



STATE OF NEW YORK DEPARTMENT OF HEALTH

Corning Tower

The Governor Nelson A. Rockefeller Empire State Plaza

Albany, New York 12237

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

Karen Schimke
Executive Deputy Commissioner

November 15, 1995

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Marcia Kaplan, Esq.
NYS Department of Health
5 Penn Plaza-Sixth Floor
New York, New York 10001

Roberto Armando Ticas, M.D.
201 Oak Drive S. Suite 203B
Lake Jackson, Texas 77566

RE: In the Matter of Roberto Armando Ticas, M.D.

Effective Date: 12/12/95

Dear Ms. Kaplan and Dr. Ticas:

Enclosed please find the Determination and Order (No. 95-281) 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required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate.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
Corning Tower - Fourth Floor (Room 438)
Empire State Plaza
Albany, New York 12237

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 all action 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.

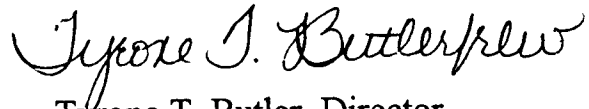
The notice of review served on the Administrative Review Board should be forwarded to:

James F. Horan, Esq., Administrative Law Judge
New York State Department of Health
Bureau of Adjudication
Empire State Plaza
Corning Tower, Room 2503
Albany, New York 12237-0030

The parties shall have 30 days from the notice of appeal in which to file their briefs to the Administrative Review Board. Six copies of all papers must also be sent to the attention of Mr. Horan at the above address and one copy to the other party. The stipulated record in this matter shall consist of the official hearing transcript(s) and all documents in evidence.

Parties will be notified by mail of the Administrative Review Board's
Determination and Order.

Sincerely,

A handwritten signature in cursive script that reads "Tyrone T. Butler".

Tyrone T. Butler, Director
Bureau of Adjudication

TTB:nm
Enclosure

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

**IN THE MATTER
OF
ROBERTO ARMANDO TICAS , M.D.**

**DETERMINATION
AND
ORDER**

BPMC-95-281

A Notice of Hearing and Statement of Charges both dated August 16, 1995, were served upon the Respondent, **ROBERTO ARMANDO TICAS, M.D.** **RICHARD PIERSON, JR., M.D.**, (Chair); **ANTHONY CLEMENDOR, M.D.** and **GEORGE C. SIMMONS**, 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. **CHRISTINE C. TRASKOS, ESQ.**, Administrative Law Judge, served as the Administrative Officer. A hearing was held on September 21, 1995. The Department of Health appeared by **JERRY JASINSKI**, Acting General Counsel, **MARCIA KAPLAN, ESQ.**, Associate Counsel, of Counsel. The Respondent appeared **PRO SE**. 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

This case was brought pursuant to Public Health Law Section 230(10)(p). The statute provides for an expedited hearing where 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 or another jurisdiction, or upon a prior administrative adjudication

NEW YORK STATE DEPARTMENT OF HEALTH

regarding conduct which 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, Respondent is charged with professional misconduct pursuant to Education Law Section 6530 (8) and 6530 (9) (b). A Copy of the Notice of Referral Proceeding 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. Respondent was authorized to practice medicine in New York State on or about December 26, 1989 by the issuance of license number 181100 by the New York State Education Department. (Pet. Ex. #2A)

2. On or about January 6, 1995, the Texas State Board of Medical Examiners suspended Respondent's medical license, stayed the suspension, and placed Respondent on probation for five years with conditions including the following:

- 1) that he abstain from consuming alcohol, dangerous drugs, or controlled substances unless prescribed by another physician to him for a legitimate, therapeutic purpose;
- 2) that he submit to alcohol or drug screening without prior notice;
- 3) that he submit to psychiatric evaluation and treatment, as provided;

- 4) that he participate in AA or a similar program at least 3 times per week;
- 5) that he participate in the program of the county medical society committee on physician health and rehabilitation;
- 6) that he only obtain prescribe controlled substances as authorized;
- 7) that he maintain a prescription file for inspection by the Board;
- 8) that his medical practice be monitored by a physician approved by the Board;
- 9) that he obtain at least 50 hours of CME credits per year;
- 10) that within one year he must pass the SPEX examination of the Federation of State Medical Boards of the United States;
- 11) that he personally appear before the Board upon request, cooperate with the Board, and provide releases for records to the Board, upon request;
- 12) and that he provide a copy of the Order upon request and to any facilities where he holds or seeks privileges. (Pet. Ex. 3)

3. The Texas Board found that Respondent had violated Section 3.08(3) of the Medical Practice Act, V.A.C.S., article 4495b, by his intemperate use of alcohol or drugs that, in the opinion of the Board , could endanger the lives of patients, in that on or about July 30 and August 6 of 1994, Respondent exhibited behavioral changes, and concerns were raised that his capacity to function as a physician had been reduced, that during July and August of 1994, Respondent self-medicated for depression and asthma, and consumed beer while on medication he self-prescribed, that Respondent submitted to a 96 hour inpatient evaluation, including a comprehensive addictive disease and psychiatric assessment, and the evaluation indicated that Respondent's ability to function as a physician was impaired by alcohol use. (Pet. Ex. 3)

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.

The Hearing Committee unanimously concluded that the Department has sustained its burden of proof. The evidence demonstrates that Respondent was disciplined by the Texas State Board of Medical Examiners for his intemperate use of alcohol and drugs. Section 6530 (9) (b) of the Education Law defines professional misconduct as "Having been found guilty of improper professional practice or 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." Section 6530 (8) of the Education Law defines professional misconduct as "Being a habitual abuser of alcohol, or being dependent on or a habitual user of narcotics, barbiturates, amphetamines, hallucinogens, or other drugs having similar effects, except for a licensee who is maintained on an

approved therapeutic regimen which does not impair the ability to practice, or having a psychiatric condition which impairs the licensee's ability to practice." As a result, the Hearing Committee voted to sustain the First Specification of professional misconduct contained within the Statement of Charges.

DETERMINATION AS TO PENALTY

The Hearing Committee, pursuant to the Findings of Fact and Conclusions of Law set forth above, unanimously determined that Respondent's license to practice medicine in New York State should be suspended until he satisfactorily completes all conditions of probation imposed by the Texas State Board of Medical Examiners. 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 appeared at the hearing, but was not represented by counsel. He testified that he was in compliance with the terms of his Texas probation in that he regularly attends AA meetings and sees a psychiatrist. (T. 27-28; Resp. Ex. A, B, C and E) He further testified that he plans to complete his CME credit and SPEX examination in December. (T. 60-61) Respondent further offered information about two incidents that occurred subsequent to the commencement of his probation in Texas. He testified that on May 30, 1995, he was involved in a car accident and was arrested for public intoxication without performance of a urine or blood test. (T. 32-33) He also stated that he has been charged with prescribing Vicodan and Xanax without medical justification to an undercover agent in the spring of 1995. Respondent denies any wrongdoing in both incidents. (T. 33-35) Respondent indicated that he recently appeared before the Texas Board regarding these incidents and that he is awaiting a decision from them. (T. 36-37)

The Hearing Committee finds that Respondent was put on probation in Texas for two instances in which he consumed beer while taking Prozac which he self-prescribed. Respondent appeared before the Hearing Committee and acknowledged the nature of his impairment and presented some documentation of his efforts at compliance. The Petitioner argued that Respondent's acts of public intoxication and the prescribing of controlled substances without medical justification must be considered as evidence that Respondent has violated his Texas probation and that as a result, Respondent's New York license should be revoked. The Hearing Committee, however, finds that this new information is inconclusive without actual proof of a conviction or further disciplinary action by the Texas Board. The Hearing Committee believes that it is the obligation of the Texas Board to find Respondent not in compliance with the terms of his probation. Therefore, Respondent's license is not revoked, but suspended until such time that all conditions of the Texas probation have been satisfactorily completed. Under the totality of the circumstance, suspension until satisfactory completion of all terms of the Texas probation, as enumerated in Finding of Fact #2, is the appropriate sanction in this instance.

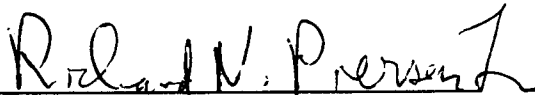
ORDER

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

1. The Specifications of professional misconduct contained within the Statement of Charges (Petitioner's Exhibit #1) is **SUSTAINED**:

2. Respondent's license to practice medicine in New York State be and hereby is **SUSPENDED, UNTIL RESPONDENT SATISFACTORILY COMPLETES ALL CONDITIONS OF PROBATION IMPOSED BY THE TEXAS STATE BOARD OF MEDICAL EXAMINERS** (as enumerated in Finding of Fact #2 of this Determination and Order).

Dated: Albany, New York
_____, 1995


RICHARD PIERSON, M.D.
(Chair)

ANTHONY CLEMENDOR, M.D.
GEORGE C. SIMMONS, Ed. D.

TO: Marcia Kaplan, Esq.
Associate Counsel
NYS Department of Health
5 Penn Plaza - 6th Floor
New York, NY 10001

Roberto Armando Ticas, M.D.
201 Oak Drive S. Suite 203 B
Lake Jackson, Texas 77566



APPENDIX I

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

IN THE MATTER
OF
ROBERTO ARMANDO TICAS, M.D.

NOTICE OF
REFERRAL
PROCEEDING

TO: ROBERTO ARMANDO TICAS, M.D.
304 Oleander 201 Oak Drive S, Suite 203B
Lake Jackson, TX 77566 Lake Jackson, TX 77566



PLEASE TAKE NOTICE THAT:

An adjudicatory proceeding will be held pursuant to the provisions of N.Y. Pub. Health Law §§230(10)(p) (McKinney Supp. 1995) and N.Y. State Admin. Proc. Act §§301-307 and 401 (McKinney 1984 and Supp. 1995). The proceeding will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct (Committee) on September 21, 1995, at 10:00 a.m., at the offices of the New York State Department of Health, 5 Penn Plaza, Sixth Floor, New York, New York 10001.

At the proceeding, evidence will be received concerning the allegations set forth in the Statement of Charges, which 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. You may produce evidence or sworn testimony on your behalf. Such evidence or sworn testimony shall be strictly limited to evidence and testimony relating to the nature and severity of the penalty to be imposed upon the licensee. Where the charges are based on the conviction of state law crimes in other jurisdictions, evidence may be offered which 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.

NEW YORK STATE DEPARTMENT OF HEALTH

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, Coming Tower Building, 25th Floor, Empire State Plaza, Albany, New York 12237, ATTENTION: HON. TYRONE BUTLER, DIRECTOR, BUREAU OF ADJUDICATION, (henceforth "Bureau of Adjudication") as well as the Department of Health attorney indicated below, no later than twenty days prior to the scheduled date of the Referral Proceeding, as indicated above.

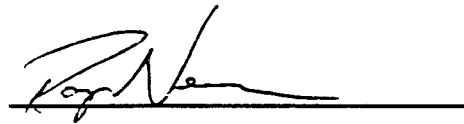
You may file a written answer, brief, and affidavits with the Committee. Six copies of all papers you wish to submit must be filed with the Bureau of Adjudication at the address indicated above, no later than fourteen days prior to the scheduled date of the Referral Proceeding, and a copy of all papers 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.

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 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: New York, New York
August 16, 1995



ROY NEMERSON
Deputy Counsel
Bureau of Professional
Medical Conduct

Inquiries should be addressed to:

Marcia E. Kaplan
Associate Counsel
NYS Department of Health
Division of Legal Affairs
5 Penn Plaza, Suite 601
New York, New York 10001
(212) 613-2615

NEW YORK STATE DEPARTMENT OF HEALTH 19

IN THE MATTER
OF
ROBERTO ARMANDO TICAS, M.D.

STATEMENT
OF
CHARGES

ROBERTO ARMANDO TICAS, M.D., the Respondent, was authorized to practice medicine in New York State on or about December 26, 1989, by the issuance of license number 181100 by the New York State Education Department.

FACTUAL ALLEGATIONS

- A. On or about January 6, 1995, the Texas State Board of Medical Examiners suspended Respondent's medical license, stayed the suspension, and placed Respondent on probation for five years with conditions including the following: that he abstain from consuming alcohol, dangerous drugs, or controlled substances unless prescribed by another physician to him for a legitimate, therapeutic purpose; that he submit to alcohol or drug screening without prior notice; that he submit to psychiatric evaluation and treatment, as provided; that he participate in AA or a similar program at least 3 times per week; that he participate in the program of the county medical society committee on physician health and rehabilitation; that he only obtain or prescribe controlled substances as authorized; that he maintain a prescription file for inspection by the Board; that his medical practice be monitored by a physician approved by the Board; that he obtain at least 50 hours of CME credits per year; that within one year he must pass the SPEX examination of the Federation of State Medical Boards of the United States; that he personally appear before the Board upon request, cooperate with the Board, and provide releases for

records to the Board, upon request; and provide a copy of the Order upon request, and to any facilities where he holds or seeks privileges. The Texas Board found that Respondent had violated Section 3.08(3) of the Medical Practice Act, V.A.C.S., article 4495b, by his intemperate use of alcohol or drugs that, in the opinion of the board, could endanger the lives of patients, in that on or about July 30 and August 6 of 1994 Respondent exhibited behavioral changes and concerns were raised that his capacity to function as a physician had been reduced, that during July and August of 1994, Respondent self-medicated for depression and asthma, and consumed beer while on medications he self-prescribed, that Respondent submitted to a 96-hour inpatient evaluation, including a comprehensive addictive disease and psychiatric assessment, and the evaluation indicated that Respondent's ability to function as a physician was impaired by alcohol use.

This conduct, if committed in New York state, would constitute professional misconduct under N.Y. Educ. Law §§ 6530(8)(McKinney Supp. 1995) (being a habitual abuser of alcohol, or being dependent on or a habitual user of narcotics, barbiturates, amphetamines, hallucinogens, or other drugs having similar effects.)

SPECIFICATION OF CHARGES

FIRST SPECIFICATION

HAVING BEEN FOUND GUILTY OF

PROFESSIONAL MISCONDUCT

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(9)(b)(McKinney Supp. 1995) by having been found guilty of

NEW YORK STATE BOARD OF PROFESSIONAL ACCOUNTANTS

improper professional practice or 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 {namely N.Y. Educ. Law §§ 6530(8)} as alleged in the facts of the following:

1. Paragraph A.

DATED: August 16, 1995
New York, New York



ROY NEMERSON
Deputy Counsel
Bureau of Professional
Medical Conduct

NEW YORK STATE DEPARTMENT OF HEALTH