



STATE OF NEW YORK DEPARTMENT OF HEALTH

Coming 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

PUBLIC

March 13, 1995

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Jean Bresler, Esq.
Associate Counsel
NYS Department of Health
5 Penn Plaza-Sixth Floor
New York, New York 10001

Jose Raquel, M.D.
31-31 Wabash
Terre Haute, Indiana 47803

RE: In the Matter of Jose Raquel, M.D.

Effective Date 03/20/95

Dear Ms. Bresler and Dr. Raquel:

Enclosed please find the Determination and Order (No. 95-56) 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required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate.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
Coming Tower - Fourth Floor (Room 438)
Empire State Plaza
Albany, New York 12237

RECEIVED

MAR 13 1995

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

-----X
IN THE MATTER : DETERMINATION
OF :
JOSE RAQUEL, M.D. : ORDER
-----X

BPMC-95-56

A Notice of Referral Proceeding and Statement of Charges, both dated December 1, 1994, were served upon the Respondent, Jose Raquel, M.D. EDMUND O. ROTHSCHILD, M.D. (Chair), ANN SHAMBERGER, and JOHN L.S. HOLLOMAN, JR., 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. LARRY G. STORCH, ESQ., ADMINISTRATIVE LAW JUDGE, served as the Administrative Officer. The Department of Health appeared by Jean Bresler, Esq., Associate Counsel. The Respondent appeared pro se. A hearing was held on February 14, 1995. 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)(d). 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. Jose Raquel, M.D. (hereinafter, "Respondent"), was authorized to practice medicine in New York State on January 25,

1972 by the issuance of license number 111531 by the New York State Education Department. Respondent is not currently registered with the New York State Education Department to practice medicine. (Pet. Ex. #4).

2. Respondent was charged, by the State of Illinois Department of Professional Regulation (hereinafter the "Illinois Board") with six counts of violating Illinois Revised Statutes (1987), Chapter III, paragraphs 4400-22A(4) [gross negligence in the practice of medicine], and (5) [unethical conduct likely to deceive or defraud], (21) [willfully filing false records or reports]. The Illinois Board alleged that Respondent had authorized and prescribed TENS units for five persons who were not his patients and billed for medical treatment which he never rendered. (Pet. Ex. #3).

3. On or about April 17, 1991, a stipulation and settlement order were entered in the State of Illinois, whereby Respondent was placed upon probation for four years. Respondent was required to successfully complete 100 hours of continuing medical education and pay a fine of \$7,500.00. (Pet. Ex. #3).

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 concluded that the Department has sustained its burden of proof in this matter. The preponderance of the evidence demonstrates that Respondent was disciplined by

the Illinois Board, the duly authorized professional disciplinary agency of the State of Illinois. Moreover, the Committee further concluded that Respondent's conduct, if committed in New York State, would constitute the fraudulent practice of medicine, in violation of Education Law §6530(2), as well as willfully making or filing false reports, in violation of Education Law §6530(21). As a result, the Hearing Committee voted to sustain the Specification of professional misconduct set forth 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 should receive a censure and reprimand, in satisfaction of the charges. In addition, Respondent shall be required to perform 100 hours of community service, acceptable to the Director of the Office of Professional Medical Conduct, in the event that he returns to New York to practice medicine. 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 Hearing Committee believes that this sanction strikes the appropriate balance between the need to punish Respondent and protect the people of the State of New York.

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 shall be and hereby is given a CENSURE AND REPRIMAND in satisfaction of the charges. In addition, Respondent shall be and hereby is required to perform 100 hours of community service, acceptable to the Director of the Office of Professional Medical Conduct, in the event that he returns to practice medicine in New York State.

DATED: Albany, New York
March 10, 1995


EDMUND O. ROTHSCHILD, M.D. (CHAIR)

ANN SHAMBERGER
JOHN L.S. HOLLOMAN, JR., M.D.

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

Jose Raquel, M.D.
31-31 Wabash
Terre Haute, Indiana 47803

APPENDIX I

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

-----X
: IN THE MATTER : NOTICE OF
: OF : REFERRAL
: JOSE RAQUEL, M.D. : PROCEEDING
: :
-----X

TO: JOSE RAQUEL, M.D.
31-31 Wabash
Terre Haute, IND 47803

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 14th day of February, 1995 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 February 4, 1995.

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 February 4, 1995, 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.

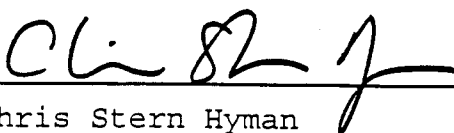
The proceeding may be held whether or not you appear. Please note that requests for adjournments must be made in writing to Bureau of Adjudication, at the address indicated above, with a copy of the request to the attorney for the Department of Health, whose name appears below, at least five days prior 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
December 1, 1994


Chris Stern Hyman
Counsel
Bureau of Professional
Medical Conduct

Inquiries should be addressed to:

Jean Bresler
Associate Counsel
212-613-2601

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

-----X
IN THE MATTER : STATEMENT
OF : OF
JOSE RAQUEL, M.D. : CHARGES
-----X

awarded by Dept.
of Health - JJS

JOSE RAQUEL, M.D., the Respondent, was authorized to practice medicine in New York State on ~~April 16, 1974~~ ^{January 25, 1972} by the issuance of license number ~~119816~~ ¹¹¹⁵³¹ by the New York State Education Department. The Respondent is not currently registered with the New York State Education Department to practice medicine.

FIRST SPECIFICATION

The Respondent is charged with professional misconduct within the meaning of N.Y. Educ. Law Section 6530(9)(d) (McKinney Supp. 1994) in that he had disciplinary action taken against his license by a duly authorized professional disciplinary agency of another state where the conduct resulting in the disciplinary action would if committed in New York State, constitute misconduct under the laws of New York State, in that:

The Respondent was charged, by the State of Illinois Department of Professional Regulation with six counts of violating Illinois revised

statutes (1987), Chapter III, paragraph(s)
4400-22A(4) gross negligence in the practice
of medicine, (5) unethical conduct likely to
deceive or defraud, (21) willfully filing
false records or reports. The State of
Illinois alleged that the Respondent had
authorized and prescribed TENS units for ~~six~~^{five}
persons who were not his patients and billed
for medical treatment to these six people
which he never rendered.

This conduct if committed in New York State
would constitute violation of New York
Education Law Section 6530(2) (McKinney Supp.
1994) Fraud, and (21), willfully making or
filing a false report.

On or about April 17, 1991, a stipulation and
settlement order was entered in the State of
Illinois, whereby the Respondent was placed
upon probation for four years. Respondent was
required to successfully complete 100 hours of
continuing medical education and pay a fine of
seven thousand four hundred dollars.

amended by Dept.
2/14/95 - JJS

DATED: New York, New York

December 1, 1994

A handwritten signature in black ink, appearing to read "C. Stern Hyman", written over a horizontal line.

CHRIS STERN HYMAN

Counsel

Bureau of Professional Medical
Conduct