

FILED

Department of Professional Regulation
AGENCY CLERK

DEPARTMENT OF PROFESSIONAL REGULATION
BOARD OF MEDICINE

Paul Cope

DEPARTMENT OF PROFESSIONAL
REGULATION,

CLERK

DATE

4/15/89

Petitioner,

DPR CASE NUMBER: 0067161
DOAH CASE NUMBER: 88-5115
LICENSE NUMBER: ME 0030012

-vs-

EULOGIO VIZCARRA, M.D.,

Respondent.

FINAL ORDER

This cause came before the Board of Medicine (Board) pursuant to Section 120.57(1)(b)9, Florida Statutes, on June 2, 1989, in Tallahassee, Florida, for the purpose of considering the Hearing Officer's Recommended Order, Respondent's Objections to Findings of Fact and Motion To Dismiss, and Petitioner's Response to Respondent's Objections (copies of which are attached hereto as Exhibits A, B, and C, respectively) in the above-styled cause. The Respondent's "objections" are accepted as Exceptions.

Petitioner, Department of Professional Regulation, was represented by Stephanie A. Daniel, Attorney at Law. Respondent was present and represented by John R. Weed, Attorney at Law.

Upon review of the Recommended Order, the other pleadings, the argument of the parties, and after a review of the complete record in this case, the Board makes the following findings and conclusions.

FINDINGS OF FACT

1. Findings of fact set forth in the Recommended Order are approved and adopted and incorporated herein.

2. There is competent substantial evidence to support the findings of fact.

CONCLUSIONS OF LAW

1. The Board has jurisdiction of this matter pursuant to Section 120.57(1), Florida Statutes, and Chapter 458, Florida Statutes.

2. The conclusions of law set forth in the Recommended Order are approved and adopted and incorporated herein.

3. There is competent substantial evidence to support the conclusions of law.

RULINGS ON EXCEPTIONS

1. Rejected for the reasons set forth by the Department in its Response.

2. Rejected for the reasons set forth by the Department in its Response.

3. Rejected for the reasons set forth by the Department in its Response.

4. Rejected for the reasons set forth by the Department in its Response.

5. Rejected for the reasons set forth by the Department in its Response.

6. Rejected for the reasons set forth by the Department in its Response.

7. Rejected for the reasons set forth by the Department in its Response.

8. Rejected for the reasons set forth by the Department in its Response.

9. Rejected for the reasons set forth by the Department in its Response.

10. Rejected for the reasons set forth by the Department in its Response.

PENALTY

Upon a complete review of the record in this case, the Board determines that the penalty recommended by the Hearing Officer be accepted and adopted.

WHEREFORE,

IT IS HEREBY ORDERED AND ADJUDGED that

1. Respondent shall pay an administrative fine in the amount of \$2,500 to the Executive Director within six months of the date this Final Order is filed.

2. Respondent's license to practice medicine in the State of Florida is placed on PROBATION for a period of one year, subject to the following terms and conditions:

a. Respondent shall comply with all state and federal statutes, rules and regulations pertaining to the practice of medicine, including Chapters 455, 458, and 893, Florida Statutes, and Rules 21M, Florida Administrative Code.

b. Respondent shall appear before the Probation Committee at the first meeting after said probation commences, at the last meeting of the Probation Committee preceding termination of

probation, and at such other times requested by the Committee or the Board.

c. In the event Respondent leaves the State of Florida for a period of thirty days or more, or otherwise does not engage in the active practice of medicine in the State of Florida, then certain provisions of Respondent's probation (and only those provisions of Respondent's probation) shall be tolled as enumerated below and shall remain in a tolled status until Respondent returns to active practice in the State of Florida. Respondent must keep current residence and business addresses on file with the Board. Respondent shall notify the Board within ten (10) days of any changes of said addresses. Furthermore, Respondent shall notify the Board within ten (10) days in the event that Respondent leaves the active practice of medicine in Florida.

d. In the event that Respondent leaves the active practice of medicine in this state for a period of thirty days or more, the following provisions of his probation shall be tolled:

1. The time period of probation shall be tolled.
2. The provisions regarding supervision by another physician shall be tolled.

e. Respondent shall practice only under the indirect supervision of a physician fully licensed under Chapter 458 to be approved by the Board or Probation's Committee. Respondent shall have the monitoring physician with him at his first probation appearance before the Board or its Probationer's Committee. Prior to approval of the monitoring physician by the Committee,

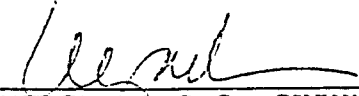
the Respondent shall provide to the monitoring physician a copy of the Administrative Complaint and Final Order. Prior to the approval of the monitoring physician by the Committee, Respondent shall submit to the Committee a current curriculum vitae and a description of the current practice from the proposed monitoring physician. Said materials shall be received in the Board office no later than fourteen days before Respondent's first scheduled probation appearance. The attached definition of a monitoring physician is incorporated herein. The monitoring physician shall receive copies of all prescriptions for controlled substances written by Dr. Vizcarra during his probation and shall submit quarterly reports to the Board's Probation Committee.

3. Respondent shall attend 21 hours of Category I Continuing Medical Education courses within one year in the area of appropriate drug prescribing. Respondent shall submit a written plan to the Probationer's Committee for approval prior to completion of said courses. These hours shall be in addition to those hours required for renewal of licensure.

This order takes effect upon filing with the Clerk of the Department of Professional Regulation.

DONE AND ORDERED this 13 day of June, 1989.

BOARD OF MEDICINE


MARGARET C.S. SKINNER, M.D.
VICE CHAIRMAN

NOTICE OF RIGHT TO JUDICIAL REVIEW

A PARTY WHO IS ADVERSELY AFFECTED BY THIS FINAL ORDER IS ENTITLED TO JUDICIAL REVIEW PURSUANT TO SECTION 120.68, FLORIDA STATUTES. REVIEW PROCEEDINGS ARE GOVERNED BY THE FLORIDA RULES OF APPELLATE PROCEDURE. SUCH PROCEEDINGS ARE COMMENCED BY FILING ONE COPY OF A NOTICE OF APPEAL WITH THE AGENCY CLERK OF THE DEPARTMENT OF PROFESSIONAL REGULATION AND A SECOND COPY, ACCOMPANIED BY FILING FEES PRESCRIBED BY LAW, WITH THE DISTRICT COURT OF APPEAL, FIRST DISTRICT, OR WITH THE DISTRICT COURT OF APPEAL IN THE APPELLATE DISTRICT WHERE THE PARTY RESIDES. THE NOTICE OF APPEAL MUST BE FILED WITHIN THIRTY (30) DAYS OF RENDITION OF THE ORDER TO BE REVIEWED.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Order has been provided by certified mail to Eulogio Vizcarra, M.D., Post Office Box 1030, 409 East Ash Street, Perry, Florida 32347 and John R. Weed, Attorney at Law, 605 South Jefferson Street, Perry, Florida 32347, by U.S. Mail to Larry J. Sartin, Hearing Officer, Division of Administrative Hearings, The DeSoto Building, 1230 Apalachee Parkway, Tallahassee, Florida 32399-1550; and by interoffice delivery to Joseph Harrison, Attorney at Law, Department of Professional Regulation, Northwood Centre, 1940 North Monroe Street, Tallahassee, Florida 32399-0750 at or before 5:00 P.M., this 15 day of June, 1989

Anthony J. Faircliff

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

DEPARTMENT OF PROFESSIONAL)
REGULATION,)
)
Petitioner,)
)
vs.) CASE NO. 88-5115
)
EULOGIO VIZCARRA, M.D.,)
)
Respondent.)
_____)

RECOMMENDED ORDER

Pursuant to written notice a formal hearing was held in this case before Larry J. Sartin, a duly designated Hearing Officer of the Division of Administrative Hearings, on February 27 and 28, 1989, in Tallahassee, Florida.

APPEARANCES

For Petitioner: Joseph Harrison
Senior Attorney
Department of Professional
Regulation
130 North Monroe Street
Tallahassee, Florida 32399-0750

For Respondent: John R. Weed, Esquire
605 South Jefferson Street
Perry, Florida 32347

INTRODUCTION

The Petitioner, the Department of Professional Regulation, filed an Administrative Complaint against the Respondent, Eulogio Vizcarra, M.D. Dr. Vizcarra signed an Election of Rights form on October 4, 1988, disputing the allegations of fact contained in the Administrative Complaint and requesting a formal hearing pursuant to Section 120.57, Florida Statutes. The request for hearing and the Administrative

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Complaint were filed with the Division of Administrative Hearings by letter dated October 17, 1988.

At the formal hearing the Petitioner presented the testimony of Thomas K. Hannah and Terence P. McCoy, M.D. Dr. McCoy was accepted as an expert in family practice of medicine.

Dr. Vizcarra testified on his own behalf and presented the testimony of S. L. Dr. Vizcarra was accepted as an expert in general medicine.

The parties presented one composite exhibit. The exhibit was marked as Joint Composite Exhibit 1 and was accepted into evidence. The parties also filed a Stipulation which contains stipulated findings. Those stipulated facts are hereby accepted.

The Petitioner has filed a proposed recommended order containing proposed findings of fact. A ruling on each proposed finding of fact has been made either directly or indirectly in this Recommended Order or the proposed finding of fact has been accepted or rejected in the Appendix which is attached hereto. Dr. Vizcarra did not file a proposed recommended order.

ISSUE

Whether disciplinary action should be taken against Dr. Vizcarra's Florida license to practice medicine for violating Sections 458.331(1)(m), (q) and/or (t), Florida Statutes, as alleged in the Administrative Complaint against Dr. Vizcarra?

FINDINGS OF FACT

1. The Petitioner is the state agency charged with the responsibility to prosecute administrative complaints against licensed physicians in the State of Florida.

2. Eulogio Vizcarra, M.D., is, and has been at all times relevant to this proceeding, a licensed physician in the State of Florida. Dr. Vizcarra's license number is ME 0030012.

3. On January 2, 1984, Dr. Vizcarra saw patient S. L. for the first time. S. L. was diagnosed by Dr. Vizcarra as suffering from tension headaches and hypertension.

4. Dr. Vizcarra continued to see S. L. from January, 1984, until at least June 6, 1987.

5. Throughout the period of time that Dr. Vizcarra treated S. L., including the period of June 14, 1986, through June 6, 1987, S. L. complained of, and was diagnosed as suffering from, numerous ailments, including hemorrhoids, nasal conjunction, lacerations, back pain, abdominal cramps, sore throat, diarrhea, gastrointestinal bleeding, laryngitis, chest pain, tooth ache, rhinitis, upper respiratory tract infection, viral syndrome, impotence and a ganglion cyst.

6. During the time that Dr. Vizcarra treated S. L., including the period of June 14, 1986, through June 6, 1987, S. L. was seen by Dr. Vizcarra and other physicians on numerous occasions.

7. The primary and most repeated diagnosis of S. L. by Dr. Vizcarra during the period of time that Dr. Vizcarra treated S. L. was migraine headaches and hypertension.

8. In January of 1984, when S. L. first saw Dr. Vizcarra, S. L. was initially given Amitriptyline, a prophylactic drug, for his migraine headaches. The use of Amitriptyline, or other prophylactic drugs, was not continued by Dr. Vizcarra in his treatment of S. L., however.

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9. In April, 1984, Dr. Vizcarra referred S. L. to Dr. Kohler, a neurologist, for tests concerning S. L.'s migraine headaches. Dr. Vizcarra also referred S. L. to Dr. Loucshmann (phonetic) in April, 1984, for treatment of his migraine headaches and his hypertension. Neither physician continued to see S. L. after April, 1984.

10. Dr. Vizcarra referred S. L. to other physicians:

- (1) Dr. Hernandez saw S. L. in May, 1986, for hemorrhoids; Dr. Baker, a cardiologist, saw S. L. in July, 1986, for chest pain;
- (3) Dr. Desai, a general surgeon, saw S. L. in August, 1986, for hemorrhoids and in June, 1987, for abdominal pain; and (4) Dr. Bonzon saw S. L. from January, 1987, through April, 1987, for the removal of a ganglion cyst. Dr. Vizcarra did not, however, refer S. L. to any other physician after April, 1984, for treatment of, or testing concerning, S. L.'s migraine headaches.

11. During the period of time from June 14, 1986, through June 6, 1987, S. L. also was seen by various emergency room physicians, including Dr. Sklar, Dr. Amadio and Dr. Adams. All of these physicians listed Dr. Vizcarra as the "family physician" or as the "physician notified" on their record of S. L.'s visit.

12. Finally, S. L. was seen in July and August, 1986, by Dr. Adom.

13. Dr. Vizcarra's medical records concerning S. L. include information concerning S. L.'s treatment by the physicians listed in findings of fact 9-12.

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14. During the period of time from June 14, 1986, through June 6, 1987, Dr. Vizcarra prescribed over 60 injections of Talwin, Nubain and Stadol for S. L. S. L. also received injections of these drugs from some of the other physicians S. L. was seen by during this period of time.

15. S. L. was also given approximately 25 to 30 prescriptions for Tylox and Darvocet, as well as other analgesic medications, during the period of time at issue in this proceeding. S. L. also received prescriptions for these drugs from some of the other physicians S. L. was seen by during this period of time.

16. Talwin, Nubain, Stadol, Tylox and Darvocet (hereinafter referred to as the "Five Legend Drugs") are narcotic analgesic medications. They are all legend drugs and have the potential for addiction.

17. Dr. Vizcarra indicated that he prescribed the Five Legend Drugs given to S. L. in order to relieve the pain that S. L. was suffering from. The rapid relief of pain with narcotic analgesics is acceptable only on an infrequent basis. Dr. Vizcarra's use of the Five Legend Drugs during the period of June 14, 1986, through June 6, 1987, was excessive.

18. Dr. Vizcarra's use of the Five Legend Drugs during the period of June 14, 1986, through June 6, 1987, constituted an inappropriate use of legend drugs. Dr. Vizcarra failed to provide proof that he made an adequate medical assessment of S. L.'s condition or the possible consequences of S. L.'s exposure to the Five Legend Drugs prescribed for him by Dr. Vizcarra or

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the other physicians who treated S. L. from June 14, 1986, through June 6, 1987.

19. The medical records maintained by Dr. Vizcarra fail to justify his treatment of S. L. during the period of June 14, 1986, through June 6, 1987.

20. Dr. McCoy's testimony concerning whether Dr. Vizcarra's treatment of S. L. constituted a violation of Section 458.331(1)(t), Florida Statutes, was based upon Dr. McCoy's review of Dr. Vizcarra's medical records. Dr. Vizcarra provided further details concerning his treatment of S. L. during the hearing which were not included in his medical records. Dr. McCoy did not hear this testimony. Therefore, Dr. McCoy's opinions concerning whether Dr. Vizcarra's treatment of S. L. constituted a violation of Section 458.331(1)(t), Florida Statutes, did not take into account all of the evidence.

CONCLUSIONS OF LAW

The Division of Administrative Hearings has jurisdiction of the parties to and the subject matter of this proceeding. Section 120.57(1), Florida Statutes (1987).

This proceeding is penal in nature. Bach v. Florida Board of Dentistry, 378 So. 2d 34 (Fla. 1st DCA 1980). Because Dr. Vizcarra's license is at stake, the evidence to support the charges against him must be clear and convincing. Ferris v. Turlington, 510 So. 2d 292 (Fla. 1987).

Section 458.331(2), Florida Statutes, authorizes the Board of Medicine to enter orders imposing one or more of the penalties specified in Section 458.331(2), Florida Statutes. 010

the Board of Medicine finds a licensee guilty of any of the acts set forth in Section 458.331(1), Florida Statutes.

In the Administrative Complaint filed against Dr. Vizcarra in this case, he has been charged with having committed the following prohibited acts of Section 458.311(1), Florida Statutes:

(m) Failing to keep written medical records justifying the course of treatment of the patient, including, but not limited to, patient histories, examination results, and test results.

.

(g) Prescribing, dispensing, administering, mixing, or otherwise preparing a legend drug, including any controlled substance, other than in the course of the physician's professional practice. For the purposes of this paragraph, it shall be legally presumed that prescribing, dispensing, administering, mixing, or otherwise preparing legend drugs, including all controlled substances, inappropriately or in excessive or inappropriate quantities is not in the best interest of the patient and is not in the course of the physicians' professional practice, without regard to his intent.

.

(t) Gross or repeated malpractice or the failure to practice medicine with that level of care, skill, and treatment which is recognized by a reasonably prudent similar physician as being acceptable under similar conditions and circumstances. The board shall give great weight to the provisions of s. 768.45 when enforcing this paragraph. As used in this paragraph, "repeated malpractice" includes, but is not limited to, three or more claims for medical malpractice within the previous 5-year period resulting in indemnities being paid in excess of \$10,000 each 000011

the claimant in a judgment or settlement and which incidents involved negligent conduct by the physician. As used in this paragraph, "gross malpractice" or "the failure to practice medicine with that level of care, skill, and treatment which is recognized by a reasonably prudent similar physician as being acceptable under similar conditions and circumstances," shall not be construed so as to require more than one instance, event, or act.

The evidence presented by the Petitioner proved that Dr. Vizcarra violated Section 458.331(1)(m), Florida Statutes, by failing to keep written medical records justifying his course of treatment for S. L. during the period of June 14, 1986, through June 6, 1987.

The evidence presented in this case also proved that Dr. Vizcarra prescribed, dispensed and administered the Five Legend Drugs to S. L. during the period of June 14, 1986, through June 6, 1987, in excessive and inappropriate quantities. Dr. Vizcarra's excessive use of the Five Legend Drugs in treating S. L. was not in S. L.'s best interest. Dr. Vizcarra has, therefore, violated Section 458.331(1)(g), Florida Statutes.

The evidence presented in this case failed to prove that Dr. Vizcarra's treatment of S. L. during the period of June 14, 1986, through June 6, 1987, constituted the "failure to practice medicine with that level of care, skill, and treatment which is recognized by a reasonably prudent similar physician as being acceptable under similar conditions and circumstances. The evidence presented by the Petitioner was not sufficient to prove all of the elements of Section 458.331(1)(t), Florida Statutes, especially in light of the fact that Dr. McCoy's testimony was

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based upon his review of Dr. Vizcarra's medical records and did not take into consideration Dr. Vizcarra's testimony. The Petitioner has, therefore, failed to prove that Dr. Vizcarra violated Section 458.331(1)(t), Florida Statutes.

The Petitioner has included proposed penalties in its proposed recommended order. The penalties are based upon the Petitioner's conclusion that the three alleged violations of the Administrative Complaint have been proven. The evidence proved, however, that Dr. Vizcarra committed only two of those violations. Therefore, the proposed administrative fine of \$5,000.00 should be reduced to a fine of \$2,500.00. The Petitioner's proposed penalty, with the reduction of the administrative fine, is consistent with the disciplinary guidelines of Chapter 21M-20, Florida Administrative Code.

RECOMMENDATION

Based upon the foregoing Findings of Fact and Conclusions of Law, it is

RECOMMENDED that Eulogio Vizcarra, M.D., be found guilty of having violated Sections 458.331(1)(m) and (g), Florida Statutes. It is further

RECOMMENDED that the portion of the Administrative Complaint against Dr. Vizcarra alleging that he violated Section 458.331(1)(t), Florida Statutes, be dismissed. It is further

RECOMMENDED that Dr. Vizcarra be subjected to the following penalties:

a. Payment of an administrative fine in the amount of \$2,500.00;

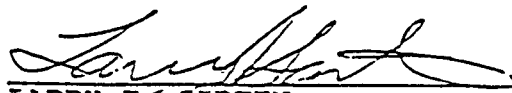
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b. Placement on probation for a period of one year.

Dr. Vizcarra should be placed under the indirect supervision of a Board of Medicine physician who should receive copies of all prescriptions for controlled substances written by Dr. Vizcarra during his probation. Quarterly reports should be made by the monitoring physician to the Board of Medicine's probation committee; and

c. Attendance of twenty-one hours of Continuing Medical Education in courses concerning appropriate drug prescribing, in addition to Continuing Medical Education hours required for license renewal.

DONE and ENTERED this 24th day of April, 1989, in Tallahassee, Florida.



LARRY J. MARTIN
Hearing Officer
Division of Administrative Hearings
The DeSoto Building
1230 Apalachee Parkway
Tallahassee, Florida 32399-1550
(904) 488-9675

Filed with the Clerk of the
Division of Administrative Hearings
this 24th day of April, 1989.

Copies Furnished To:

Joseph Harrison
Senior Attorney
Department of Professional Regulation
130 North Monroe Street
Tallahassee, Florida 32399-0750

John R. Weed, Esquire
605 South Jefferson Street
Perry, Florida 32347

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Ms. Dorothy Faircloth
Executive Director
Department of Professional
Regulation
130 North Monroe Street
Tallahassee, Florida 32399-0750

Kenneth Easley
General Counsel
Department of Professional
Regulation
130 North Monroe Street
Tallahassee, Florida 32399-0750

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APPENDIX

MAIL RECEIVED

Case Number 88-5116

APR 25 1989

The Petitioner has submitted proposed findings of fact. It has been noted below which proposed findings of fact have been generally accepted and the paragraph number(s) in the Recommended Order where they have been accepted, if any. Those proposed findings of fact which have been rejected and the reason for their rejection have also been noted.

The Petitioner's Proposed Findings of Fact

<u>Proposed Finding of Fact Number</u>	<u>Paragraph Number in Recommended Order of Acceptance or Reason for Rejection</u>
1	2.
2	14, 16 and 18.
3	This summary of testimony supports findings of fact 15-18.
4-5	Argument and summary of positions.
6	19.

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STATE OF FLORIDA
DEPARTMENT OF PROFESSIONAL REGULATION

DEPARTMENT OF PROFESSIONAL
REGULATION,

Petitioner,

vs.

CASE NO. 0067161

EULOGIO M. VIZCARRA, M.D.,

Respondent.

ADMINISTRATIVE COMPLAINT

COMES NOW, the Petitioner, Department of Professional Regulation, hereinafter referred to as "Petitioner", and files this Administrative Complaint before the Board of Medicine against Eulogio M. Vizcarra, M.D., hereinafter referred to as "Respondent", and alleges:

1. Petitioner is the state agency charged with regulating the practice of medicine pursuant to Section 20.30, Florida Statutes; Chapter 455, Florida Statutes; and Chapter 458, Florida Statutes.

2. Respondent is, and has been at all times material hereto, a licensed physician in the State of Florida having been issued license number ME 0030012. Respondent's last known address is Post Office Box 1030, 409 East Ash Street, Perry, Florida 32347.

3. From on or about June 14, 1986 until on or about June 6, 1987, Respondent rendered medical care and treatment to patient S.L. for, among other things, migraine headaches and hypertension.

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4. Between the aforementioned dates, Respondent, on separate office visits, inappropriately and/or excessively administered approximately thirty-nine (39) injections of Talwin to patient S.L.

5. Between the aforementioned dates, Respondent, on separate office visits, inappropriately and/or excessively administered approximately twenty-six (26) injections of Nubain to patient S.L.

6. Between the aforementioned dates, Respondent, on separate office visits, inappropriately and/or excessively administered four (4) injections of Stadol to patient S.L.

7. Between the aforementioned dates, Respondent inappropriately and/or excessively prescribed at least eight (8) prescriptions of Tylox for patient S.L.

8. Between the aforementioned dates, Respondent inappropriately and/or excessively prescribed at least twenty-seven (27) prescriptions of Darvocet N100 for patient S.L.

9. Talwin is the product name for pentazocine lactate injection, USP, a Schedule IV controlled substance as defined by Chapter 893, Florida Statutes.

10. Nubain is the product name for nalbuphene hydrochloride, a legend drug as defined by Chapter 893, Florida Statutes.

11. Stadol is the product name for butorphanal tartrate, a legend drug as defined by Chapter 893, Florida Statutes.

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12. Tylox is the product name for capsules containing Acetaminophen and Oxycodone, a Schedule II controlled substance as defined by Chapter 893, Florida Statutes.

13. Darvocet N100 is the product name for Acetaminophen and propoxyphene napsylate, a Schedule IV controlled substance as defined by Chapter 893, Florida Statutes.

COUNT I.

14. Petitioner realleges and incorporates by reference paragraphs one (1) through thirteen (13), as set forth above.

15. In his treatment of patient S.L., Respondent prescribed and/or administered legend drugs, including controlled substances, inappropriately and/or excessively.

16. Based on the foregoing, Respondent has violated Section 458.331(1)(q), Florida Statutes, by prescribing, dispensing, administering, mixing, or otherwise preparing a legend drug, including any controlled substance, other than in the course of the physician's practice. For the purpose of this paragraph, it shall be legally presumed that prescribing, dispensing, administering, mixing, or otherwise preparing legend drugs, including all controlled substances, inappropriately is not in the best interest of the patient and is not in the course of the physician's professional practice, without regard to his intent.

COUNT II

17. Petitioner realleges and incorporates by reference the allegations contained in paragraphs one (1) through thirteen (13) as set forth above.

18. In his treatment of patient S.L., Respondent failed to practice medicine with that level of care, skill and treatment recognized as acceptable by a reasonably prudent similar physician under similar conditions and circumstances.

19. Based on the foregoing, Respondent has violated Section 458.331(1)(t), Florida Statutes, by failing to practice medicine with that level of care, skill, and treatment which is recognized by a reasonably prudent similar physician as being acceptable under similar conditions and circumstances.

COUNT III

20. Petitioner realleges and incorporates by reference the allegations contained in paragraphs one (1) through thirteen (13) as set forth above.

21. In his treatment of patient S.L. for, among other things, migraine headaches and hypertension, Respondent failed to keep written medical records justifying his course of treatment of the patient.

22. Based on the foregoing, Respondent has violated Chapter 458.331(1)(m) (1987), Florida Statutes, formerly Chapter 458.331(1)(n) (1985), Florida Statutes, by failing to keep written medical records justifying the course of treatment of the patient, including, but not limited to, patient histories, examination results, and test results.

WHEREFORE, the Petitioner respectfully requests the Board of Medicine to enter an Order imposing one or more of the following penalties: revocation or suspension of the Respondent's license,

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restriction of the Respondent's practice, imposition of an administrative fine, issuance of a reprimand, placement of the Respondent on probation, and/or any other relief that the Board deems appropriate.

SIGNED this 2 day of Sept, 1988.

LAWRENCE A. GONZALEZ
SECRETARY

DAS
BY: Bruce D. Lamb
General Counsel

COUNSEL FOR DEPARTMENT:

Ronald W. Packham
Senior Attorney
Department of Professional
Regulation
130 North Monroe Street
Tallahassee, Florida 32399-0750
(904)488-0062

JK
JK/cdh/dr
08/31/88

PCP:

FILED
Department of Professional Regulation
AGENCY CLERK
CLERK *Melinda H. Wagner*
DATE 9-6-88

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FLORIDA BOARD OF MEDICINE
DEPARTMENT OF PROFESSIONAL REGULATION

Bob Martinez
Governor

Larry Gonzalez
Secretary

BEFORE THE BOARD OF MEDICINE

FLORIDA BOARD OF MEDICINE
1940 North Monroe Street
Tallahassee, Florida 32399-0770
Telephone (904) 488-0595

DEPARTMENT OF
PROFESSIONAL REGULATION,
PETITIONER

DPR CASE NO. 0067161

Chairperson
Margaret Skinner, M.D.
West Palm Beach, Florida

v.

Eulogio Vizcarra, M.D.
RESPONDENT

Vice Chairperson
Zachariah P. Zachariah, M.D.
Fort Lauderdale, Florida

Members
Fuad S. Ashkar, M.D.
Miami, Florida

James N. Burt, M.D.
Jacksonville, Florida

Ms. Pamela A. Campbell
St. Petersburg, Florida

Edward A. Dauer, M.D.
Fort Lauderdale, Florida

J. Lee Dockery, M.D.
Gainesville, Florida

Emilio Echevarria, M.D.
Tampa, Florida

Manning H. Hanline, Jr., M.D.
Pensacola, Florida

Ms. Perla Hantman
Miami Lakes, Florida

Louis C. Murray, M.D.
Orlando, Florida

Gilbert M. Rodriguez
Tampa, Florida

Luis H. Serentill, M.D.
Port Charlotte, Florida

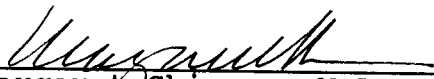
George F. Slade, M.D.
Tallahassee, Florida

Marilyn Wells, M.D.
Miami, Florida

Upon review of the terms and conditions of the Final Orders of the Board of Medicine rendered June 15, 1989, the documentation offered on behalf of Respondent, and being otherwise fully advised in the premises, it is hereby ORDERED AND ADJUDGED:

That Respondent completed his period of probation on August 5, 1990 and has complied with all terms of the Final Orders rendered June 15, 1989. DONE AND ORDERED this 6 day of July, 1990.

BOARD OF MEDICINE


Margaret Skinner, M.D., Chairperson
Board of Medicine

CERTIFICATE OF SERVICE


I HEREBY CERTIFY that a true and correct copy of the foregoing Final Order has been provided by certified mail to name, address at or before 5:00 p.m., this 7 day of August, 1990.


Executive Director, Board of Medicine

FILED

Department of Professional Regulation
AGENCY CLERK

Executive Director
Dorothy J. Faircloth


CLERK

DATE 8-7-90

DIVISION OF MEDICAL QUALITY ASSURANCE