

Public



STATE OF NEW YORK
DEPARTMENT OF HEALTH

433 River Street, Suite 303 Troy, New York 12180-2299
www.health.ny.gov

Nirav R. Shah, M.D., M.P.H.
Commissioner

Sue Kelly
Executive Deputy Commissioner

April 8, 2011

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Felix Vinluan Llamido, M.D.

REDACTED

Michael G. Bass, Esq.
NYS Department of Health
ESP-Corning Tower-Room 2512
Albany, New York 12237

RE: In the Matter of Felix Vinluan Llamido, M.D.

Dear Parties:

Enclosed please find the Determination and Order (No. 11-82) 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.

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 Respondent or the Department may seek a review of a committee determination.

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,
REDACTED

James F. Horan, Acting Director
Bureau of Adjudication

JFH:cah

Enclosure

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

IN THE MATTER
OF
FELIX VINLUAN LLAMIDO, M.D.

DETERMINATION
AND
ORDER
BPMC #11-82

COPY

A hearing was held on March 24, 2011, at the offices of the New York State Department of Health ("the Petitioner"). A Notice of Referral Proceeding and a Statement of Charges, both dated January 6, 2011, were served upon the Respondent, **Felix Vinluan Llamido, M.D.**

Pursuant to Section 230(10)(e) of the Public Health Law, **Therese G. Lynch, M.D.**, Chair, **James R. Dickson, M.D.**, and **Virginia R. Marty**, duly designated members of the State Board for Professional Medical Conduct, served as the Hearing Committee in this matter. **David A. Lenihan, Esq.**, Administrative Law Judge, served as the Administrative Officer. The Petitioner appeared by **James E. Dering, Esq.**, General Counsel, by **Michael G. Bass, Esq.**, of Counsel. The Respondent, **Felix Vinluan Llamido, M.D.**, did appear, *pro se*, and was duly served. Evidence was received 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 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 §6530(9)(b) and §6530(9)(d) by having been disciplined after being found guilty, through a Consent Order, of improper professional misconduct by a duly authorized professional disciplinary agency of another state where the conduct upon which the finding was based would, if committed in New York State, constitute professional misconduct under the laws of New York State. Specifically, the Respondent was found guilty of professional misconduct in the State of Michigan for several enumerated charges as set forth in findings of fact below. Copies of the Notice of Referral Proceeding and the Statement of Charges are attached to this Determination and Order as Appendix 1.

WITNESSES

For the Petitioner: None
For the Respondent: Felix Vinluan Llamido, M.D.

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. Conflicting evidence, if any, was considered and rejected in favor of the cited evidence. All Hearing Committee findings were unanimous.

1. The Respondent, Felix Vinluan Llamido, M.D., did appear, *pro se*, and was duly served. (Petitioner's Exhibit 2.)
2. Felix Vinluan Llamido, M.D. the Respondent, was authorized to practice medicine in New York State on February 17, 1970 , by the issuance of license number 105432 by the New York State Education Department (Petitioner's Ex. 4)
3. On or about February 5, 2010, the State of Michigan, Department Of Community Health, Bureau Of Health Professions, Board Of Medicine, Disciplinary Subcommittee, (hereinafter "Michigan Board of Medicine"), in a Consent Order, (hereinafter "Michigan Board of Medicine Order") disciplined the Respondent. In this

Order, Respondent Permanently Surrendered his license to practice medicine in Michigan and further agreed to relinquish any claim to reinstate, renew, or reactivate the license, limited or otherwise at any future date. In the Michigan Board of Medicine Consent Order, Respondent agreed that the Michigan Board of Medicine would treat the allegations set forth in the Administrative Complaint of October 1, 2009, as true. The Administrative Complaint of October 1, 2009, alleged that Respondent engaged in conduct that consisted of negligence or failure to exercise due care, including negligent delegation to or supervision of employees or other individuals, whether or not injury results, that Respondent's conduct evidenced a lack of good moral character, and that Respondent's conduct evidenced obtaining, possessing, or attempting to obtain or possess a controlled substance or drug without lawful authority, and/or selling, prescribing, giving away, or administering drugs for other than lawful diagnostic or therapeutic purposes.

4. The conduct resulting in the Michigan Board disciplinary actions against Respondent would constitute misconduct under the laws of New York State, pursuant to the following sections of New York State law:
 1. New York Education Law Sec.6530(3) (negligence on more than one occasion).
 2. New York Education Law Sec. 6530(4) (gross negligence).
 3. New York Education Law Sec. 6530(20) (moral unfitness).

VOTE OF THE HEARING COMMITTEE

SPECIFICATIONS

FIRST SPECIFICATION

"Respondent violated New York Education Law §6530(9)(b) by having been found guilty of improper professional misconduct by a duly authorized professional disciplinary agency of another state where the conduct upon which the finding was based would, if committed in New York State, constitute professional misconduct under the laws of New York State..."

VOTE: Sustained (3-0)

SECOND SPECIFICATION

"Respondent violated New York Education Law §6530(9)(d) by having disciplinary action taken 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 professional misconduct under the laws of New York State..."

VOTE: Sustained (3-0)

HEARING COMMITTEE DETERMINATION

The Respondent did appear at the hearing, *pro se*. The Administrative Law Judge, again reminded the Respondent of his right to counsel, but the Respondent indicated that he wished to proceed *pro se*. There was also no dispute about the basic facts of this case.

The Respondent acknowledged in his testimony that he had signed the Michigan Consent Order .

This is a case of Internet prescribing on a massive scale. The Respondent's own evidence shows that he was responsible for more than 2,000 prescriptions for controlled substances for patients he never even saw. (Respondent's Exhibit A, page 4) It is thus painfully clear from the Respondent's own evidence that many hundreds of prescriptions for controlled substances were issued on the Respondent's name and license without his ever having seen or examined the patients.

Petitioner's Exhibit 5 in the record shows that, in 2007, Respondent's Michigan license was used to authorize prescriptions for controlled substances including Hydrocodone bitartrate for numerous patients. These prescriptions were to be filled at a Michigan pharmacy. The record goes on to show that, even though the Respondent resided in Florida, an Internet prescribing agency with which he had become involved authorized these prescriptions. It is unlikely that the patients had been examined or had an existing patient-physician relationship with the Respondent.

It is noted that the Michigan documents contend that the Respondent did not possess a current Michigan controlled substance license in 2007. Doctor Llamido, however, refuted this contention and provided the committee with a copy of a license that carried a January 31, 2007 expiration date. At the hearing, the Respondent claimed that he did not go to Michigan to contest the charges because he could not afford the cost of the legal defense. The panel noted that the Respondent

claimed that his actions did not constitute negligence. The panel also noted that he did not deny the basic fact in this case, namely that he prescribed controlled substances to patients without examining them. In his defense, the Respondent read a multi page statement into the record at the hearing. From this statement the panel learned that the Respondent had a long and distinguished career as a surgeon on Long Island and was responsible for several surgical innovations. The panel was impressed with the account of the Respondent's good work over the years and with his several medical missionary trips to Indian reservations in the Southwest and surgical missions to the third world. From the Respondent's testimony the panel learned that Dr. Llamido has been generous not only with his time and expertise but also with his money, endowing two chairs, in perpetuity, at his school. The panel took to heart the fact that the Respondent has had an unblemished record over many decades and has been honored and respected by the medical community. The panel took these facts into account in deciding not to revoke his license.

The panel weighed all the facts and circumstances in this case and recognized that this was primarily a case of greed. This retired doctor went on the Internet in search of easy money. The panel believed the Respondent when he said he was duped but still recognized that he was complicit in this enterprise and thus the panel considered the Respondent to be both naïve and greedy.

The Department asked for revocation. The facts in this case would warrant revocation, but the Respondent's unblemished record and lifetime of good work tipped the scales in favor of a lesser penalty in this case. The panel considered the full range of penalties available in the case and determined that a Censure and Reprimand coupled with a \$10,000.00 fine would be appropriate.

ORDER

IT IS HEREBY ORDERED THAT:

1. The specifications of professional misconduct, as set forth in the Statement of Charges, are **SUSTAINED**.
2. The Respondent is censured and reprimanded for conduct resulting in the Michigan Consent Order, which would constitute misconduct under the laws of New York State.
3. A fine of Ten Thousand Dollars (\$ 10,000.00) is imposed on the Respondent. The fine is payable in full within 30 days of the effective date of this Order. Payment must be submitted to the New York State Department of Health, Bureau of Accounts Management, Empire State Plaza, Corning Tower, Room 1717, Albany, New York 12237. Failure to pay the fine on time will subject the Respondent to all provisions of law relating to debt collection by New York State, including imposition of interest, late payment charges and collection fees; referral to the New York State Department of Taxation and Finance for collection; and non-renewal of permits and licenses (Tax Law Section 171[27], State Finance Law Section 18, CPLR Section 5001, Executive Law Section 32).
4. This Order shall be effective upon service on the Respondent in accordance with the requirements of Public Health Law Section 230(10)(h).

DATED: Pittsford, New York
April 7, 2011

REDACTED

Therese G. Lynch, M.D., Chair

James R. Dickson, M.D.
Virginia R. Marty

To:

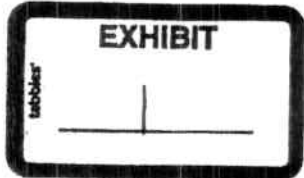
Felix Vinluan Llamido, M.D.,
Respondent

REDACTED

Michael G. Bass, Esq.
Attorney for Petitioner
Associate Counsel
NYS Department of Health
Bureau of Professional Medical Conduct
Corning Tower, Room 2512
Empire State Plaza
Albany, New York 12237

APPENDIX 1

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



IN THE MATTER
OF
FELIX VINLUAN LLAMIDO, M.D.
CO-10-03-1867-A

NOTICE OF
REFERRAL
PROCEEDING

TO: FELIX VINLUAN LLAMIDO, M.D.
REDACTED

PLEASE TAKE NOTICE THAT:

An adjudicatory proceeding will be held pursuant to the provisions of New York Public Health Law §§230(10)(p) and New York State Administrative Procedures Act §§301-307 and 401. The proceeding will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct (Committee) on the 24th day of March, 2011, at 10:00 a.m., at the offices of the New York State Department of Health, Hedley Park Place, 433 River Street, 5th Floor, Troy, NY 12180.

At the proceeding, evidence will be received concerning the allegations set forth in the Statement of Charges, that 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 who shall be an attorney admitted to practice in New York state. You may produce evidence and/or sworn testimony on your behalf. Such evidence and/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.

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, Hedley Park Place, 433 River Street, Fifth Floor South, Troy, NY 12180, ATTENTION: HON. JAMES F. HORAN, ACTING DIRECTOR, BUREAU OF ADJUDICATION (Telephone: (518-402-0748), (henceforth "Bureau of Adjudication") as well as the Department of Health attorney indicated below, no later than ten (10) days prior to the scheduled date of the Referral Proceeding, as indicated above.

Pursuant to the provisions of New York Public Health Law §230(10)(p), you shall file a written answer to each of the charges and allegations in the Statement of Charges not less than ten (10) 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. You may file a written brief and affidavits with the Committee. Six (6) copies of all papers you submit must be filed with the Bureau of Adjudication at the address indicated above, no later than fourteen (14) days prior to the scheduled date of the Referral Proceeding, and a copy of all papers must be served on the same date on the Department of Health attorney, indicated 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 New York State Administrative Procedure Act §401 and 10 N.Y.C.R.R. §51.8(b), the Petitioner demands, hereby, disclosure of the evidence that 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 and/or other evidence that cannot be photocopied.

YOU ARE ADVISED, HEREBY, THAT THE ATTACHED CHARGES WILL BE MADE PUBLIC FIVE (5) BUSINESS DAYS AFTER THEY ARE SERVED.

Department attorney: Initial here

The proceeding may be held whether or not you appear. Please note that requests for adjournments must be made in writing to the 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 (5) 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: Albany, New York

January 6, 2011

REDACTED

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

Inquiries should be addressed to:

Michael G. Bass
Assistant Counsel
Bureau of Professional Medical Conduct
Corning Tower – Room 2512
Empire State Plaza
Albany, NY 12237
(518) 473-4282

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

IN THE MATTER
OF
FELIX VINLUAN LLAMIDO, M.D.
CO-10-03-1867-A

STATEMENT
OF
CHARGES

FELIX VINLUAN LLAMIDO, M.D., Respondent, was authorized to practice medicine in New York state on February 17, 1970, by the issuance of license number 105432 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about February 5, 2010, the State of Michigan, Department Of Community Health, Bureau Of Health Professions, Board Of Medicine, Disciplinary Subcommittee, (hereinafter "Michigan Board of Medicine"), by Consent Order, (hereinafter "Michigan Board of Medicine Order"), Respondent Surrendered his license to practice medicine and further agreed to relinquish any claim to reinstate, renew, or reactivate the license, limited or otherwise at any future date. In the Michigan Board of Medicine Order, Respondent agreed that the Michigan Board of Medicine would treat the allegations set forth in the Administrative Complaint of October 1, 2009, as true. The Administrative Complaint of October 1, 2009, alleged that Respondent engaged in conduct that consisted of negligence or failure to exercise due care, including negligent delegation to or supervision of employees or other individuals, whether or not injury results, that Respondent's conduct evidenced a lack of good moral character, and that Respondent's conduct evidenced obtaining, possessing, or attempting to obtain or possess a controlled substance or drug without lawful authority, and/or selling, prescribing, giving away, or administering drugs for other than lawful diagnostic or therapeutic purposes.

B. The conduct resulting in the Michigan Board of Medicine disciplinary action against Respondent would constitute misconduct under the laws of New York State, pursuant to the following sections of New York State law:

1. New York Education Law Sec.6530(3) (negligence on more than one occasion).
2. New York Education Law Sec. 6530(4) (gross negligence).
3. New York Education Law Sec. 6530(20) (moral unfitness).

SPECIFICATIONS
FIRST SPECIFICATION

Respondent violated New York Education Law Sec. 6530(9)(b) by having been found guilty of improper professional misconduct by a duly authorized professional disciplinary agency of another state where the conduct upon which the finding was based would, if committed in New York state, constitute professional misconduct under the laws of New York state, in that Petitioner charges:

1. The facts in Paragraphs A and B.

SECOND SPECIFICATION

Respondent violated New York Education Law Sec. 6530(9)(d) by having disciplinary action taken 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 professional misconduct under the laws of New York state, in that Petitioner charges:

2. The facts in Paragraphs A and B.

DATED: *January 6*, 2011
Albany, New York

REDACTED

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