



# STATE OF NEW YORK DEPARTMENT OF HEALTH

Corning Tower

The Governor Nelson A. Rockefeller Empire State Plaza

Albany, New York 12237

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

Karen Schimke  
Executive Deputy Commissioner

March 8, 1995

## CERTIFIED MAIL - RETURN RECEIPT REQUESTED

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

Jose Alonso, P.A.  


Denise Buda Ross, Esq.  
Lippman, Krasnow & Kelton, Esqs.  
711 Third Avenue  
New York, New York 10017

### **RE: In the Matter of Jose Alonso, P.A.**

Effective Date: 03/15/95

Dear Ms. Bloch, Mr. Alonso and Ms Ross:

Enclosed please find the Determination and Order (No. 95-52) 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required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate.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

RECEIVED  
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OFFICE OF PROFESSIONAL  
MEDICAL CONDUCT

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 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,



Tyrone T. Butler, Director  
Bureau of Adjudication

TTB:nm  
Enclosure

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

**IN THE MATTER  
OF  
JOSE ALONSO, P.A.**

**DETERMINATION  
AND  
ORDER  
BPMC-95-52**

A Notice of hearing and Statement of Charges, both dated August 25, 1994, were served upon the Respondent, **JOSE ALONSO, P.A.** **PETER D. KUEMMEL, R.P.A.**, (Chair), **FLORENCE KAVALER, M.D.** and **THERESE LYNCH, M.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. **CHRISTINE C. TRASKOS, ESQ.**, Administrative Law Judge, served as the Administrative officer. A hearing was held on December 1, 1994. The Department of Health appeared by **CLAUDIA MORALES BLOCH, ESQ.**, Associate Counsel. The Respondent appeared by **LIPPMAN, KRASNOW & KELTON, ESQS.**, **DENISE BUDA ROSS, ESQ.**, of Counsel. 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 Section 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 Section 6530(9)(a)(ii). A copy of the Notice of Referral Proceeding and Statement of Charges is attached to this Determination and Order in Appendix I.

## 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. Respondent was authorized to practice as a physician assistant in New York State on July 10, 1980 by the issuance of license number 001393 by the New York State Education Department. (Pet. Ex..2)
2. On or about October 19, 1992, Respondent was convicted in United States District Court, Southern District of New York upon his plea of guilty, of one (1) count of Conspiracy to commit Mail Fraud and Medicaid Fraud, in violation of 18 USC 371, and one (1) count of Mail Fraud, in violation of 18 USC 1341, in that, from in or about August, 1990 through in

or about September, 1990, Respondent together with others, participated in a scheme to operate medical clinics for the purpose of obtaining payments directly and indirectly from the Medicaid system by submitting bills, and causing others to submit bills, to the New York State Department of Social Service for medical services, drug prescriptions, and laboratory tests which he knew to be, and were in fact, medically unnecessary. (Pet. Ex. .3)

3. On November 23, 1993, the Respondent was sentenced to two (2) years probation, with six months of that term in home confinement with electronic monitoring, and ordered to pay restitution in the amount of \$4, 000.00 and perform 400 hours of community service.  
(Pet. Ex. .4)

#### 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 Respondent plead guilty to one (1) count of Conspiracy to commit Mail Fraud and Medicaid Fraud in violation of 18 USC 371 and one (1) count of Mail Fraud in violation of 18 USC 1341. He was sentenced to two (2) years probation and ordered to make restitution in the amount of \$4,000.00. Section 6530(9)(a)(ii) of the Education Law defines professional misconduct as "being convicted of committing an act constituting a crime under federal law." As a result, the Hearing Committee voted to sustain the First Specification of professional misconduct contained within the Statement of Charges.

### 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 as a Physician Assistant in New York should be suspended for two (2) years following the effective date of this Determination and Order. The suspension shall be stayed in its entirety and Respondent placed on probation. The complete terms of probation are attached to this Determination and Order in Appendix II. 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.

At the hearing, the Respondent explained that he was not aware of the Medicaid scheme at the onset of his employment and that his role was a relatively minor one. Respondent further pointed out that he was fired by the clinic operators after approximately one (1) month because he was spending too much time providing actual medical care to each patient. (T.15)

Notwithstanding the above, Respondent plead guilty to a crime involving fraud against Medicaid. The Hearing Committee believes that crimes against the Medicaid system have a serious impact upon the health care system in the State of New York. However, the Hearing Committee has considered several factors which they believe mitigate against a severe penalty in this instance. These include Respondent's criminal conviction which required him to make a significant monetary restitution and to be placed on probation for two (2) years, which also included house arrest for six (6) months. Respondent continues to satisfactorily meet the conditions of his probation and he is currently performing community service at the Fortune Society. (Resp. C) In addition, Respondent provided substantial cooperation to Federal investigators and prosecutors and was instrumental in providing evidence which served to indict the owner of the pharmacy involved in the Medicaid scheme. (Pet. 4, pp. 5)

The Hearing Committee found Respondent's admission of responsibility of this incident to be sincere and they believe that Respondent is already under severe punishment for his actions. However, the Hearing Committee is obliged to protect the public interest from fraud against

Medicaid and to deter Respondent and other physician assistants from future acts of professional misconduct of this nature. Under the totality of the circumstances, stayed suspension and probation are the appropriate sanctions in this instance.

**ORDER**

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

1. The Specification of professional misconduct contained within the Statement of Charges (Petitioner's Exhibit #1) is **SUSTAINED**; and

2. Respondent's license to practice medicine in New York State be, and hereby is, **SUSPENDED** for a period of two (2) years from the effective date of this Determination and Order. The term of the suspension shall be stayed, and Respondent shall be placed on probation in accordance with the terms of probation contained in Appendix II which is attached to this Determination and Order and incorporated herein.

**DATED: Albany, New York**  
March 3, 1995

  
**PETER D. KUEMMEL, R.P.A. (Chair)**

**FLORENCE KAVALER, M.D.**  
**THERESE LYNCH, M.D.**



TO: Claudia Morales Bloch  
Associate Counsel  
NYS Department of Health  
5 Penn Plaza-Sixth Floor  
New York, NY 10001

Denise Buda Ross, Esq.  
Lippman, Krasnow & Kelton, Esqs.  
711 Third Avenue  
New York, NY 10017

Jose Alonso, P.A.



**APPENDIX I**

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

-----X  
: IN THE MATTER : NOTICE OF  
: OF : REFERRAL  
: JOSE ALONSO, P.A. : PROCEEDING  
: -----X

TO: JOSE ALONSO, P.A.  


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 13th day of October, 1994 at 10:00 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 must 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 September 29, 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 September 29, 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.

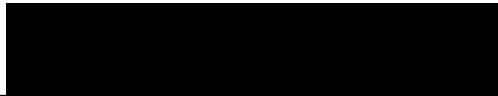
The proceeding may be held whether or not you appear. Please note that requests for adjournments must be made in writing to Bureau of Adjudication, at the address indicated above, with a copy of the request to the attorney for the Department of Health, whose name appears below, at least five days prior 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  
*August 25, 1994*

  
CHRIS STERN HYMAN  
Counsel  
Bureau of Professional  
Medical Conduct

Inquiries should be addressed to:

CLAUDIA MORALES BLOCH  
Associate Counsel  
212-613-2615

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

-----X  
IN THE MATTER : STATEMENT  
OF : OF  
JOSE ALONSO, P.A. : CHARGES  
-----X

JOSE ALONSO, P.A., the Respondent, was authorized to practice as a Physician's Assistant in New York State on July 10, 1980 by the issuance of license number 001393 by the New York State Education Department. The Respondent is currently registered with the New York State Education Department to practice as a physician's assistant for the period January 1, 1993 through December 31, 1995 at [REDACTED].

SPECIFICATION


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

On or about October 19, 1992, Respondent was convicted, upon his plea of guilty, of one (1) count of Conspiracy to commit Mail Fraud and

Medicaid Fraud, in violation of 18 USC 371, and one (1) count of Mail Fraud, in violation of 18 USC 1341, in that, from in or about August, 1990 through in or about September, 1990, Respondent together with others, participated in a scheme to operate medical clinics for the purpose of obtaining payments directly and indirectly from the Medicaid system by submitting bills, and causing others to submit bills, to the New York State Department of Social Service for medical services, drug prescriptions, and laboratory tests which he knew to be, and were in fact, medically unnecessary. Judgement was entered, after sentencing, on or about December 3, 1993.

DATED: New York, New York

*August 25, 1994*

  
CHRIS STERN HYMAN  
Counsel  
Bureau of Professional Medical  
Conduct



**APPENDIX II**

## APPENDIX II TERMS OF PROBATION

1. Jose Alonso shall conduct himself in all ways in a manner befitting his professional status, and shall conform fully to the moral and professional standards of conduct imposed by law and by his profession.
2. Jose Alonso shall comply with all federal, state and local laws, rules and regulations governing the practice of his profession in New York State.
3. Jose Alonso shall submit prompt written notification to the Board addressed to the Director, Office of Professional Medical Conduct, Empire State Plaza, Corning Tower Building, Room 438, Albany, New York 12237, regarding any change in employment, practice, residence or telephone number, within or without New York State.
4. In the event that Jose Alonso leaves New York to reside or practice outside the State, Jose Alonso shall notify the Director of the Office of Professional Medical Conduct in writing at the address indicated above, by registered or certified mail, return receipt requested, of the dates of his departure and return. Periods of residency or practice outside New York shall toll the probationary period, which shall be extended by the length of residency or practice outside New York shall toll the probationary period, which shall be extended by the length of residency or practice outside New York.
5. Jose Alonso's probation shall be supervised by the Office of Professional Medical Conduct.
6. Jose Alonso shall submit quarterly monitoring reports from a supervising physician who shall review his work in any or all clinical practices. The monitoring physician must be in practice for at least five (5) years, selected by Respondent and subject to the approval of the Office of Professional Medical Conduct.
7. Jose Alonso shall submit quarterly declarations, under penalty of perjury, stating whether or not there has been compliance with all terms of probation and, if not, the specifics of such non-compliance. These shall be sent to the Director of the Office of Professional medical Conduct at the address indicated above.
8. Jose Alonso shall submit written proof to the Director of the office of Professional Medical Conduct at the address indicated above that he has paid all registration fees due and is currently registered to practice his profession with the New York State Education Department. If Jose Alonso elects not to practice his profession in New York State, then he shall submit written proof that he has notified the New York State Education Department of that fact.
9. If there is full compliance with every term set forth herein, Jose Alonso may practice as a physician assistant in New York State in accordance with the terms of probation; provided, however, that upon receipt of evidence of non-compliance or any other violation of the terms of probation, a violation of probation proceeding and/or such other proceedings as may be warranted, may be initiated against Jose Alonso pursuant to New York Public Health Law Section 230 (19) or any other applicable laws.