

**BEFORE THE BOARD OF MEDICAL PRACTICE
OF THE STATE OF DELAWARE**

IN THE MATTER OF:)	
COMPLAINT AGAINST)	FINAL BOARD ORDER
RAFAEL M. COMBALECER, M.D.)	Complaint No. 10-76-06
(License No. C1-0007850)		

PUBLIC ORDER

AND NOW, to wit, this 24th day of July, 2007;

WHEREAS, the duly appointed Board of Medical Practice hearing panel has filed the attached written report in which the panel members unanimously agree that the above-captioned Complaint has been shown by a preponderance of the evidence presented to establish the commission of unprofessional conduct by Rafael M. Combalecer, M.D., in violation of the Medical Practice Act specifically, 24 Del. C. § 1731(b)(19); and,

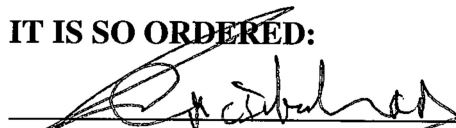
WHEREAS, pursuant to 24 *Del. C.* §1734(a), the hearing panel has reported to the Board its recommendation that the physician's Certificate to Practice Medicine in the State of Delaware be revoked and the Board at a formal public hearing conducted on July 24, 2007, upon due notice to the Respondent, has considered the findings, conclusions, and recommendation of the hearing panel, and has adopted said findings as the findings of fact of the Board; and,

WHEREAS, after due consideration, the Board has also accepted the conclusions of law and recommendation of the hearing panel and determined that the Certificate to Practice Medicine (C1-0007850) issued to Rafael M. Combalecer, M.D. should be revoked for unprofessional conduct as alleged in the Complaint No. 10-76-06.

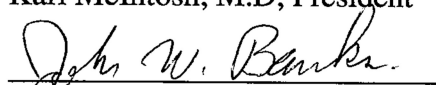
NOW THEREFORE, by the affirmative vote of not less than seven (7) members of the Board of Medical Practice, the Certificate to Practice Medicine previously issued by this Board to Rafael M. Combalecer, M.D., is **REVOKED**.


Pursuant to 24 Del. C. §1735 a copy of this Order shall be served personally or by certified mail, return receipt requested, upon Rafael M. Combalecer, M.D. The designation of "CONFIDENTIAL" is to be removed from the Report of the Hearing Panel and said report shall be attached to this Public Order.

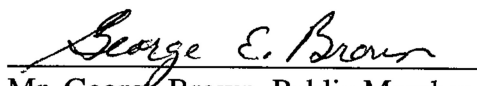
IT IS SO ORDERED:


Karl McIntosh, M.D, President

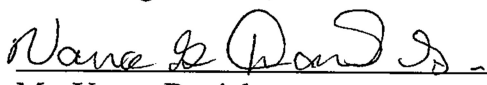
Galicano Inguito, M.D., Vice-President


Mr. John Banks, Public Member


Ray A. Blackwell, M.D.

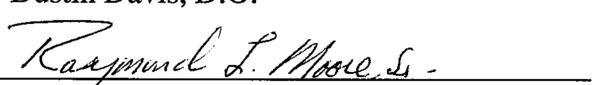

Mr. George Brown, Public Member

Stephen Cooper, M.D.

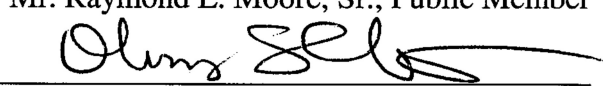

Mr. Vance Daniels

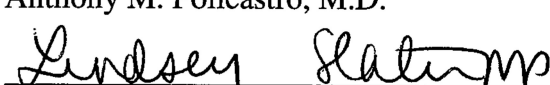

Dustin Davis, D.O.

Nasreen Khan, D.O.


Mr. Raymond L. Moore, Sr., Public Member


Anthony M. Policastro, M.D.


Oluseyi Senu-Oke, M.D.


Lindsay Slater, M.D.

Date Mailed: 7/25/2007

**BEFORE THE BOARD OF MEDICAL PRACTICE
IN AND FOR THE STATE OF DELAWARE**

IN THE MATTER OF

RAFAEL M. COMBALECECER, M.D.

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**REPORT OF THE HEARING PANEL
COMPLAINT NO. 10-76-06**

NATURE OF THE CASE

A Formal Complaint Docket No. 10-76-06 alleging a violation of the provisions of the Medical Practice Act specifically, 24 Del. C. § 1731(b)(19) was filed by the State of Delaware against Rafael M. Combalecer, M.D. A three (3) Board Member Hearing Panel consisting of James Salva, M.D., Vincent Lobo, D.O. and Margaret Prouse, Ed.D., Public Member, was appointed to consider the evidence to be presented at the hearing concerning the Formal Complaint. Pursuant to the requirements of the Medical Practice Act (24 Del. C. § 1734), the evidentiary hearing was scheduled upon due notice to Dr. Combalecer and conducted before the designated Hearing Panel on March 16, 2007 in the Kent Conference Room, Rodney Building, Department of Insurance, 841 Silver Lake Boulevard, Dover, Delaware . Although duly notified, Dr. Combalecer failed to appear. Kimberly A. Wilson, Deputy Attorney General, presented the evidence in support of the allegations contained in the Formal Complaint as provided in 24 Del. C. § 1734(e).

The Medical Practice Act [24 Del. C. § 1734(b)] provides that the panel hearing is to be conducted in executive session unless the physician requests a public hearing. Dr. Combalecer was not present to request a public hearing and, pursuant to 24 Del. C. § 1734(b), by unanimous vote, the Hearing Panel entered into executive session for the hearing.

The Formal Complaint against Dr. Combalecer alleged that he engaged in unprofessional conduct in violation of 24 Del. C. § 1731(b)(19) in that his license to practice medicine was revoked by the State of Michigan.

SUMMARY OF THE EVIDENCE PRESENTED

Summary of the State's Case

Ms. Wilson presented the State's case through documentary evidence and argument.

Rafael M. Combalecer, M.D. is a Delaware licensed physician holding License No. C1-0007850. Ms. Wilson introduced as **State's Exhibit 1** notice of service upon Dr. Combalecer by regular and certified mail showing that notice of the March 16, 2007 hearing was delivered to Dr. Combalecer at [REDACTED] Irving, Texas 75063, Dr. Combalecer's address of record with the Delaware Board of Medical Practice.

Ms. Wilson submitted that the Delaware complaint was filed as the result of information that the State of New York had revoked Dr. Combalecer's license in response to an Order of Revocation in the State of Michigan related to conduct engaged in by Dr. Combalecer in Michigan. A copy of the Order and attachments was admitted as **State's Exhibit 2**. Dr. Combalecer's Michigan license was summarily suspended in response to an Administrative Complaint filed by the Department of Attorney General, Licensing and Regulation Division (Case No. 08-2003-142501) against Dr. Combalecer before the Disciplinary Subcommittee of the Michigan Board of Medicine on February 3, 2006. The Order of Summary Suspension was personally served upon Dr. Combalecer.

Specifically, the Administrative Complaint alleged that Dr. Combalecer had entered a plea of no-contest to, and was found guilty of, the felony offense of Criminal Sexual Conduct-Second Degree (State Prisoner), for engaging in sexual contact with a person he knew to be

under the jurisdiction of the Michigan Department of Corrections while Dr. Combalecer was a contractual employee of the Department of Corrections. Dr. Combalecer failed to respond to the Administrative Complaint and his Michigan license to practice medicine was revoked indefinitely by the Michigan Board of Medicine Disciplinary Subcommittee effective June 14, 2006.

The State submitted a copy of the New York Order revoking Dr. Combalecer's license in New York as **State's Exhibit 3**.

The State argued that Dr. Combalecer engaged in felony conduct during the course of his employment as a physician and submitted that Dr. Combalecer's Delaware license to practice medicine should be permanently revoked.

Summary of the Respondent's Case

No evidence or information was submitted by Dr. Combalecer in response to the Formal Complaint against him.

RELEVANT STATUTORY PROVISIONS

DELAWARE MEDICAL PRACTICE ACT

24 Del. C. § 1731(b) - Unprofessional conduct is hereby defined as any of the following acts:

(19) Suspension or revocation of a certificate to practice medicine or of the authorizing document to practice another profession or occupation regulated under this chapter, or other disciplinary action taken by the regulatory authority in another state or territory. In making its determination, the Board may rely upon decisions made by the appropriate authorities in other states and may not permit a collateral attack on those decisions.

UNANIMOUS FINDINGS OF FACT BY THE HEARING PANEL

The Hearing Panel makes the following unanimous findings of fact:

1. Rafael M. Combalecer, M.D., is a Delaware licensed physician holding License No. C1-0007850 and is subject to the jurisdiction of the Board of Medical Practice for disciplinary purposes.
2. Dr. Combalecer was notified of the Delaware Panel Hearing by regular and certified mail delivered to his last address of record on file with the Delaware Board of Medical Practice and failed to appear for the hearing or to offer any response to the complaint against him.
3. Dr. Combalecer's Michigan license was revoked effective June 14, 2006 based upon allegations in the Administrative Complaint filed against him in Michigan indicating that he entered a plea of no-contest to, and was found guilty of, the felony offense of Criminal Sexual Conduct- Second Degree (State Prisoner) for engaging in sexual contact with a person he knew to be under the jurisdiction of the Michigan Department of Corrections while Dr. Combalecer was a contractual employee of the Department of Corrections.
4. Dr. Combalecer did not respond to the Administrative Complaint against him in the State of Michigan and the allegations in the complaint against him were deemed admitted. The detailed allegations set forth in the Michigan Administrative Complaint are incorporated herein by reference. (*See State's Exhibit 2*).
5. The New York State Board for Professional Conduct revoked Dr. Combalecer's license to practice medicine in the State of New York by Order dated September 26, 2006 based upon Dr. Combalecer's felony conviction in Michigan for Criminal Sexual Conduct in the Second Degree. Dr. Combalecer did not respond to the allegations against him in New York.

PANEL DISCUSSION AND CONCLUSIONS OF LAW

Pursuant to 24 Del. C. § 1731, the Board may impose sanctions or take action upon a finding that a licensee is guilty of unprofessional conduct. The allegation of unprofessional conduct before the Hearing Panel is based upon 24 Del. C. §1731(b)(19) "Suspension or revocation of a Certificate to practice medicine . . . or other disciplinary action taken by the regulatory authority in another state."

The evidence before the Hearing Panel clearly established that Dr. Combalecer has been disciplined in the States of Michigan and New York and the Hearing Panel, therefore, concludes as a matter of law that Dr. Combalecer is guilty of unprofessional conduct in violation of 24 Del. C. § 1731(b)(19). The facts as found by the State of Michigan are not subject to collateral attack in these proceedings. 24 Del. C. § 1731(b)(19).

The Hearing Panel concludes that had Dr. Combalecer's conduct occurred in Delaware, the conduct would likewise be grounds for discipline in the State of Delaware pursuant to 24 Del. C. §1731(b)(3) and (b)(11). In addition, Dr. Combalecer's conviction of a crime substantially related to the practice of medicine is grounds for disciplinary action in Delaware pursuant to 24 Del. C. §1731(b)(2).

The conduct giving rise to the revocation of Dr. Combalecer's licenses in the States of Michigan and New York requires the Hearing Panel to recommend a disciplinary sanction that will ensure that patients in the State of Delaware will be protected. Dr. Combalecer failed to appear for the hearing and the Hearing Panel has no evidence as to Dr. Combalecer's demeanor, credibility or any mitigating factors to enable the Panel to conclude that anything less than revocation is warranted. The Hearing Panel, therefore, agrees with the State's recommendation


that the appropriate sanction for Dr. Combalecer's conduct in the practice of medicine is the permanent revocation of his license.

PANEL CONCLUSION AND RECOMMENDATION


After giving full consideration to the evidence presented, the Hearing Panel unanimously finds that the allegation of unprofessional conduct based on 24 Del. C. § 1731(b)(19) has been established by a preponderance of the evidence.

Based upon the above, the Hearing Panel recommends that the Certificate to Practice Medicine issued to Rafael M. Combalecer, M.D. be revoked.

Respectfully submitted, this 5th day of June, 2007.


James Salva, M.D., Chairman


Vincent Lobo, D.O.


Margaret Prouse, Ed.D., Public Member