



STATE OF NEW YORK
DEPARTMENT OF HEALTH

433 River Street, Suite 303

Troy, New York 12180-2299

Dennis P. Whalen
Executive Deputy Commissioner

July 19, 1999

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Kalimah J. Jenkins, Esq.
NYS Department of Health
Empire State Plaza
Corning Tower – Room 2503
Albany, New York 12237-0032

Julio Ruiz, M.D.
281 Polifly Road – Apt. 2
Hackensack, New Jersey 07601

David M. Werfel, Esq.
One Rabro Drive
Hauppauge, New York 11788

RE: In the Matter of Julio Ruiz, M.D.

Dear Parties:

Enclosed please find the Determination and Order (No.99-175) 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required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate.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 :
JULIO RUIZ, M.D. : AND
: " ORDER
-----X
ORDER #99-175

A Notice of Hearing and Statement of Charges, both dated May 26, 1999, were served upon the Respondent, Julio Ruiz, M.D. **DAVID HARRIS, M.D. (Chair), ROBERT KLUGMAN, M.D., and SHAHLA JAVDAN**, 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 Kalimah J. Jenkins, Esq., Assistant Counsel. The Respondent appeared by David M. Werfel, Esq. A hearing was held on July 7, 1999. 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, a psychiatrist, with four specifications of professional misconduct. The charges, including fraudulent practice, moral unfitness, willful making or filing of false reports, and conviction of a crime, all are based upon Respondent's conviction, on a plea of guilty, to criminal possession of a forged instrument in the third degree.

A copy of the Notice of Hearing 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. Julio Ruiz, M.D. (hereinafter, "Respondent"), was authorized to practice medicine in New York State by the issuance of limited permit number P66141 by the New York State Education Department. (Pet. Ex. #2).

2. Respondent was issued limited permit number P66141 by the New York Education Department pursuant to which he was authorized to practice medicine at only the Kings County Hospital and the Metropolitan Hospital Center and only from approximately September 30, 1992 through approximately February 28, 1994 (Pet. Ex. #4; Resp. Ex. B).
3. Respondent was issued limited permit number P66141 by the New York State Education Department pursuant to which he was authorized to practice medicine at only the Kings County Hospital and only from approximately March 17, 1994 through approximately March 17, 1996. (Pet. Ex. #4; Resp. Ex. B).
4. Respondent, on or around March 18, 1996, forged or caused to be forged a document purporting to be a limited permit issued by the New York State Education Department which authorized Respondent to practice medicine at the Kings County Hospital from March 18, 1996 to March 22, 1998, when, in fact, the New York State Education Department had not issued Respondent said permit. (Pet. Ex. #4 and 6; Resp. Ex. B).

5. Respondent, on or around March 18, 1996 submitted or caused to be submitted to the Kings County Hospital a document purporting to be a limited permit issued by the New York State Education Department which authorized Respondent to practice medicine at the Kings County Hospital from March 18, 1996 to March 22, 1998 when, in fact, the New York State Education Department had not issued Respondent said permit. (Pet. Ex. ##4 and 6; Resp. Ex. B).
6. Respondent, on or around March 23, 1998, forged or caused to be forged a document purporting to be a limited permit issued by the New York State Education Department which authorized Respondent to practice medicine at the Kings County Hospital from March 23, 1998 to March 24, 2000 when, in fact, the New York State Education Department had not issued Respondent said permit. (Pet. Ex. ##4 and 6; Resp. Ex. B).
7. Respondent, on or around March 23, 1998, submitted or caused to be submitted a document purporting to be a limited permit issued by the New York State Education Department which authorized Respondent to practice medicine at the Kings County Hospital

from March 23, 1998 to March 24, 2000 when, in fact, the New York State Education Department had not issued Respondent said permit. (Pet. Ex. ##4 and 6; Resp. Ex. B).

8. Respondent practice medicine at the Kings County Hospital Center from approximately March 18, 1996 until April 7, 1998 under such forged permits and without New York State Education Department authorization. (Pet. Ex. #6).
9. Respondent, on January 26, 1999, in the case of People v. Vernon Julio Ruiz, Docket #98K085399 was convicted, pursuant to a guilty plea, of criminal possession of a forged instrument in the third degree, a misdemeanor. More specifically, the conviction involved Respondent's possession of the limited permits described in paragraphs 4 through 7 above. (Pet. Ex. ## 6 and 7).

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.

Respondent is charged with four specifications alleging professional misconduct within the meaning of Education Law §6530. This statute sets forth numerous forms of conduct which constitute professional misconduct, but does not provide definitions of the various types of misconduct. During the course of its deliberations on these charges, the Hearing Committee consulted a memorandum prepared by Henry M. Greenberg, Esq., General Counsel for the Department of Health. This document, entitled "Definitions of Professional Misconduct Under the New York Education Law", sets forth suggested definitions for gross negligence, negligence, gross incompetence, incompetence, and the fraudulent practice of medicine.

The following definition was utilized by the Hearing Committee during its deliberations:

Fraudulent Practice of Medicine is an intentional misrepresentation or concealment of a known fact. An individual's knowledge that he/she is making a misrepresentation or concealing a known fact with the intention to mislead may properly be inferred from certain facts.

The Hearing Committee unanimously concluded, by a preponderance of the evidence, that the Petitioner has sustained its burden of proof with regard to each of the specifications of professional misconduct set forth in the Statement of Charges.

Respondent was convicted of criminal possession of a

forged instrument in the third degree, a misdemeanor crime under New York law. He forged, or caused to be forged, limited permits to practice medicine in New York. As a result, Respondent practiced medicine without lawful authorization for an extended period of time.

Respondent submitted the forged permits to Kings County Hospital knowing that the hospital would rely on their supposed authenticity and allow him to remain employed as a psychiatrist. In so doing, Respondent intentionally misrepresented his qualifications, for his own financial gain. The Hearing Committee concluded that Respondent's conduct constituted the fraudulent practice of medicine in violation of Education Law § 6530(2) and sustained the First Specification.

The Hearing Committee further concluded that Respondent's conduct evidence moral unfitness to practice medicine in violation of Education Law §6530(20). The ability to practice medicine, whether pursuant to a license or a limited permit, is a privilege granted by the state. By accepting that privilege, Respondent was placed in a position of public trust. By falsifying his credentials, Respondent violated the public trust and the moral standards of the profession. Accordingly, the Hearing Committee voted to sustain the Second Specification.

By intentionally submitting the forged limited permits, Respondent willfully filed a false report within the meaning of

Education Law §6530(21). Therefore, the Hearing Committee voted to sustain the Third Specification. Respondent's criminal conviction also constitutes professional misconduct in violation of Education Law §6530(9)(a)(i). As a result, the Hearing Committee also voted to sustain the Fourth Specification.

DETERMINATION AS TO PENALTY

The Hearing Committee, pursuant to the Findings of Fact and Conclusions of Law set forth above, unanimously determined that there should be a bar on any issuance of a medical license to Respondent for a period of five (5) years from the effective date of this Determination and Order. 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.

Respondent is clearly a troubled individual. He alluded to the fact that he was suffering from depression at the time he submitted the forged permits. Nevertheless, on two separate occasions, when faced with the choice of facing up to reality or resorting to deception, Respondent chose the latter. Respondent attempted to justify his actions as necessary to support his family. This struck the Committee as an unacceptable post-hoc rationalization. Many individuals, including physicians, face personal crises, and manage to resolve them without resorting to

criminal conduct. Moreover, other physicians fail the licensing examination, as Respondent did, and do not forge their credentials so as to be able to practice medicine.

Although Respondent "accepted" responsibility for the submission of the forged permits, he was still unwilling or unable to acknowledge that he caused their creation. This unwillingness to face reality is disturbing.

Given the fact that Respondent does not currently hold a license to practice medicine, the Hearing Committee struggled to fashion an appropriate sanction for Respondent's misconduct. Respondent's conduct warrants a significant sanction. License revocation would be the appropriate sanction for such fraudulent conduct which strikes at the heart of the integrity of the medical profession, if Respondent held a medical license. However, even a physician whose license is revoked may petition for reinstatement after three years.

Pursuant to Public Health Law §230-a(6), the Hearing Committee has the authority to place a limitation on the issuance of any further license to practice medicine. Petitioner urged that the Committee issue a permanent ban on the issuance of a license to Respondent. The Hearing Committee considered this as a possible sanction, but determined that it would be too draconian, given that there is no evidence that Respondent provided inadequate medical care to any of his patients.

Further, as of the date of this hearing, Respondent had yet to successfully take the necessary licensing examinations to even be considered for licensure. Based upon the totality of the circumstances in this case, the Hearing Committee unanimously determined that there should be a bar on any issuance of a medical license to Respondent for a period of five (5) years from the effective date of this Determination and Order.

The Hearing Committee recognized that Respondent's poor judgment may be driven by a psychiatric condition. As a result, the Hearing Committee strongly recommends that in the event that Respondent passes the examination and seeks licensure after expiration of the five year ban, the licensing authority require that Respondent furnish evidence of a psychiatric evaluation and compliance with any necessary follow-up treatment.

ORDER

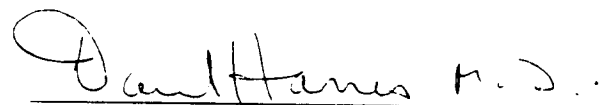
Based upon the foregoing, **IT IS HEREBY ORDERED THAT:**

1. The First through Fourth Specifications of professional misconduct, as set forth in the Statement of Charges (Petitioner's Exhibit # 1) are **SUSTAINED**;

2. There shall be and hereby is a bar on any issuance of a medical license to Respondent for a period of five (5) years commencing on the effective date of this Determination and Order;

3. 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: Albany, New York
July 16, 1999


DAVID HARRIS, M.D. (CHAIR)

ROBERT KLUGMAN, M.D.
SHAHLA JAVDAN

TO: Kalimah J. Jenkins, Esq.
Assistant Counsel
New York State Department of Health
Corning Tower Building - Room 2503
Empire State Plaza
Albany, New York 12237-0032

Julio Ruiz, M.D.
281 Polifly Road - Apt. 2
Hackensack, New Jersey 07601

David M. Werfel, Esq.
One Rabro Drive
Hauppauge, New York 11788

APPENDIX I

EXHIBIT

Re: Ruiz
7-7-99 91

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

-----X
IN THE MATTER : NOTICE
OF : OF
JULIO RUIZ, M.D. : HEARING
-----X

TO:

Julio Ruiz, M.D.
c/o David M. Werfel, Esq.
One Rabro Drive
Hauppauge, NY 11788

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 7th of July, 1999, at 10:00 in the forenoon of that day at the NEW YORK STATE DEPARTMENT OF HEALTH, 5 Penn Plaza, 6th Floor, New York, NY 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
May 26, 1999


PETER D. VAN BUREN
Deputy Counsel

Inquiries should be directed to: KALIMAH J. JENKINS
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

-----X

IN THE MATTER : STATEMENT
OF : OF ""
JULIO RUIZ, M.D. : CHARGES

-----X

JULIO RUIZ, M.D., the Respondent was authorized to practice medicine in New York State on September 30, 1992, by the issuance of limited permit number P66141 by the New York State Education Department.

FACTUAL ALLEGATIONS

1. Respondent was issued limited permit number P66141 by the New York State Education Department pursuant to which he was authorized to practice medicine at only the Kings County Hospital and the Metropolitan Hospital Center and only from approximately September 30, 1992 through approximately February 23, 1994.
2. Respondent was issued limited permit number P66141 by the New York State Education Department pursuant to which he was authorized to practice medicine at only the Kings County Hospital and only from approximately March 17, 1994 through approximately March 17, 1996.
3. Respondent, on or around March 18, 1996, forged or caused to

be forged a document purporting to be a limited permit issued by the New York State Education Department which authorized Respondent to practice medicine at the Kings County Hospital from March 13, 1996 to March 22, 1998 when, in fact, the New York State Education Department had not issued Respondent said permit.

4. Respondent, on or around March 13, 1996 submitted or caused to be submitted to the Kings County Hospital a document purporting to be a limited permit issued by the New York State Education Department which authorized Respondent to practice medicine at the Kings County Hospital from March 13, 1996 to March 22, 1998 when, in fact, the New York State Education Department had not issued Respondent said permit.

5. Respondent, on or around March 23, 1998, forged or caused to be forged a document purporting to be a limited permit issued by the New York State Education Department which authorized Respondent to practice medicine at the Kings County Hospital from March 23, 1998 to March 24, 2000 when, in fact, the New York State Education Department had not issued Respondent said permit.

6. Respondent, on or around March 23, 1998, submitted or caused to be submitted a document purporting to be a limited permit issued by the New York State Education Department which authorized Respondent to practice medicine at the Kings County Hospital from March 23, 1998 to March 24, 2000 when, in fact, the New York State Education Department had not issued Respondent said permit.

7. Respondent practiced medicine at the Kings County Hospital Center from approximately March 18, 1996 until April 7, 1998 under such permits and without New York State Education Department authorization.

8. Respondent, on January 26, 1999, in the case of People v. Vernon Julio Ruiz, docket # 98K085399 was convicted, pursuant to a guilty plea, of criminal possession of a forged instrument in the third degree, a misdemeanor. More specifically, the conviction involved Respondent's possession of the limited permits described in Paragraphs 3 through 6 above.

SPECIFICATIONS

FIRST SPECIFICATION

FRAUDULENT PRACTICE

Respondent is charged with professional misconduct under N.Y. Education Law §6530(2) by reason of his practicing the profession fraudulently in that Petitioner charges:

1. The facts in Paragraphs 3 and/or 4 and/or 5 and/or 6 and/or 7.

SECOND SPECIFICATION

MORAL UNFITNESS

Respondent is charged with professional misconduct under N.Y. Education Law §6530(20) by reason of his conduct in the practice of medicine which evidences moral unfitness to practice medicine in that Petitioner charges;

2. The facts in Paragraphs 3 and/or 4 and/or 5 and/or 6 and/or 7.

THIRD SPECIFICATION

WILLFULLY MAKING OR FILING A FALSE REPORT

Respondent is charged with professional misconduct under N.Y. Education Law §6530(21) by reason of his willfully making or filing a false report in that Petitioner charges:

3. The facts in Paragraphs 3 and/or 4 and/or 5 and/or 6 and/or 7.

FOURTH SPECIFICATION

CONVICTION OF A CRIME UNDER NEW YORK STATE LAW

Respondent is charged with professional misconduct under N.Y. Education Law §6530(9)(a)(i) by reason of having been convicted of committing an act constituting a crime under New York state law in that Petitioner charges:

4. The facts in Paragraphs 8.

DATED: *May 26*, 1999

Albany, New York

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