



STATE OF NEW YORK  
DEPARTMENT OF HEALTH

433 River Street, Suite 303

Troy, New York 12180-2299

Antonia C. Novello, M.D., M.P.H.  
*Commissioner*

Dennis P. Whalen  
*Executive Deputy Commissioner*

January 14, 2000

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

Lee A. Davis, Esq.  
Assistant Counsel  
New York State Department of Health  
Corning Tower Building – Room 2509  
Empire State Plaza  
Albany, New York 12237-0032

Jose Raquel, Jr., M.D.  
1015 Harrington Drive  
Champaign, Illinois 61821

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

Dear Parties:

Enclosed please find the Determination and Order (No. 00-14) 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required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate.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

Hedley Park Place  
433 River Street - Fourth Floor  
Troy, New York 12180

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 penalties **other than suspension or revocation** 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.

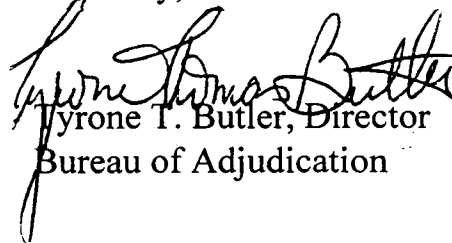
The notice of review served on the Administrative Review Board should be forwarded to:

James F. Horan, Esq., Administrative Law Judge  
New York State Department of Health  
Bureau of Adjudication  
Hedley Park Place  
433 River Street, Fifth Floor  
Troy, New York 12180

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: mla

Enclosure

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

COPY

-----X  
IN THE MATTER : DETERMINATION  
OF :  
JOSE RAQUEL, JR., M.D. : ORDER  
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ORDER #00-14

A Notice of Hearing and Statement of Charges, both dated November 22, 1999, were served upon the Respondent, Jose Raquel, Jr., M.D. **CHARLES J. VACANTI, M.D. (Chair), TERESA S. BRIGGS, M.D., and MICHAEL J. BROWN, R.P.A.,** 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, ADMINISTRATIVE LAW JUDGE,** served as the Administrative Officer. The Department of Health appeared by Lee A. Davis, Esq., Assistant Counsel. The Respondent failed to appear in person and was not represented by counsel. A hearing was held on January 7, 2000. 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

Petitioner has charged Respondent with twenty-one specifications of professional misconduct, including eight specifications of failing to respond to written communications from the Department of health in violation of Education Law § 6530(28); four specifications of failing to register or notify the New York Education Department of any change in mailing address in violation of Education Law § 6530(12); and nine specifications of violating a condition or limitation imposed on the licensee in violation of Education Law § 6530(29). A copy of the Notice of Hearing and Statement of Charges is attached to this Determination and Order in Appendix I. Respondent did not file an Answer to the Statement of Charges, nor did he appear to present a defense.

### 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, Jr., 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. #3).
2. On or about March 10, 1995, the New York State Board of Professional Medical Conduct (hereinafter the "Board") issued BPMC Order #95-56, which imposed upon Respondent a sanction of censure and reprimand. In addition, Respondent was ordered to perform one hundred hours of community service, in the event that he returned to practice medicine in New York State. (Pet. Ex. #4).
3. The disciplinary action taken by the Board was predicated on a prior disciplinary action taken the State of Illinois Department of Professional Regulation which settled various charges brought against Respondent. (Pet. Ex. #4).
4. On or about April 26, 1995, the Physician Monitoring Program (hereinafter "PMP") of the Office of Professional Medical Conduct sent a letter to Respondent requesting that he complete and return a Data Sheet containing specific background information. Respondent failed to respond to this request. (Pet. Ex. #5).

5. On or about May 25, 1995, a second letter was sent by PMP to Respondent again requesting that he complete and return a data sheet. Respondent failed to respond to this request as well. (Pet. Ex. #6).
6. On or about October 4, 1995, a third letter was sent by PMP to Respondent requesting once again that he complete and return a Data Sheet. To date, Respondent has failed to reply. (Pet. Ex. #7).
7. On or about April 1, 1996, a request for updated information was sent by PMP to Respondent. Again, Respondent failed to respond to the request. (Pet. Ex. #8).
8. On or about October 10, 1996, another request for information was sent to Respondent by PMP. To date, Respondent has failed to respond to this request. (Pet. Ex. #9).
9. On or about April 30, 1997, another request for updated information was sent by PMP to Respondent. The correspondence was returned with the notation: "attempted - unknown". (Pet. Ex. #10).
10. On or about June 16, 1998, Lisa Robinson, a PMP investigator, confirmed with the Indiana Medical Board that Respondent had a different home address from that which was on file with the New York Department of Education. This new address matched that used by the investigator in sending a

letter dated April 27, 1998 to Respondent requesting updated information. The April 27, 1998 correspondence was returned as unclaimed. (Pet. Ex. #11).

11. Respondent failed to notify the New York Education Department of his new address. (Pet. Ex. #3).

12. On or about June 16, 1998, another request for updated information was sent to Respondent. He was further notified that any continued failure to respond to correspondence would result in professional misconduct charges against him. To date, Respondent has failed to respond to this request. (Pet. Ex. #12).

#### CONCLUSIONS OF LAW

Respondent is charged with twenty-one specifications alleging professional misconduct within the meaning of Education Law §6530. The Hearing Committee unanimously concluded, by a preponderance of the evidence, that all but the twenty-first specification of professional misconduct should be sustained.

At the outset, the Committee took note of the fact that Respondent failed to appear at the hearing, and made no effort to present any evidence to refute any of the allegations. Indeed, this case was generated by the fact that Respondent has failed to respond to various written requests for information sent to him by the Board. Education Law § 6530(28) mandates that failure to



respond to written communications from the Department of Health within thirty days of receipt shall constitute professional misconduct. On at least eight occasions, an investigator from the PMP sent written requests for information to Respondent, and he failed to respond in any fashion. Accordingly, the Hearing Committee voted to sustain the First through Eighth Specifications of professional misconduct.

The testimony of the PMP investigator, Lisa Robinson, also established that at some point, Respondent changed his mailing address. Respondent never notified Education Department of his change in address, as mandated by Education Law § 6530(12). Therefore, the Hearing Committee voted to sustain the Ninth through Twelfth Specifications of professional misconduct.

By virtue of his failure to respond to the numerous written requests for information sent to him by the Board, Respondent has violated a condition imposed upon him by Section 230 of the Public Health Law. As a result, the Hearing Committee voted to sustain the Thirteenth through Twentieth Specifications of professional misconduct.

The Twenty-First Specification alleged that Respondent failed to perform the term of community service imposed upon him by the original Board order. However, this requirement was conditioned upon Respondent's returning to medical practice in New York State. As no evidence was presented that Respondent is

practicing medicine in New York, this condition is still held in abeyance. Accordingly, the Committee voted to dismiss the Twenty-First Specification.

#### 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 as a physician 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.

This is Respondent's second time before this Board. In 1995, Respondent was disciplined for misconduct which occurred during the course of his medical practice in Illinois. Respondent was given a relatively mild sanction, receiving a censure and reprimand, plus a mandate to perform 100 hours of community service, in the event that he ever returned to medical practice in this state. Respondent has subsequently not returned to this state to practice, and has failed to respond to numerous written requests for required information from this Board.

Respondent's unwillingness to comply with even the minimal reporting requirements imposed upon him abundantly

demonstrates that he is no longer interested in maintaining his New York medical license. Under these circumstances, no lesser sanction could be crafted with any realistic expectation of compliance on his part. As a result, the Committee unanimously concluded that revocation is the only appropriate sanction for this Respondent.

**ORDER**

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

1. The First through Twentieth Specifications of professional misconduct, as set forth in the Statement of Charges (Petitioner's Exhibit # 1) are **SUSTAINED**;
2. The Twenty-First Specification of professional misconduct is **DISMISSED**;
3. Respondent's license to practice medicine as a physician in New York State be and hereby is **REVOKED** commencing on the effective date of this Determination and Order;
4. This Determination and Order shall be effective upon service. Service shall be either by certified mail upon Respondent at Respondent's last known address and such service

shall be effective upon receipt or seven days after mailing by certified mail, whichever is earlier, or by personal service and such service shall be effective upon receipt.

DATED: Troy, New York  
13 January 2000

  
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CHARLES J. VACANTI, M.D. (CHAIR)

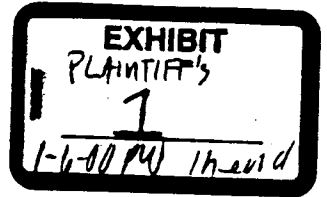
TERESA S. BRIGGS, M.D.  
MICHAEL J. BROWN, R.P.A.

TO: Lee A. Davis, Esq.  
Assistant Counsel  
New York State Department of Health  
Corning Tower Building - Room 2509  
Empire State Plaza  
Albany, New York 12237-0032

Jose Raquel, Jr., M.D.  
1015 Harrington Drive  
Champaign, Illinois 61821

APPENDIX I

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



-----X  
IN THE MATTER : NOTICE  
OF : OF  
JOSE RAQUEL, JR., M.D. : HEARING  
-----X

TO: JOSE RAQUEL, JR., M.D.

PLEASE TAKE NOTICE:

A hearing will be held pursuant to the provisions of N.Y. Pub. 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 for Professional Medical Conduct on the 6th day of January, 2000, at 10:00 in the forenoon of that day at the 5th Floor Conference Room of the Hedley Park Place, 433 River Street, Troy New York, 12180 and at such other adjourned dates, times and places as the committee may direct.

At the hearing, evidence will be received concerning the allegations set forth in the Statement of Charges, which is attached. A stenographic record of the hearing will be made and the witnesses at the hearing will be sworn and examined. You shall appear in person at the hearing and may be represented by counsel. You have the right to produce witnesses and evidence on your behalf, to issue or have subpoenas issued on your behalf in order to require the production of witnesses and documents and you may cross-examine witnesses and examine evidence produced

against you. A summary of the Department of Health Hearing Rules is enclosed.

The hearing will proceed whether or not you appear at the hearing. Please note that requests for adjournments must be made in writing and by telephone to the Bureau of Adjudication, Hedley Park Place, 5th Floor, 433 River Street, Troy, New York 12180, (518-402-0748), upon notice to the attorney for the Department of Health whose name appears below, and at least five days prior to the scheduled hearing date. Adjournment requests are not routinely granted as scheduled dates are considered dates certain. Claims of court engagement will require detailed Affidavits of Actual Engagement. Claims of illness will require medical documentation.

Pursuant to the provisions of N.Y. Pub. Health Law Section 230(10)(c) you shall file a written answer to each of the Charges and Allegations in the Statement of Charges no later than ten days prior to the date of the hearing. Any Charge and Allegation not so answered shall be deemed admitted. You may wish to seek the advice of counsel prior to filing such answer. The answer shall be filed with the Bureau of Adjudication, at the address indicated above, and a copy shall be forwarded to the attorney for the Department of Health whose name appears 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.

At the conclusion of the hearing, the committee shall make findings of fact, conclusions concerning the charges sustained or

dismissed, and, in the event any of the charges are sustained, a determination of the penalty 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 BE FINED OR SUBJECT TO THE OTHER SANCTIONS SET OUT IN NEW YORK PUBLIC HEALTH LAW SECTION 230-a. YOU ARE URGED TO OBTAIN AN ATTORNEY TO REPRESENT YOU IN THIS MATTER.

DATED: Albany, New York  
November 22, 1999

  
PETER D. VAN BUREN  
Deputy Counsel

Inquiries should be directed to: Lee A. Davis  
Assistant Counsel  
Division of Legal Affairs  
Bureau of Professional  
Medical Conduct  
Corning Tower Building  
Room 2509  
Empire State Plaza  
Albany, New York 12237-0032  
(518) 473-4282



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

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

-----X

JOSE RAQUEL, JR., M.D., the 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. The Respondent is not currently registered with the New York State Education Department.

**FACTUAL ALLEGATIONS**

- A. On or about March 10, 1995, the New York State Board of Professional Medical Conduct issued BPMC Order # 95-56 with a sanction of censure and reprimand plus one hundred (100) hours of community service.
- B. On or about April 26, 1995, the Physician Monitoring Program (PMP) of the Office of Professional Medical Conduct (OPMC) sent a letter to Respondent requesting that he complete and return a Data Sheet. To date, Respondent has not responded to this request.
- C. On or about May 25, 1995, a second letter was sent by PMP to Respondent again requesting that he complete and return a

Data Sheet. To date, Respondent has not responded to this request.

- D. On or about October 4, 1995, a third letter was sent by PMP to Respondent requesting once again that he complete and return a Data Sheet. To date, Respondent has not responded to this request.
- E. On or about April 1, 1996, a request for updated information was sent by PMP to the Respondent. To date, Respondent has not responded to this request.
- F. On or about October 10, 1996, another request for information was sent by PMP to the Respondent. To date, Respondent has not responded to this request.
- G. On or about April 30, 1997, another request for updated information was sent by PMP to the Respondent. The correspondence was returned to PMP with the notation: "attempted-unknown".
- H. On or about June 16, 1998, a PMP investigator confirmed with the Indiana Medical Board that Respondent had a different home address from that which was on file with the New York Department of Education. This new address matched that used by the PMP investigator in sending a letter dated April 27, 1998 to Respondent requesting updated information. The April 27, 1999 correspondence was returned to PMP as

unclaimed by the addressee.

- I. Respondent failed to notify the New York Department of Education of his new address.
- J. On or about June 16, 1998 another request for updated information was sent to the Respondent. Respondent was notified that any continued failure to respond to correspondence would result in professional misconduct charges against him. To date, Respondent has not responded to this request.
- K. To date, Respondent has failed to perform and/or failed to document the performance of any community service.

**SPECIFICATION OF MISCONDUCT**

**FIRST THROUGH EIGHTH SPECIFICATIONS**

**FAILING TO RESPOND TO THE DEPARTMENT OF HEALTH**

Respondent is charged with professional misconduct pursuant to New York Education Law 6530 (28) by failing to respond to written communications from the New York State Department of Health in that Petitioner charges:

- 1. The facts in paragraphs B.
- 2. The facts in paragraphs C.
- 3. The facts in paragraphs D.
- 4. The facts in paragraphs E.
- 5. The facts in paragraphs F.

6. The facts in paragraphs G.
7. The facts in paragraphs H.
8. The facts in paragraphs I.

**NINTH THROUGH TWELFTH SPECIFICATIONS  
FAILURE TO REGISTER**

Respondent is charged with professional misconduct pursuant to New York Education Law 6530 (12) by willfully failing to register or notify the New York Education Department of any change or changes of his mailing address for a period in excess of one hundred eighty (180) days since the date of the new address, in that Petitioner charges:

9. The facts in paragraph G.
10. The facts in paragraph H.
11. The facts in paragraph I.
12. The facts in paragraph J.

**THIRTEENTH THROUGH TWENTY-FIRST SPECIFICATIONS  
VIOLATION OF A TERM OF PROBATION OR CONDITION**

Respondent is charged with professional misconduct pursuant to New York Education Law Section 6530(29) by violating any term of probation or condition or limitation imposed on the licensee pursuant to Section 230 of the Public Health Law.

13. The facts in paragraphs B.

14. The facts in paragraphs C.
15. The facts in paragraphs D.
16. The facts in paragraphs E.
17. The facts in paragraphs F.
18. The facts in paragraphs G.
19. The facts in paragraphs H.
20. The facts in paragraphs I.
21. The facts in paragraph K.

DATED: November 22, 1999  
Albany, New York



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