

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

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IN THE MATTER  
OF  
FERNANDO RODRIGUEZ, M.D.  
CO-03-10-4634-A

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COMMISSIONER'S  
ORDER  
AND  
NOTICE OF  
HEARING

TO: FERNANDO RODRIGUEZ, M.D.  
122 Monfort Drive  
Belle Meade, NJ 08501-4808

PUBLIC

The undersigned, Antonia C. Novello, M.D., M.P.H., Dr. P.H., Commissioner of the New York State Department of Health, after an investigation, upon the recommendation of a committee on professional medical conduct of the State Board for Professional Medical Conduct, and upon the Statement of Charges attached, hereto, and made a part hereof, has determined that **FERNANDO RODRIGUEZ, M.D.**, Respondent, licensed to practice medicine in New York state on October 10, 1989, by license number 180305, has been found guilty of committing an act constituting a felony under the law of another jurisdiction, the State of New Jersey, which, if committed within New York state, would have constituted a felony under New York state law.

It is therefore,

ORDERED, pursuant to N.Y. Public Health Law Section 230(12)(b), that effective immediately, **FERNANDO RODRIGUEZ, M.D.**, Respondent, shall not practice medicine in the State of New York or in any other jurisdiction where that practice is dependent on a valid New York State license to practice medicine. This order shall remain in effect unless modified or vacated by the Commissioner of Health pursuant to N.Y. Public Health Law Section 230(12).

PLEASE TAKE NOTICE that a hearing will be held pursuant to the provisions of N.Y. Public Health Law Section 230, and N.Y. State Admin. Proc. Act Sections 301-307 and 401. The hearing will be conducted before a committee on professional conduct of the State Board of Professional Medical Conduct, on the 21<sup>st</sup> day of July, 2004 at 10:00 am in the forenoon at Hedley Park Place, 5<sup>th</sup> Floor, 433 River Street, Troy, New York and at such other adjourned dates, times, and places as the committee may direct. The Respondent may file an answer to the Statement of Charges with the below named attorney for the Department of Health.

At the hearing, evidence will be received concerning the allegations set forth in the Statement of Charges, that is attached. A stenographic record of the hearing will be made and the witnesses at the hearing will be sworn and examined. The Respondent shall appear in person at the hearing and may be represented by counsel. The Respondent has the right to produce witnesses and evidence on his behalf, to issue or have subpoenas issued on his behalf for the production of witnesses and documents, and to cross-examine witnesses and examine evidence produced against him. A summary of the Department of Health Hearing Rules is enclosed. 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 hearing will proceed whether or not the Respondent appears at the hearing. Scheduled hearing dates are considered dates certain and, adjournment requests are not, therefore, routinely granted. Requests for adjournments must be made in writing to the Administrative Law Judge's Office, Hedley Park Place, 433 River Street, 5<sup>th</sup> Floor, Troy, New York 12180 (518-402-0751), upon notice to the attorney for the Department of

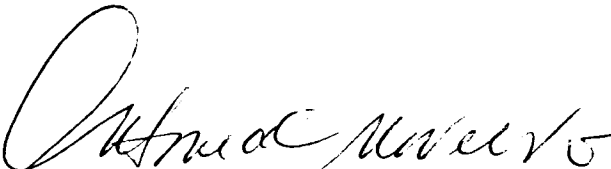
Health whose name appears below, at least five days prior to the scheduled hearing date. Claims of court engagement require detailed affidavits of actual engagement. Claims of illness require medical documentation.

At the conclusion of the hearing, the committee shall make findings of fact, conclusions concerning the charges sustained or dismissed, and, in the event that any of the charges are sustained, a determination of the penalty or sanction to be imposed or appropriate action to be taken. Such determination may be reviewed by the Administrative Review Board for Professional Medical Conduct.

**THESE PROCEEDINGS MAY RESULT IN A  
DETERMINATION THAT YOUR LICENSE TO  
PRACTICE MEDICINE IN NEW YORK STATE BE  
REVOKED OR SUSPENDED, AND/OR THAT  
YOU MAY BE FINED OR SUBJECT TO OTHER  
SANCTIONS SET FORTH IN NEW YORK PUBLIC  
HEALTH LAW SECTION 230-A. YOU ARE  
URGED TO OBTAIN AN ATTORNEY FOR THIS  
MATTER.**

DATED: Albany, New York

*May 27,* ,2004

  
ANTONIA C. NOVELLO, M.D. M.P.H, Dr. P.H.,  
Commissioner

Inquires should be addressed to:

Robert Bogan  
Associate Counsel  
Office of Professional Medical Conduct  
433 River Street - Suite 303  
Troy, New York 12180  
(518) 402-0828

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**IN THE MATTER**  
**OF**  
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**STATEMENT**  
**OF**  
**CHARGES**

**FERNANDO RODRIGUEZ, M.D.**, the Respondent, was authorized to practice medicine in New York state on October 10, 1989, by the issuance of license number 180305 by the New York State Education Department.

**FACTUAL ALLEGATIONS**

A. On or about June 6, 2003, the State of New Jersey, Department of Law & Public Safety, Division of Consumer Affairs, State Board of Medical Examiners (hereinafter "New Jersey Board"), by a Consent Order (hereinafter "New Jersey Order"), reprimanded Respondent and suspended his license to practice medicine and surgery for four (4) years, to be stayed and served as a period of probation, required him to permanently cease his practice of pain management and detoxification, and to pay \$14,931.08 costs, based on gross negligence, gross malpractice or gross incompetence which damaged or endangered the life, health, welfare, safety or property of any person, repeated acts of negligence, malpractice or incompetence, and violated or failed to comply with the provisions of any act or regulation administered by the New Jersey Board.

B. On or about April 8, 2004, in the Superior Court, Law Division-Criminal Somerset County, New Jersey, Respondent was found guilty, based on a plea of guilty, of four (4) counts of Unlawful Possession of a Weapon in the 3<sup>rd</sup> degree, all felonies, and Unlawful Possession of a Prohibited Device in the 4<sup>th</sup> Degree, a misdemeanor, and was sentenced to three (3) years probation, to attend anger management evaluation and treatment, perform fifty (50) hours community service, and pay monetary penalties, a \$25.00 monthly Probation Supervision Fee, and a \$500.00 fine.

C. The conduct resulting in the New Jersey Board disciplinary actions against Respondent would constitute misconduct under the laws of New York state, pursuant to the following sections of New York state Law:

1. New York Education Law §6530(3) (negligence on more than one occasion);
2. New York Education Law §6530(4) (gross negligence);
3. New York Education Law §6530(5) (incompetence on more than one occasion);
4. New York Education Law §6530(6) (gross incompetence); and/or
5. New York Education Law §6530(16) (a willful or grossly negligent failure to comply with substantial provisions of federal, state, or local laws, rules or regulations governing the practice of medicine).

#### **SPECIFICATIONS**

##### **FIRST SPECIFICATION**

Respondent violated New York Education Law §6530(9)(a)(iii) by being convicted of committing an act constituting a crime under the law of another jurisdiction and which, if committed in New York state, would have constituted a crime under New York State law, in that Petitioner charges:

1. The facts in Paragraph B.

##### **SECOND SPECIFICATION**

Respondent violated New York Education Law §6530(9)(b) by having been found guilty of improper professional practice or professional misconduct by a duly authorized professional disciplinary agency of another state where the conduct upon which the finding was based would, if committed in New York state, constitute professional misconduct under the laws of New York state, in that Petitioner charges:

2. The facts in Paragraphs A and/or C.

**THIRD SPECIFICATION**

Respondent violated New York Education Law §6530(9)(d) by having his license to practice medicine suspended or having other disciplinary action taken by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the suspension or other disciplinary action would, if committed in New York state, constitute professional misconduct under the laws New York state, in that Petitioner charges:

3. The facts in Paragraphs A and/or C.

DATED: *May 27*, 2004  
Albany, New York

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