



New York State Board for Professional Medical Conduct

433 River Street, Suite 303 • Troy, New York 12180-2299 • (518) 402-0863

Antonia C. Novello, M.D., M.P.H., Dr. P.H.
*Commissioner
NYS Department of Health*

Dennis P. Whalen
*Executive Deputy Commissioner
NYS Department of Health*

Dennis J. Graziano, Director
Office of Professional Medical Conduct

Michael A. Gonzalez, R.P.A.
Vice Chair

Ansel R. Marks, M.D., J.D.
Executive Secretary

PUBLIC

September 2, 2004

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Ernesto Malave, M.D.
a/k/a Ernesto Malavez, M.D.
109 Lancaster Drive
Georgetown, TX 78628

Re: License No. 164029

Dear Dr. Malave:

Enclosed please find Order #BPMC 04-200 of the New York State Board for Professional Medical Conduct. This order and any penalty provided therein goes into effect September 9, 2004.

If the penalty imposed by the Order is a surrender, revocation or suspension of this license, you are required to deliver to the Board the license and registration within five (5) days of receipt of the Order to the Board for Professional Medical Conduct, New York State Department of Health, Hedley Park Place, Suite 303, 433 River Street, Troy, New York 12180.

Sincerely,

Ansel R. Marks, M.D., J.D.

Executive Secretary

Board for Professional Medical Conduct

Enclosure

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

IN THE MATTER

OF

**ERNESTO MALAVE, M.D., aka ERNESTO MALAVEZ, M.D.
CO-04-05-2546-A**

SURRENDER

ORDER

BPMC No. 04-200

ERNESTO MALAVE, M.D., aka ERNESTO MALAVEZ, M.D., says:

On or about September 16, 1985, I was licensed to practice medicine as a physician in the State of New York having been issued License No. 164029 by the New York State Education Department. I currently reside at 109 Lancaster Drive, Georgetown, TX 78628.

I am not currently registered with the New York State Education Department to practice as a physician in the State of New York.

I understand that the New York State Board for Professional Medical Conduct has charged me with one (1) specification of professional misconduct as set forth in the Statement of Charges, annexed hereto, made a part hereof, and marked as Exhibit "A."

I am applying to the State Board for Professional Medical Conduct for an agreement to allow me to surrender my license as a physician in the State of New York and request that the Board issue this Surrender Order.

I, hereby, agree not to contest the one (1) specification set forth in the Statement of Charges (Exhibit A).


I understand that in the event that this proposed agreement is not granted by the State Board for Professional Medical Conduct, nothing contained herein shall be binding upon me or construed to be an admission of any act of misconduct alleged or charged against me, such proposed agreement shall not be used against me in any way, and shall be kept in strict

confidence during the pendency of the professional misconduct disciplinary proceeding; and such denial by the State Board for Professional Medical Conduct shall be made without prejudice to the continuance of any disciplinary proceeding and the final determination by a Committee on Professional Medical Conduct pursuant to the provisions of the Public Health Law.

I agree that, in the event the Board grants my Application, as set forth herein, an order of the Chairperson of the Board shall be issued in accordance with same upon issuance by the Board, which may be accomplished by mailing, by first class mail, a copy of the Order to me at the address set forth above or to my attorney or upon transmission via facsimile to me or my attorney, whichever is first.

I am making this agreement of my own free will and accord and not under duress, compulsion or restraint of any kind of manner.

Date: 8/16/04, 2004


ERNESTO MALAVE, M.D., aka
ERNESTO MALAVEZ, M.D.
Respondent

AGREED TO:

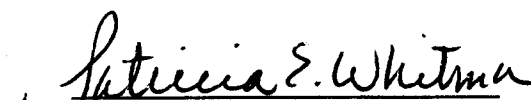
Date: ~~26/05~~, 2004

~~ROBERT W. RILEY~~
~~Attorney for Respondent~~

Date: 26 August, 2004


ROBERT BOGAN
Associate Counsel
Bureau of Professional Medical Conduct

Date: 8/30, 2004


for DENNIS J. GRAZIANO
Director, Office of Professional
Medical Conduct

ORDER


Upon the proposed agreement of **ERNESTO MALAVE, M.D., aka ERNESTO MALAVEZ, M.D.**, to Surrender his license as a physician in the State of New York, which proposed agreement is made a part hereof, it is **AGREED TO** and

ORDERED, that the proposed agreement and the provisions thereof are hereby adopted; it is further

ORDERED, that the name of the Respondent be stricken from the roster of physicians in the State of New York; it is further

ORDERED, that this Order shall be effective upon issuance by the Board, which may be accomplished by mailing, by first class mail, a copy to Respondent at the addresses set forth in this agreement or to Respondent's attorney or upon transmission via facsimile to Respondent or Respondent's attorney, whichever is earliest.

DATED: 9/1, 2004


MICHAEL A. GONZALEZ, R.P.A.
Vice Chair
State Board for Professional
Medical Conduct

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

IN THE MATTER	STATEMENT
OF	OF
ERNESTO MALAVE, M.D., aka ERNESTO MALAVEZ, M.D.	CHARGES
CO-04-05-2546-A	

ERNESTO MALAVE, M.D., aka ERNESTO MALAVEZ, M.D., the Respondent, was authorized to practice medicine in New York state on September 16, 1985, by the issuance of license number 164029 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about February 6, 2004, the Texas Board of Medical Examiners (hereinafter "Texas Board"), by an Agreed Order (hereinafter "Texas Order"), suspended Respondent's medical license, stayed the suspension, and placed him on seven (7) years probation with terms and conditions, and imposed a \$5000.00 administrative penalty, based on being convicted of committing an act constituting a crime under state law.

B. The conduct resulting in the Texas Board 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 §6530(9)(a) being convicted of committing an act under the law of another jurisdiction and which, if committed in this state, would have constituted a crime under New York state law).

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 New York state, in that Petitioner charges:

1. The facts in Paragraphs A and/or B.

DATED: *Aug. 24*, 2004
Albany, New York


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