondent was convicted, upon a plea of guilty, of attempted Grand Larceny in the third degree and one count of conspiracy in the fifth degree. Moreover, following his guilty plea, Respondent wrote prescriptions in the name of another physician in another Medicaid facility.

A physician, by virtue of his medical license, is placed into a position of public trust. Respondent violated that trust by defrauding the state's Medicaid program. Moreover, he continued his fraudulent conduct even after his criminal conviction. Respondent offered no evidence which might mitigate the sanction to be imposed due to his professional misconduct. Under the totality of the circumstances, the Hearing Committee determined that revocation was the only appropriate sanction.

ORDER

Based upon the foregoing, **IT IS HEREBY ORDERED THAT:**

1. The Specification of professional misconduct, as set forth in the Statement of Charges (Petitioner's Exhibit # 1) is

SUSTAINED;

2. Respondent's license to practice medicine in New York State be and hereby is REVOKED.

DATED: Albany, New York

August 3, 1994



ROBERT J. O'CONNOR, M.D. (CHAIR)

JAY I. POMERANTZ, M.D.
LYNNE HENNECKE, Ph.D.

TO: Claudia Morales Bloch, Esq.
Associate Counsel
New York State Department of Health
5 Penn Plaza - 6th Floor
New York, New York 10001

Omar Rodriguez, M.D.
1735 Madison Avenue, Apt. 6A
New York, New York 10029

Franklin Wilks, Esq.
594 Grand Concourse
Bronx, New York 10451

APPENDIX I

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

-----X
: IN THE MATTER : NOTICE OF
: OF : REFERRAL
: OMAR RODRIGUEZ, M.D. : PROCEEDING
: :
-----X

TO: OMAR RODRIGUEZ, M.D.
1735 Madison Avenue, Apt. 6A
New York, NY 10029

CASE	<i>BPM C Rodriguez</i>
EX	<i>In ward</i>
DATE	<i>7-14-94</i>
ACCUSOR: BE REPORTING, INC. M.S.B.	

PLEASE TAKE NOTICE THAT:

An adjudicatory proceeding will be held pursuant to the provisions of N.Y. Pub. Health Law Section 230(10)(p) (McKinney Supp. 1994) and N.Y. State Admin. Proc. Act Sections 301-307 and 401 (McKinney 1984 and Supp. 1994). The proceeding will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct (Committee) on the 11th day of May, 1994 at 10:00 a.m. o'clock in the forenoon of that day at 5 Penn Plaza, 6th Floor, New York, New York 10001.

At the proceeding, evidence will be received concerning the allegations set forth in the Statement of Charges, which is attached. A stenographic record of the proceeding will be made and the witnesses at the proceeding will be sworn and examined.

You may appear in person at the proceeding and may be represented by counsel. You may produce evidence or sworn testimony on your behalf. Such evidence or sworn testimony shall be strictly limited to evidence and testimony relating to the nature and severity of the penalty to be imposed upon the licensee. Where the charges are based on the conviction of state law crimes in other jurisdictions, evidence may be offered which would show that the conviction would not be a crime in New York State. The Committee also may limit the number of witnesses whose testimony will be received, as well as the length of time any witness will be permitted to testify.

If you intend to present sworn testimony, the number of witnesses and an estimate of the time necessary for their direct examination mustⁱ be submitted to the New York State Department of Health, Division of Legal Affairs, Bureau of Adjudication, Corning Tower Building, 25th Floor, Empire State Plaza, Albany, New York 12237, ATTENTION: HON. TYRONE BUTLER, DIRECTOR, BUREAU OF ADJUDICATION, (henceforth "Bureau of Adjudication") as well as the Department of Health attorney indicated below, on or before April 27, 1994.

You may file a written answer, brief, and affidavits with the Committee. Six copies of all papers you wish to submit must be filed with the Bureau of Adjudication at the address indicated above on or before April 27, 1994 and a copy of all

papers must be served on the same date on the Department of Health attorney indicated 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.


The proceeding may be held whether or not you appear. Please note that requests for adjournments must be made in writing to Bureau of Adjudication, at the address indicated above, with a copy of the request to the attorney for the Department of Health, whose name appears below, at least five days prior to the scheduled date of the proceeding. Adjournment requests are not routinely granted. Claims of court engagement will require detailed affidavits of actual engagement. Claims of illness will require medical documentation. Failure to obtain an attorney within a reasonable period of time prior to the proceeding will not be grounds for an adjournment.

The Committee will make a written report of its findings, conclusions as to guilt, and a determination. Such determination may be reviewed by the administrative review board for professional medical conduct.

SINCE THESE PROCEEDINGS MAY RESULT IN A
DETERMINATION THAT SUSPENDS OR REVOKES YOUR
LICENSE TO PRACTICE MEDICINE IN NEW YORK STATE

AND/OR IMPOSES A FINE FOR EACH OFFENSE CHARGED,
YOU ARE URGED TO OBTAIN AN ATTORNEY TO REPRESENT
YOU IN THIS MATTER.

DATED: New York, New York
March 9, 1994



CHRIS STERN HYMAN
Counsel
Bureau of Professional
Medical Conduct

Inquiries should be addressed to:

CLAUDIA MORALES BLOCH
Associate Counsel
212-613-2615

4

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

-----X
IN THE MATTER : STATEMENT
OF : OF
OMAR RODRIGUEZ, M.D. : CHARGES
-----X

OMAR RODRIGUEZ, M.D., the Respondent, was authorized to practice medicine in New York State on June 24, 1983 by the issuance of license number 154467 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, 1993 through December 31, 1994 at 1735 Madison Avenue, Apt. 6A, New York, NY 10029.


SPECIFICATION

Respondent is charged with professional misconduct within the meaning of N.Y. Educ. Law Section 6530(9)(a)(i) (McKinney Supp. 1994), in that Respondent was convicted of committing an act constituting a crime under New York state law, specifically:

On or about April 25, 1991, Respondent was convicted, upon his plea of guilty, of One (1) count of attempted Grand Larceny in the third

degree and one (1) count of conspiracy in the fifth degree, in violation of N.Y. Penal Law §§110.00; 155.35; and 105.05, in that, on or about and on or between December 8, 1988 and February 23, 1989, Respondent, in agreement with other persons, signed prescriptions and prior authorization forms for the dispensation of medical equipment, which he knew was not needed by the patients and for which he intended that the NYS Medical Assistant Program (Medicaid) would be billed, and, pursuant to which it would pay in excess of \$3,000.00.

DATED: New York, New York
March 9, 1994


CHRIS STERN HYMAN
Counsel
Bureau of Professional Medical
Conduct