



STATE OF NEW YORK
DEPARTMENT OF HEALTH

433 River Street, Suite 303

Troy, New York 12180-2299

Barbara A. DeBuono, M.D., M.P.H.
Commissioner

Dennis P. Whalen
Executive Deputy Commissioner

March 5, 1997

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Carlos Navarro Rueca, M.D.
11B Salmon Drive
Las Vegas, NV 89110

Carlos Navarro Rueca, M.D.
3009 W. Charleston Boulevard
Las Vegas, NV 89110

Jean Bresler, Esq.
NYS Department of Health
5 Penn Plaza Sixth Floor
New York, New York 10001

RE: In the Matter of Carlos Navarro Rueca, M.D.

Dear Dr. Rueca and Ms. Bresler:

Enclosed please find the Determination and Order (No. 97-55) 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required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate.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,

Handwritten signature of Tyrone T. Butler in cursive script.

Tyrone T. Butler, Director
Bureau of Adjudication

TTB:nm
Enclosure

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

COPY

IN THE MATTER
OF
CARLOS NAVARRO RUECA, M.D.

DETERMINATION
AND
ORDER
BPMC - 97 -55

DAVID HARRIS, M.D., (Chair), RALPH LEVY, D.O., and MICHAEL GONZALEZ, R.P.A. duly designated members of the State Board for Professional Medical Conduct, served as the Hearing Committee in this matter pursuant to §230(10) of the Public Health Law.

MARC P. ZYLBERBERG, ESQ., ADMINISTRATIVE LAW JUDGE, served as the Administrative Officer.

The Department of Health appeared by JEAN BRESLER, ESQ., Associate Counsel.

Respondent, CARLOS NAVARRO RUECA, M.D., did not appear personally and was not represented by counsel.

A Hearing was held on February 19, 1997. Evidence was received and examined, no witnesses were sworn or affirmed. A transcript of the proceeding was made. After consideration of the record, the Hearing Committee issues this Determination and Order, pursuant to the Public Health Law and the Education Law of the State of New York.

STATEMENT OF CASE

The State Board for Professional Medical Conduct is a duly authorized professional disciplinary agency of the State of New York. (§230 et seq. of the Public Health Law of the State of New York [**"P.H.L."**]).

This case, brought pursuant to P.H.L. § 230(10)(p), is also referred to as an "expedited hearing". The scope of an expedited hearing is strictly limited to evidence or sworn testimony relating to the nature and severity of the penalty (if any) to be imposed on the licensee¹ (Respondent).

Respondent, CARLOS NAVARRO RUECA, M.D., is charged with professional misconduct within the meaning of § 6530(9)(d) of the Education Law of the State of New York (**"Education Law"**), to wit: professional misconduct ... by having disciplinary action taken by a duly authorized professional disciplinary agency of another state, for conduct, which conduct, would, if committed in New York State constitute professional misconduct under the laws of New York State. (Petitioner's Exhibit # 1 and § 6530[9][d] of the Education Law).

In order to find that Respondent committed professional misconduct, the Hearing Committee, pursuant to § 6530(9)(d) of the Education Law, must determine: (1) whether Respondent had some disciplinary action taken or instituted against him by a duly authorized professional disciplinary agency of another state and (2) whether Respondent's conduct on which the disciplinary action was taken would, if committed in New York State, constitute professional misconduct under the laws of New York State.

A copy of the Statement of Charges is attached to this Determination and Order as Appendix I.

¹ P.H.L. §230(10)(p), fifth sentence.

FINDINGS OF FACT

The following Findings of Fact were made after a review of the entire record in this matter. These facts represent evidence found persuasive by the Hearing Committee in arriving at a particular finding. All Findings and Conclusions herein were unanimous. The State, who has the burden of proof, was required to prove its case by a preponderance of the evidence. All Findings of Fact made by the Hearing Committee were established by at least a preponderance of the evidence.

1. Respondent was authorized to practice medicine in New York State on August 19, 1977, by the issuance of license number 131921 by the New York State Education Department (Petitioner's Exhibits # 1 & # 3)².
2. Respondent is not currently registered to practice medicine in the State of New York (Petitioner's Exhibit # 3); [T-6-8]³.
3. The State Board For Professional Medical Conduct has obtained personal jurisdiction over Respondent (P.H.L. § 230[10][d]); (Respondent was personally served); (Petitioner's Exhibit # 2); [T-4].
4. The Board of Medical Examiners of the State of Nevada ("**Nevada Board**") is a state agency charged with regulating the practice of medicine pursuant to the laws of the State of Nevada (Petitioner's Exhibit # 4).

² refers to exhibits in evidence submitted by the New York State Department of Health (Department's or Petitioner's Exhibit); no exhibits were submitted by or on behalf of Dr. Rueca.

³ Numbers in brackets refer to transcript page numbers [T-].

5. On August 11, 1995, the investigative committee of the Nevada Board issued a complaint against Respondent, charging him with the following:

A. Repeatedly prescribing controlled substances (schedule II and/or III and/or IV and/or V) in excessive amounts to, at least, 39 separate patients, which was alleged to be a departure from prevailing standards of acceptable medical practice in violation of Nevada laws; and

B. Repeatedly prescribing controlled substances in excessive amounts to 2 separate patients, which was alleged to constitute a lack of care raising a presumption of conscious indifference to consequences and an entire disregard and indifference to the safety and welfare of his patients in violation of Nevada laws; and

C. Repeatedly prescribing controlled substances in excessive amounts which constituted repeated acts of malpractice in violation of Nevada laws; and

D. Inappropriately prescribing thyroid synthetics for weight loss, in violation of Nevada laws.

(Petitioner's Exhibit # 4).

6. On June 6, 1996, the Nevada Board and Respondent entered into a Stipulation for Settlement which was accepted by the Nevada Board and which resulted in the issuance of an Order of the Nevada Board dated June 18, 1996 (Petitioner's Exhibit # 4).

7. As a result of the issuance of the June 18, 1996 Order, the Nevada Board ordered:

(a) That Respondent's pleas of no contest to: (i) ten (10) counts of overprescribing; (ii) one (1) count of gross malpractice; (iii) ten (10) counts of prescribing thyroid synthetics for weight loss; and (iv) one (1) count of repeated malpractice, be accepted by the Nevada Board; and

(b) That Respondent receive a public reprimand; and

(c) That Respondent's license to practice medicine in the state of Nevada be suspended, and that the suspension be stayed while Respondent remains on probation for three (3) years; and

(d) That Respondent follow various terms of probation including the suspension of his authority to prescribe Schedule II, III and IV controlled substances for one (1) year; and

(e) That Respondent pay \$7,500.00 (costs of the Nevada investigation and hearing process).

(Petitioner's Exhibit # 4).

8. The Hearing Committee accepts the Stipulation for Settlement and the Order of the Nevada Board and adopts same as part of its own Findings of Fact (Petitioner's Exhibit # 4).

CONCLUSIONS OF LAW

The Hearing Committee makes the following conclusions, pursuant to the Findings of Fact listed above. All conclusions resulted from a unanimous vote of the Hearing Committee.

The Hearing Committee concludes that the Factual Allegations, from the December 20, 1996 Statement of Charges, are SUSTAINED.

The Hearing Committee concludes, based on the above Factual Conclusion, that the SPECIFICATION OF CHARGES on the second page of the Statement of Charges is SUSTAINED, as it relates to a violation of Education Law § 6530(3)⁴, 6530(4)⁵, and 6530(35)⁶

⁴ Each of the following is professional misconduct... "Practicing the profession with negligence on more than one occasion;"

⁵ Each of the following is professional misconduct... "Practicing the profession with gross negligence on a particular occasion;"

⁶ "Ordering of excessive tests, treatment, or use of treatment facilities not warranted by the condition of the patient;"

The Hearing Committee concludes that the Department of Health has shown by a preponderance of the evidence that Respondent had disciplinary action taken or instituted against him by an authorized professional disciplinary agency of the State of Nevada. The Department of Health has also proved, by a preponderance of the evidence, that Respondent's conduct, as indicated by the Stipulation for Settlement and the Order in the Nevada disciplinary action, would, if committed in New York, constitute professional misconduct under the laws of New York State. The Department of Health has met its burden of proof

Professional Misconduct under § 6530(9)(d) of the Education Law.

The Nevada Board is a duly authorized professional disciplinary agency. In June 1996, the State of Nevada, through the Nevada Board, and Respondent entered into a Stipulation for Settlement which resulted in the issuance of an Order by the Nevada Board.

In the 1996 Stipulation for Settlement, Respondent plead no contest to ten (10) counts of overprescribing of control substances, one (1) count of gross malpractice, ten (10) counts of prescribing thyroid synthetics for weight loss, and one (1) count of repeated malpractice. Based on the evidence presented, the Hearing Committee determines that the prescribing of the controlled substances and the weight loss drugs were all without medical justification.

The record clearly establishes that Respondent committed professional misconduct in Nevada. Respondent provided treatment (drug prescriptions) not medically warranted, under the circumstances, for the persons treated by Respondent.

Taking the findings of the Nevada Board as true, the Hearing Committee finds that the record establishes that Respondent engaged in improper prescribing of dangerous controlled substances in the practice of medicine.

The Hearing Committee finds that Respondent's conduct, if committed in New York State, would constitute professional misconduct under, at least, § 6530(3), (4) and (35) of the Education Law. Therefore, Respondent has committed professional misconduct pursuant to § 6530(9)(d) of the Education Law.

DETERMINATION

The Hearing Committee, pursuant to the Findings of Fact and Conclusions of Law set forth above, unanimously determines that Respondent's license to practice medicine in New York State should be REVOKED.

This determination is reached after due and careful consideration of the full spectrum of penalties available pursuant to P.H.L. § 230-a, including:

(1) Censure and reprimand; (2) Suspension of the license, wholly or partially; (3) Limitations of the license; (4) Revocation of license; (5) Annulment of license or registration; (6) Limitations; (7) the imposition of monetary penalties; (8) a course of education or training; (9) performance of public service; and (10) probation.

In determining an appropriate measure of discipline to impose, the Hearing Committee is bound by the documentary evidence presented by Petitioner. Respondent failed to personally appear at the February 19, 1997 Hearing and provide any mitigation as to the sanctions to be imposed.

Respondent's acts, in prescribing the controlled substances, were deliberate, not accidental, not unconscious and not technical in nature. Respondent's lack of integrity, character and moral fitness is evident in his course of conduct.

With regard to the issue of sanctions, the Hearing Committee recognizes that it is a generally accepted principal that the State where respondent lived and practiced medicine at the time of the offense has the greatest interest in the issue and the public policy considerations relevant to such disciplinary actions. The sanctions issued by the State of Nevada have been reviewed and carefully considered by the Hearing Committee. Based on all the evidence presented, the Hearing Committee does not believe that those sanctions provide adequate safeguards for the people of the State of New York.

The Hearing Committee considers Respondent's misconduct to be very serious. With a concern for the health and welfare of patients in New York State, the Hearing Committee determines that revocation of Respondent's license is the appropriate sanction to impose under the circumstances.

Respondent prescribed class II, III, IV and V controlled substances without medical justification. Respondent had a total callous disregard of his patients' health and welfare. Respondent's conduct was egregious in nature.

Taking all of the facts, details, circumstances and particulars in this matter into consideration, including the sanctions imposed by Nevada, the Hearing Committee determines the above to be the appropriate sanction under the circumstances.

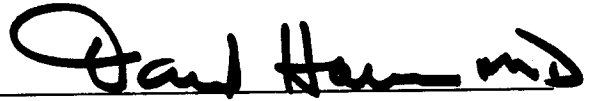
By execution of this Determination and Order, all members of the Hearing Committee certify that they have read and considered the complete record of this proceeding.

ORDER

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

1. The Specification of professional misconduct contained within the Statement of Charges (Department's Exhibit # 1) is **SUSTAINED**, and
2. Respondent's license to practice medicine in the State of New York is hereby **REVOKED**.

DATED: New York, New York
March ~~Feb~~, 28, 1997



DAVID HARRIS, M.D., (Chair)

RALPH LEVY, D.O.

MICHAEL GONZALEZ, R.P.A.

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Bureau of Professional Medical Conduct
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PA

APPENDIX I

IN THE MATTER
OF
CARLOS NAVARRO RUECA, M.D.

STATEMENT
OF
CHARGES

CARLOS NAVARRO RUECA, M.D., the Respondent, was authorized to practice medicine in New York State on or about August, 19, 1977, by the issuance of license number 131921 by the New York State Education Department.

FACTUAL ALLEGATIONS

- A. On or about August 11, 1995 the Board of Medical Examiners of the State of Nevada charged the Respondent pursuant to counts I-XXVI and XXIX-XLI with thirty-nine acts of repeated writing of prescriptions for controlled substances in such excessive amounts as to be a departure from prevailing standards of acceptable practice, in violation of NAC 630.230 (1) (c), and NRS 630.306(2)(b). Pursuant to counts XXVII and XXVIII the Nevada Board charged the Respondent with prescribing controlled substances for patients AA and BB with Gross Malpractice, in violation of NRS 630.301 (3). The Board further charged that Respondent's conduct as alleged in counts I through XLI constitutes repeated malpractice in violation of NRS 630.306(4). Pursuant to counts XLIII-LXVI the Nevada Board charged the Respondent with inappropriately prescribing thyroid synthetic for weight loss, in violation of NRS 630.306(4), NAC 630.230(1)(j), and NRS 630.306(2)(b).
- B. On or about June 6, 1996, the Respondent entered into a stipulation of settlement with the Nevada Board and entered a plea of no contest to ten (10)

counts of overprescribing, one (1) count of Gross Malpractice, ten (10) counts of prescribing thyroid synthetic for weight loss, and one (1) count of repeated malpractice.

C. An order was entered by the Nevada Board incorporating the above and imposing the following sanction:

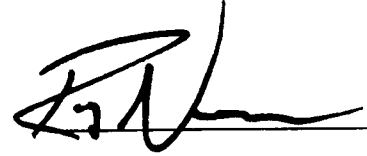
1. Respondent received a public reprimand.
2. Respondent's license to practice medicine was suspended for three years. Said suspension was stayed and he was placed on probation for three years with terms and conditions which included: suspension of prescribing, one hundred hours of continuing medical education, (eighty hours of which to be completed with in the first year of probation), a requirement to pay (\$7,500.00).

SPECIFICATION OF CHARGES
HAVING HAD DISCIPLINARY ACTION TAKEN

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(9)(d)(McKinney Supp. 1996) by having his or her license to practice medicine revoked, suspended or having other disciplinary action taken, or having his or her application for a license refused, revoked or suspended or having voluntarily or otherwise surrendered his or her license after a disciplinary action was instituted by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the revocation, suspension or other disciplinary action involving the license or refusal, revocation or suspension of an application for a license or the surrender of the license would, if committed in New York state, constitute professional misconduct under the laws of New York state (namely N.Y. Educ. Law §6530 [3] and [4]) as alleged in the facts of the following:

1. Paragraphs A, B, C, and C1-2.

DATED: December 20, 1996
New York, New York



ROY NEMERSON
Deputy Counsel
Bureau of Professional
Medical Conduct