

November 22, 2011

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

Edward Festus, R.P.A.  
Clinica Central De Diagnostico &  
Treatment Center  
82-09 Roosevelt Avenue  
Jackson Heights, New York 11372

Joseph T. Pareres  
Siverson, Pareres & Lombardi, LLP  
192 Lexington Avenue, 17<sup>th</sup> Floor  
New York, New York 10016

Anna Lewis, Esq.  
NYS Department of Health  
90 Church Street - 4<sup>th</sup> Floor  
New York, New York 10007

**RE: In the Matter of Edward Festus, R.P.A.**

Dear Parties:

Enclosed please find the Determination and Order (No. 11-282) 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), (McKinney Supp. 2007) and §230-c subdivisions 1 through 5, (McKinney Supp. 2007), "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., Chief 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,

REDACTED SIGNATURE

James F. Horan  
Chief Administrative Law Judge  
Bureau of Adjudication

JFH:cah  
Enclosure

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

COPY

IN THE MATTER  
OF  
EDWARD FESTUS, R.P.A.

DETERMINATION

AND

ORDER

BPMC #11-282

A Notice of Hearing and Statement of Charges both dated February 11, 2011 were served upon the Respondent **EDWARD FESTUS, R.P.A.** **SHELDON PUTTERMAN** M.D. Chairperson, **IFFTAH ABBASI HOSKINS M.D.** and **DONALD KELLY** duly designated members of the State Board of Professional Medical Conduct, served as the Hearing Committee in this matter pursuant to Section 230(10)(e) of the Public Health Law. Administrative Law Judge **KIMBERLY A. O'BRIEN ESQ.** served as the Administrative Officer.

The Department of Health appeared by **JAMES E. DERING ESQ.**, General Counsel, by **ANNA LEWIS ESQ.**, of Counsel. The Respondent **EDWARD FESTUS R.P.A.** appeared in person and by Counsel **JOSEPH T. PARERES ESQ.** and **VICTORIA LOMBARDI ESQ.**

Evidence was received and argument heard, and transcripts of these proceedings were made.

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

## PROCEDURAL HISTORY

Notice of Hearing & Statement of Charges	February 11, 2011
Pre Hearing Conference	March 11, 2011
Hearing Location & Dates	Offices NYS DOH, 90 Church Street, N.Y., N.Y. April 1 & 26, 2011; May 6, 2011; July 26, 2011
Witnesses for Petitioner	Randall Sicko, Bureau of Narcotics Enforcement; Hilda Hernandez, B.S.N.; Luisa Perez M.D.; Marina Manrique M.D.
Witnesses for Respondent	Edward Festus, R.P.A.; Thomas Hoering, Esq.; Ramon Tallaj, M.D.; Delmy Arguello de Monroy (appeared with sworn/certified interpreter Mrs. Simeonides)
Final Hearing Transcript Received	August 11, 2011
Parties Briefs	September 16, 2011
Deliberation Date	September 23, 2011

## STATEMENT OF THE CASE

The State Board of Professional Medical Conduct is a duly authorized professional disciplinary agency of the State of New York pursuant to Section 230 et seq. of the Public Health Law of New York. This case was brought by the New York State Department of Health, Office of Professional Medical Conduct (hereinafter "Petitioner" or "Department") pursuant to Section 230 of the Public Health Law. Edward Festus, R.P.A. (hereinafter "Respondent") is charged with seven specifications of misconduct as defined in Section 6530 of the Education Law of the State of New York (hereinafter Education Law) including practicing the profession of medicine fraudulently, and practicing or offering to practice beyond the scope permitted by law, or accepting and performing professional responsibilities which the licensee knows or has reason to know that he or she is not competent to perform, or performing without adequate supervision

professional services which the licensee is authorized to perform only under the supervision of a licensed professional, except in an emergency situation where a person's life or health is in danger (Education Law 6530(2) & 6530(24)). The Department has the burden of proof in this proceeding and is required to prove by a preponderance of the evidence each of the factual allegations and specifications set forth in the Statement of Charges. The Respondent admits that he worked at Clinica Central De Diagnostico and Treatment Center from on or about October 2006 to April 2008 and the allegations set forth in Paragraph C, and denies all the remaining factual allegations and seven specifications of misconduct set forth in the Notice of Hearing and Statement of Charges (Ex. 1), attached hereto and made part of this Decision and Order, and marked as Appendix 1.

### **FINDINGS OF FACT**

The following Findings of Fact were made after a review of the entire record in this matter. Unless otherwise noted, all findings and conclusions set forth below are the unanimous determinations of the Hearing Committee. Conflicting evidence, if any, was considered and rejected in favor of the cited evidence. Numbers below in parentheses refer to exhibits (denoted by the prefix "Ex.") or transcript page numbers ("Tr."). These citations refer to evidence found persuasive by the Hearing Committee in arriving at a particular finding. Having heard argument and considered the documentary evidence presented, the Hearing Committee hereby makes the following findings of fact:

1. Edward Festus R.P.A., Respondent, was authorized to practice as a registered physician's assistant in New York State on or about July 2, 1993, by the issuance of license/ registration number 004555, by the New York State Education Department (Ex. 17).

2. Respondent attended Universidad Central Del Este Medical School in the Dominican Republic and became licensed as a physician in the Dominican Republic in June of 1986 (Ex. B&V; Tr. 464-466, 469-472).
3. Respondent did not complete the United States Medical Licensing Exam and has never been licensed as a physician in the United States (Tr. 464-466, 469-472, 704-705).
4. On or about October 2006 –April 2008, Respondent worked at Clinica Central De Diagnostico and Treatment Center, 82-09 Roosevelt Avenue, Jackson Heights, New York (“Clinica Central”) (Ex. A; Tr. 510-513).
5. While practicing at Clinica Central between October 2006 – April 2008, Respondent regularly used his name followed by the designation “M.D., R.P.A” on checks, business cards and advertisements (Tr. 113-116, 120-121,163-166, 200, 243-245, 306-309, 568-571, 574-576; Ex.8, 9, 10&15; Ex. R&S).
6. Respondent wrote payroll checks for Clinica Central staff and used the title “M.D., R.P.A.” or “M.D.” (Ex. 9 &15).
7. Respondent signed a lease for Clinica Central “Edward Festus, M.D.” (Ex. 11).
8. While practicing at Clinica Central from on or about October 2006 –April of 2008, Respondent held himself as a duly licensed physician to the staff and patients’ of Clinica Central , as well as the general public, and they referred to Respondent as “Doctor Festus” (Ex. 9, 11 &15; Tr.115-116, 200, 236-237, 239-240, 245, 300-302, 312, 485-486, 492-493, 496, 584-588).
9. From on or about 1994 or 1995 to April 2007, Marina Manrique M.D. worked as a physician at Clinica Central and was not Respondent’s supervising physician (Ex.12, 15&16; Tr. 220, 222-225, 230-232,236 -237, 241, 300-302, 312).

10. On or about January 30, 2007 and August 10, 2007, Respondent ordered Official New York State Prescription Pads stating "Marina Manrique M.D." on the order forms, and in 2007 wrote eleven prescriptions using these prescription pads (Ex. 4,5,6 &7, 12; Ex.Q &T; Tr. 33-36, 230-237, 241).
11. On or about March 24, 2008, Respondent submitted an order for Official New York State Prescription Pads stating "EDWARD FESTUS MD, RPA," with "SUPERVISING PHYSICIAN LUISA PEREZ, M.D. NYS LIC #237247" (Ex. 2 &3; Ex. A; Tr. 26-27).
12. Luisa Perez, M.D. never worked at Clinica Central, and in March of 2008 was not Respondent's supervising physician and did not authorize Respondent to order Official New York State prescription pads stating she was Respondent's "supervising physician" (Ex. A, Ex.2; Tr. 421-423, 425-426, 428-429, 620-621, 624-625).

### **CONCLUSIONS OF LAW**

The governing law and regulations provide that a physician's assistant must be continuously supervised by a licensed physician, and practice is limited to what is assigned by a supervising physician and within the supervising physician's scope of practice (New York Education Law Section 6542, 10 NYCRR Section 94.2).

Both Respondent and Petitioner were provided with a copy of the General Counsel's memorandum outlining the definitions of misconduct ("Greenberg Memorandum" or "Memorandum") and given an opportunity to supplement the explanations and case law set forth in the Memorandum, neither the Respondent nor the Petitioner offered supplementation. During the deliberations, the Hearing Officer instructed the Committee that pursuant to the Education Law and Memorandum, in order to make a finding that Respondent perpetrated a

fraud they must first find that the Respondent(s) knowingly provided false information, and they also must both find and articulate the basis for drawing the inference that the Respondent(s) intended to mislead and perpetrate a fraud (See Greenberg Memorandum-ALJ 1A).

## DISCUSSION AND CONCLUSIONS

The Department has charged Respondent with three specifications of fraudulent practice whereby Respondent knowingly, falsely and with the intent to mislead held himself out as a physician licensed to practice in New York State and four specifications of practicing or offering to practice beyond the scope permitted by law (New York Education Law Section 6530(2) & Section 6530 (24)). Specifically, the Department alleges that Respondent on or about October 2006 -April 2008, while working at Clinica Central, held himself out as a physician to patients, employees and the general public, and knowingly treated and performed procedures on patients at Clinica Central without adequate supervision by a physician licensed to practice in New York State. The Department also alleges that Respondent on or about March 24, 2008, submitted an order for official New York State prescription pads stating "Edward Festus MD, RPA with Supervising Physician Luisa Perez M.D. NYS LIC #237247," and on or about January 30, 2007 and August 10, 2007 ordered prescription pads stating "Marina Manrique M.D.," and in 2007 wrote eleven prescriptions using these pads, all with the intent to mislead and falsely represent that he was being supervised by a physician licensed in New York State.

The Hearing Committee fully considered the entire record and relied heavily on the witness testimony in reaching a decision in this matter. The Department presented Randall Sicko, Bureau of Narcotics Enforcement, and three witnesses who had worked with

Respondent including Marina Manrique , M.D. and Nurse Hilda Hernandez of Clinica Central, and Louisa Perez M.D. of St. Vincent's Midtown Hospital /Academy Clinic. Respondent testified on his own behalf, and presented three witnesses who had worked with him including Delmy Arguello de Monroy of Clinica Central, and Thomas Hoering, Esq. and Ramon Tallaj, M.D. of St. Vincent's Midtown Hospital/Academy Clinic. With the exception of Respondent, the Hearing Committee found all the witnesses provided credible testimony. The Hearing Committee found the majority of the Respondent's testimony to be self-serving and unsubstantiated by the record.

The Hearing Committee determined that on or about October 2006-April 2008 Respondent held himself as a physician and knowingly and regularly used the title "M.D., R.P.A and M.D." to mislead employees, patients and the general public into thinking he was a licensed New York State physician. Dr. Manrique testified that she was already working as a physician at Clinica Central when Respondent began working there, and she believed that Respondent was taking over the Clinica Central practice because among other things Respondent told her he was a physician, invited her to continue working at Clinica Central, began to issue staff pay checks , and reviewed her charts and oversaw her work.

Nurse Hernandez testified that she was also working at Clinica Central when Respondent joined the practice and Respondent told her that he was a physician and she made patient appointments with "Dr. Festus", and assisted him with medical procedures. Nurse Hernandez testified that she too believed Respondent was taking over the Clinica Central practice because he signed a Clinica Central lease, issued payroll checks, gave her work assignments , and actively supervised the staff including Dr. Manrique . While Respondent's own witness Ms. Monroy testified that "everyone" knew Respondent was a

"physician's assistant" and "out of respect" the staff and patients of Clinica Central called the Respondent "Doctor," she did not demonstrate that she knew what if any distinction there was between a physician and physician's assistant.

The Committee found that Respondent used the title "M.D., R.P.A." to mislead people into thinking that he was an "M.D.," and Respondent's "legalistic" explanation justifying his use of the "M.D., R.P.A." served as further evidence of his intent to commit fraud. Dr. Manrique and Nurse Hernandez both testified that when they saw Respondent's name and the "M.D." in his title "M.D., R.P.A." it only confirmed Respondent's self-reported physician status. Dr. Manrique testified that it was not until recently that she found out what the title "P.A. or R.P.A." stood for or understood the role of a physician's assistant. Despite Respondent's testimony that he was a New York State licensed physician's assistant and not a physician, he testified that he could use the title "M.D., R.P.A." on Clinica Central checks, advertisements and business cards because he is a licensed physician in the Dominican Republic and his physician's assistant designation "R.P.A." came last, and Attorney Hoering told him it was "OK."

The Hearing Committee determined that Respondent clearly understood that he was not a physician licensed to practice medicine in New York State and was subject to the supervisory requirements for physician's assistants practicing in New York State, and knew Dr. Manrique was not his supervisor. Respondent's own witnesses' Attorney Hoering and Dr. Tallaj testified that when Respondent worked at St. Vincent's Midtown Hospital / Academy Clinic, Respondent referred to himself as a physician's assistant and worked within the bounds of his designated physician's assistant status. The Department's witness Randall Sicko of the Bureau of Narcotics Enforcement as well as Respondent himself, testified that physician's

assistants practicing in New York State are required to have a supervising physician, and Official New York State prescription pads will not be issued to a physician's assistant alone and prescriptions containing the name of a physician's assistant require the name and license number of a supervising physician. While Respondent testified that Dr. Manrique was his supervisor at Clinica Central in 2006 and 2007, Dr. Manrique testified that she never supervised Respondent and provided clear and credible testimony that when Respondent joined Clinica Central she believed he was a physician and new owner of Clinica Central, and supervised her practice at the clinic. Respondent offered no credible evidence to show the existence of a supervisory relationship between him and Dr. Manrique.

The Hearing Committee determined that Respondent did not have any significant contact with Dr. Perez after May 2006, and/or any basis for why he anticipated that Dr. Perez would be joining and/or supervising him at Clinica Central in 2008, and/or authorization to order prescription pads and represent that Dr. Perez was his supervising physician. Dr. Perez testified that she worked at Academy Clinic when it closed in 2006 and knew Respondent was working there as a physician's assistant. Dr. Perez flatly denied having a "friendship" with Respondent or ever agreeing to work with or supervise Respondent at Clinica Central in 2008 or providing him with her license number or authorization to order prescription pads. While Respondent's witness Dr. Tallaj testified that Dr. Perez and Respondent were working at Academy Clinic in 2006, and Respondent and Dr. Perez talked about working together after the clinic closed, Dr. Tallaj did not purport to know what and / or if they ever made arrangements to work together in 2008. At the hearing, Respondent testified that he and Dr. Perez were "good friends" and admitted that in 2008 he ordered prescription pads stating Dr. Perez was his supervising physician.

## CONCLUSIONS

The Petitioner has demonstrated by a preponderance of the evidence that on or about October 2006 – April 2008 while working at Clinic Central Respondent : knowingly and with intent to mislead held himself out as a physician licensed to practice in the State of New York, did not have a supervising physician at Clinic Central, knowingly treated and performed procedures on patients at Clinica Central without adequate supervision by a physician licensed to practice in New York State, ordered Official New York State Prescription Pads on one occasion with “Edward Festus MD, RPA with Supervising Physician Luisa Perez M.D.,” and on two occasions ordered Official New York State Prescription Pads stating Dr. Marina Manrique was his supervising physician, and in 2007 used eleven of these prescriptions. Accordingly, the Hearing Committee concluded that they must sustain all the factual allegations and seven specifications of misconduct as set forth in the Notice of Hearing and Statement of Charges (Ex. 1/ “Appendix 1”).

## DETERMINATION AS TO PENALTY

The Hearing Committee, pursuant to the foregoing Findings of Fact and Conclusions set forth above, determined that all charges and specifications of misconduct raised against the Respondent should be sustained. Respondent’s professional misconduct demonstrates repeated, knowing and willful attempts to mislead the people the State of New York about his professional status and thwart the mandated professional practice requirements established for all physician’s assistants licensed in New York State. Accordingly, the

Committee determined that Respondent's license to practice as a physician's assistant in New York State should be **REVOKED**.

**ORDER**

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

1. The factual allegations and first through seventh specifications of misconduct set forth in the Statement of Charges (Appendix 1) are **SUSTAINED**;
2. The Respondent's license to practice as a physician's assistant shall be **REVOKED**;
3. This **ORDER** shall be effective upon service on the Respondent pursuant to Public Health Law Section 230(10)(h).

DATED: November 21, 2011, New York

BY: REDACTED SIGNATURE  
**SHELDON PUTTERMAN M.D.**, Chairperson  
**IFFTAH ABBASI HOSKINS M.D.**  
**DONALD KELLY**

To: Edward Festus, R.P.A.  
Clinica Central De Diagnostico and Treatment Center  
82-09 Roosevelt Avenue  
Jackson Heights, New York

Joseph T. Pareres  
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Anna Lewis, Esq.  
Associate Counsel  
Bureau of Professional Medical Conduct  
New York State Department of Health  
90 Church Street- 4<sup>th</sup> Fl.  
New York, New York 10007

# **APPENDIX I**

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

EXHIBIT  
Dept - 1  
e 3/1/11

IN THE MATTER  
OF  
EDWARD FESTUS, R.P.A.

NOTICE  
OF  
HEARING

TO: Edward Festus

PLEASE TAKE NOTICE:

A hearing will be held pursuant to the provisions of N.Y. Pub. Health Law §230 and N.Y. State Admin. Proc. Act §§301-307 and 401. The hearing will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct on March 31, 2011 , at 10:00 a.m., at the Offices of the New York State Department of Health, 90 Church street, 4<sup>th</sup> Floor, New York, NY 10007, 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 who shall be an attorney admitted to practice in New York state. 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.

**YOU ARE HEREBY ADVISED THAT THE ATTACHED CHARGES WILL BE MADE PUBLIC FIVE BUSINESS DAYS AFTER THEY ARE SERVED.**

Department attorney: Initial here

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 New York State Department of Health, Division of Legal Affairs, Bureau of Adjudication, Hedley Park Place, 433 River Street, Fifth Floor South, Troy, NY 12180, ATTENTION: HON. JAMES HORAN, ACTING DIRECTOR, BUREAU OF ADJUDICATION, (henceforth "Bureau of Adjudication"), (Telephone: (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 §230(10)(c), you shall file a written answer to each of the charges and allegations in the Statement of Charges not less than ten days prior to the date of the hearing. Any charge or 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 §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. Pursuant to the terms of N.Y. State Admin. Proc. Act §401 and 10 N.Y.C.R.R. §51.8(b), the Petitioner hereby demands disclosure of the evidence that the Respondent intends to introduce at the hearing, including the names of witnesses, a list of and copies of documentary evidence and a description of physical or other evidence which cannot be photocopied.

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 as a REGISTERED PHYSICIAN'S ASSISTANT IN NEW YORK STATE MAY BE REVOKED OR SUSPENDED, AND/OR THAT YOU BE FINED OR SUBJECT TO OTHER SANCTIONS SET OUT IN NEW YORK PUBLIC HEALTH LAW §§230-a. YOU ARE URGED TO OBTAIN AN ATTORNEY TO REPRESENT YOU IN THIS MATTER.

DATED: New York, New York  
February // ,2011

REDACTED SIGNATURE

---

Roy Nemerson  
Deputy Counsel  
Bureau of Professional  
Medical Conduct

Inquiries should be directed to: Anna R. Lewis  
Associate Counsel  
Bureau of Professional Medical Conduct  
90 Church Street, 4<sup>th</sup> Floor  
New York, NY 10007  
(212) 417-4109

IN THE MATTER  
OF  
EDWARD FESTUS, R.P.A.

STATEMENT  
OF  
CHARGES

Edward Festus, R.P.A., the Respondent, was authorized to practice as a Registered Physician's Assistant in New York State on or about July 2, 1993, by the issuance of registration number 004555 by the New York State Education Department.

**FACTUAL ALLEGATIONS**

- A. From on or about October 2006 to April 2008, Respondent worked at Clinica Central De Diagnostico and Treatment Center (CCD-TC), located at 82-09 Roosevelt Avenue, Jackson Heights, New York. During this period of time, Respondent, who was not licensed to practice the profession of medicine, held himself out as a physician to patients, employees and the general public.
1. Respondent knowingly, falsely, and with intent to mislead, represented that he was a physician.
- B. From on or about October 2006 through on or about April 2008, Respondent evaluated, treated and/or performed procedures on patients at CCD-TC without adequate supervision by a New York State licensed physician.
- C. On or about March 24, 2008, Respondent submitted an order for Official New York State Prescription pads, stating the following on the order form: "EDWARD FESTUS MD, RPA", with "SUPERVISING PHYSICIAN LUISA PEREZ, M.D. NYS LIC #237247".

1. Respondent knowingly, falsely, and with intent to mislead represented that he was being supervised by Dr. Perez when he was not being supervised by her.
- D. On or about January 30, 2007 and August 10, 2007, Respondent submitted two orders for Official New York State Prescription pads, stating the following: "Marina Manrique, M.D." on the order forms. Respondent wrote eleven prescriptions in 2007 using the prescription pads he received as a result of the prescription pad orders.
1. Respondent knowingly, falsely, and with intent to mislead represented that he was being supervised by Dr. Manrique when he was not being supervised by her.

### **SPECIFICATION OF CHARGES**

#### **FIRST THROUGH THIRD SPECIFICATIONS**

#### **FRAUDULENT PRACTICE**

Respondent is charged with committing professional misconduct as defined by N.Y. Educ. Law § 6530(2) by practicing the profession of medicine fraudulently as alleged in the facts of the following:

1. Paragraphs A and A1.
2. Paragraphs C and C1.
3. Paragraphs D and D1.

**FOURTH THROUGH SEVENTH SPECIFICATIONS**  
**PRACTICING OR OFFERING TO PRACTICE BEYOND THE SCOPE**  
**PERMITTED BY LAW**

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(24) by practicing or offering to practice beyond the scope permitted by law, or accepting and performing professional responsibilities which the licensee knows or has reason to know that he or she is not competent to perform, or performing without adequate supervision professional services which the licensee is authorized to perform only under the supervision of a licensed professional, except in an emergency situation where a person's life or health is in dangerous alleged in the facts of:

4. Paragraph A.
5. Paragraph B.
6. Paragraph C.
7. Paragraph D.

DATE: February , 2011  
New York, New York

REDACTED SIGNATURE

Roy Nemerson  
Deputy Counsel  
Bureau of Professional Medical Conduct