



# 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., Dr.P.H.  
Commissioner

*Public*

Dennis P. Whalen  
Executive Deputy Commissioner

February 28, 2006

## **CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

Jose Joaquin Vega, M.D.  
Inmate No. 63637-004  
FCI Miami  
Federal Correctional Institution  
P.O. Box 7780  
Miami, FL 33177

Robert Bogan, Esq.  
NYS Department of Health  
Hedley Building  
433 River Street, Suite 303  
Troy, New York 12180

**RE: In the Matter of Jose Joaquin Vega, M.D.**

Dear Parties:

Enclosed please find the Determination and Order (No. 06-42) 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 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.

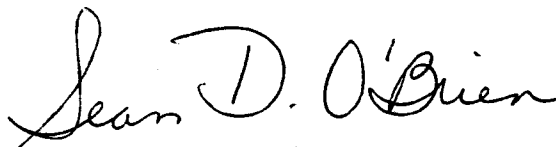
The notice of review served on the Administrative Review Board should be forwarded to:

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,

A handwritten signature in cursive script that reads "Sean D. O'Brien". The signature is written in dark ink and is positioned above the printed name and title.

Sean D. O'Brien, Director  
Bureau of Adjudication

SDO:cah

Enclosure

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

COPY

IN THE MATTER  
OF  
JOSE JOAQUIN VEGA, M.D.

DETERMINATION  
AND  
ORDER

BPMC #06-42

A hearing was held on February 22, 2006, at the offices of the New York State Department of Health ("the Petitioner"). A Commissioner's Summary Order and Notice of Referral Proceeding dated January 13, 2006, and a Statement of Charges, also dated January 13, 2006, were served upon the Respondent, **Jose Joaquin Vega, M.D.** Pursuant to Section 230(10)(e) of the Public Health Law, **Stephen W. Hornyak, M.D.**, Chairperson, **Sheldon Gaylin, M.D.**, and **Sister Mary Theresa Murphy**, duly designated members of the State Board for Professional Medical Conduct, served as the Hearing Committee in this matter. **John Wiley, Esq.**, Administrative Law Judge, served as the Administrative Officer.

The Petitioner appeared by **Donald P. Berens, Jr., Esq.**, General Counsel, by **Robert Bogan, Esq.**, of Counsel. The Respondent did not appear at the hearing either in person or by counsel.

Evidence was received and transcripts of these proceedings were made.

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

## BACKGROUND

This case was brought pursuant to Public Health Law Section 230(10)(p). The statute provides for an expedited hearing when 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 State or another jurisdiction, or upon a prior administrative adjudication regarding conduct that 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, the Respondent is charged with professional misconduct pursuant to Education Law Section 6530(9)(a)(ii). Copies of the Commissioner's Summary Order and Notice of Referral Proceeding as well as the Statement of Charges are attached to this Determination and Order as Appendix 1.

## WITNESSES

For the Petitioner:

None

For the Respondent:

None

## FINDINGS OF FACT

The following Findings of Fact were made after a review of the entire record in this matter. Numbers below in parentheses refer to exhibits, denoted by the prefix "Ex." These citations refer to evidence found persuasive by the Hearing Committee in arriving at a particular finding. All Hearing Committee findings were unanimous.

1. Jose Joaquin Vega, M.D., the Respondent, was authorized to practice medicine in New York State on September 15, 1997, by the issuance of license number 208279 by the New York State Education Department (Petitioner's Ex. 4).

2. On or about May 26, 2005, in the United States District Court, Southern District of Florida, Miami Division, the Respondent was found guilty, based on a plea of guilty, of one count of Conspiracy to Defraud and to Commit Health Care Fraud, in violation of 18 U.S.C. Section 371, and one count of Health Care Fraud, in violation of 18 U.S.C. Section 1347, both of which are felonies. The Respondent was sentenced to 51 months imprisonment, three years supervised release upon release from prison, payment of \$2,951,524.00 in restitution and payment of a \$200.00 assessment. (Petitioner's Ex. 5).

### **VOTE OF THE HEARING COMMITTEE**

#### **SPECIFICATION**

"Respondent violated New York Education Law Section 6530(9)(a)(ii) by being convicted of committing an act constituting a crime under federal law..."

VOTE: Sustained (3-0)

### **HEARING COMMITTEE DETERMINATION**

The Respondent did not appear at the hearing, nor did he request an adjournment of the hearing date. The Administrative Law Judge ruled that Petitioner's Ex. 2, an affidavit of service, proved that the Respondent had been personally served with the Commissioner's Summary Order and Notice of Referral Proceeding and with the Statement of Charges, and that this service met the requirements of law for the service of these papers and for establishing jurisdiction over the Respondent. Based on these rulings, the Administrative Law Judge ruled that the hearing could proceed on the merits of the charges despite the absence of the Respondent.

Petitioner's Ex. 5 consists of an Amended Judgment in a Criminal Case and a Plea Agreement from the United States District Court, Southern District of Florida, Miami Division. These documents prove that the Respondent was convicted of one count of Conspiracy to Defraud and to Commit Health Care Fraud and one count of Health Care

Fraud. Both crimes are felonies. The Plea Agreement demonstrates that the Respondent was responsible for numerous fraudulent billings made during a time period that exceeded one year. As part of the Court's sentence, the Respondent was required to make restitution of \$2,951,524.00. It is obvious that the fraudulent billings were not a small number of isolated aberrations; they were a long-term standard practice. They were billings for medical care and, therefore, directly related to the Respondent's practice of medicine. Since the Respondent was not present at the hearing, there is no evidence in the hearing record of mitigating circumstances, rehabilitation or remorse.

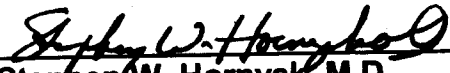
The Petitioner recommended that this Hearing Committee revoke the Respondent's license to practice medicine. Given the seriousness and frequency of the Respondent's criminal behavior, we conclude that the Petitioner's recommended sanction is the only sanction sufficient for the circumstances.

**ORDER**

**IT IS HEREBY ORDERED THAT:**

1. The Respondent's license to practice medicine in New York State is revoked.
2. This Order shall be effective upon service on the Respondent in accordance with the requirements of Public Health Law Section 230(10)(h).

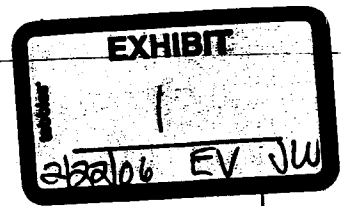
**DATED: Staten Island, New York**  
**FEBRUARY 27, 2006**

  
\_\_\_\_\_  
**Stephen W. Hornyak, M.D.**  
**Chairperson**

**Sheldon Gaylin, M.D.**  
**Sister Mary Theresa Murphy**

APPENDIX 1

ORIGINAL



IN THE MATTER

OF

JOSE JOAQUIN VEGA, M.D.  
CO-05-10-5364-A

COMMISSIONER'S  
SUMMARY  
ORDER AND  
NOTICE OF  
REFERRAL  
PROCEEDING

TO: JOSE JOAQUIN VEGA, M.D.  
Inmate No. 63637-004  
FCI Miami  
Federal Correctional Institution  
P.O. Box 779800  
Miami, FL 33177

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 **JOSE JOAQUIN VEGA, M.D.**, Respondent, licensed to practice medicine in New York state on September 15, 1997, by license number 208279, has been found guilty, of committing an act constituting a felony under federal law, in the United States District Court, Southern District of Florida, Miami, Division.

It is therefore,

ORDERED, pursuant to New York Public Health Law § 230(12)(b), that effective immediately, **JOSE JOAQUIN VEGA, 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 New York Public Health Law §230(12).



PLEASE TAKE NOTICE that a hearing will be held pursuant to the provisions of New York Public Health Law § 230, and New York State Administrative Procedure 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 22<sup>nd</sup> day of February, 2006 at 10:00 am in the forenoon at Hedley Park Place, 433 River Street, 5<sup>th</sup> Floor, Troy, New York 12180. 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. 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 that 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. Respondent has the right cross-examine witnesses and examine evidence produced against him. A summary of the Department of Health Hearing Rules is enclosed. Pursuant to § 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.

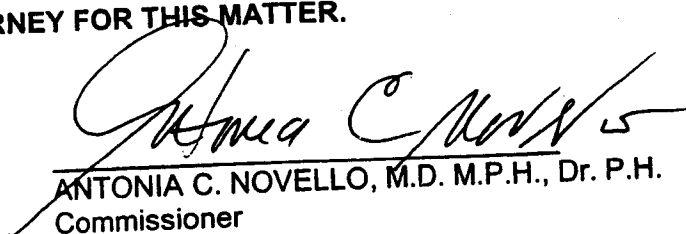
The hearing will proceed whether or not the Respondent appears at the hearing. Scheduled hearing dates are considered dates certain and, therefore, adjournment requests are not routinely granted. Requests for adjournments must be made in writing to the Administrative Law Judge's Office, Hedley Park Place, 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, and at least five days prior to the scheduled hearing date. Claims of court engagement will require detailed affidavits of actual engagement. Claims of illness will 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 § 230-A. YOU ARE URGED TO OBTAIN  
AN ATTORNEY FOR THIS MATTER.**

DATED: Albany, New York

*January 13*, 2006

  
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

STATE OF NEW YORK

DEPARTMENT OF HEALTH

STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

IN THE MATTER

OF

JOSE JOAQUIN VEGA, M.D.  
CO-05-10-5364-A

STATEMENT

OF

CHARGES

JOSE JOAQUIN VEGA, M.D., Respondent, was authorized to practice medicine in New York state on September 15, 1997, by the issuance of license number 208279 by the New York State Education Department.

**FACTUAL ALLEGATIONS**

A. On or about May 26, 2005, in the United States District Court, Southern District of Florida, Miami Division, Respondent was found guilty, based on a plea of guilty, of Conspiracy to Defraud and to Commit Health Care Fraud, in violation of 18 U.S.C. §371 and Health Care Fraud, in violation of 18 U.S.C. §1347, felonies, and was sentenced to fifty one (51) months imprisonment, three (3) years supervised release upon release from imprisonment, and to pay \$2,951,524.00 Restitution and a \$200.00 Assessment.

**SPECIFICATION**

Respondent violated New York Education Law §6530(9)(a)(ii) by being convicted of committing an act constituting a crime under federal law, in that petitioner charges:

1. The facts in Paragraph A above.

DATED: *January 13*, 2005  
Albany, New York

*Peter D. Van Buren*  
PETER D. VAN BUREN  
Deputy Counsel  
Bureau of Professional Medical Conduct