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STATE OF FLORIDA
AGENCY FOR HEALTH CARE ADMINISTRATION

IN RE: The Emergency Suspension of the License of
NESTOR GARCIA, M.D.
License Number: ME 0048998
Case Number 9707525

ORDER OF EMERGENCY SUSPENSION OF THE LICENSE

Douglas M. Cook, Director of the Agency, hereby ORDERS the Emergency Suspension of the license to practice medicine of Nestor Garcia, M.D. (hereinafter referred to as Dr. Garcia). Dr. Garcia holds license number ME 0048998 and his last known address is 11501 N.W. Second Avenue, Miami, Florida 33168. The Emergency Suspension of Dr. Garcia's license to practice medicine is supported by the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

1. The Agency for Health Care Administration is the state agency charged with regulating the practice of medicine pursuant to Section 20.42 and Chapters 455 and 458, Florida Statutes.
2. Section 455.225(8), Florida Statutes, empowers the Director of the Agency for Health Care Administration to summarily suspend Dr. Garcia's license to practice medicine in the State of Florida, in accordance with Section 120.60(6), Florida Statutes (Supp. 1996).

3. Dr. Garcia is and has been at all times pertinent to this Order a duly licensed physician, licensed pursuant to Chapter 458, Florida Statutes. He specializes in psychiatry.

4. The Physicians Recovery Network (hereinafter referred to as "PRN") is the impaired practitioners program for the Board of Medicine. PRN is an independent program that monitors the evaluation, care and treatment of impaired healthcare professionals. PRN oversees random drug screens and provides for the exchange of information between the treatment providers, PRN and the Agency, for the protection of the public.

5. On April 2, 1990, PRN received information via a telephone call from a relative of Dr. Garcia's that he was abusing drugs.

6. On April 5, 1990, Dr. Goetz (director of PRN) and another physician visited Dr. Garcia to discuss their concerns regarding possible drug use by Dr. Garcia. They found Dr. Garcia to have track marks and bruises on his arms, which were indicative of intravenous drug use. Dr. Garcia admitted himself to Mt. Sinai Medical Center, Chemical Dependency Unit, Miami, Florida that day.

7. Dr. Garcia was diagnosed at Mt. Sinai Medical Center as being addicted to Demerol which he had been using intravenously. A urine screen was positive for Demerol and benzodiazepines.

8. Demerol contains meperidine which is a Schedule II Controlled Substance pursuant to Chapter 893, Florida Statutes. It is a narcotic analgesic with multiple actions qualitatively similar to those of morphine. It is indicated for the relief of moderate to severe pain, and is used as a preoperative medication and for support of anesthesia and obstetrical analgesia. It

can produce drug dependence of the morphine type and has the potential for abuse. Psychic and physical dependence may result upon repeated administration and it should be used with the same degree of caution appropriate to the use of morphine.

9. Benzodiazepines are drugs with a particular chemical structure, all of which induce a sedative-hypnotic effect as a result of action upon the central nervous system.

10. On April 12, 1990, Dr. Garcia was admitted to the Talbott Recovery Center (Talbott), a drug treatment center in Atlanta, Georgia. He was diagnosed as opiate dependent.

11. On April 26, 1990, Talbott reported to PRN a lack of progress by Dr. Garcia and recommended more intensive drug treatment at either Copac in Mississippi or at Parkside Recovery Center (Parkside) in Woodridge, Illinois, both of which are drug treatment facilities.

12. On May 3, 1990, PRN discussed these options with Dr. Garcia. Dr. Garcia stated that he did not have a drug problem but agreed to check into Parkside. He did so on May 9, 1990. Upon admission to Parkside, his urine was found to be positive for opiates. He was soon after diagnosed as opiate dependent. He was also diagnosed as having a narcissistic personality disorder with antisocial features.

13. On or about May 29, 1990, while a patient at Parkside, Dr. Garcia's urine tested positive for benzodiazepines.

14. On July 27, 1990, Dr. Garcia was transferred from Parkside to Talbott. Parkside recommended long-term monitoring. Dr. Garcia's evaluators at both Parkside Recovery Center and Talbott Recovery Center observed that Dr. Garcia had a "significant anti-social personality disorder" and a "consistently displayed level of dangerousness."

15. On August 3, 1990, Dr. Garcia signed a contract with PRN whereby he agreed to abstain completely from the use of any medications, alcohol and other mood altering substances. On August 3, 1990, Dr. Garcia submitted a urine sample which tested positive for barbiturates.

16. On August 6, 1990, Dr. Garcia was released from Talbott Recovery Center. He was instructed by PRN not to practice for a period of at least one year.

17. Upon his release from Talbott Recovery Center, Dr. Garcia entered outpatient treatment at Mt. Sinai Medical Center. He left the program in the Fall of 1990 against medical advice.

18. On December 13, 1990, Dr. Garcia was ordered by the Department of Professional Regulation (predecessor to the Agency for Health Care Administration) to submit to a mental exam and a physical exam. Dr. Garcia did so. Both physicians stated that Dr. Garcia was unable to practice medicine with skill and safety due to drug impairment and recommended long term treatment. Based on the evaluations, the Department suspended Dr. Garcia's license on an emergency basis on February 13, 1991.

19. On February 27, 1991, Dr. Garcia was charged by the Department with being in violation of Section 458.33191(s), Florida Statutes by being unable to practice medicine with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals or any other type of material or as a result of any mental or physical condition.

20. On August 8, 1991, Dr. Garcia entered a new contract with PRN whereby he agreed to: attend group meetings two times per week; participate in a 12-step program for

recovering professionals; stay in contact with PRN; submit to urine screens; and notify PRN should he use mood altering substances.

21. On September 23, 1991, following a formal hearing before a hearing officer, the Board of Medicine found Dr. Garcia to be in violation of the above listed statute, and suspended his license for one year and thereafter until he appeared before the board and demonstrated his ability to practice with skill and safety, to be followed by five (5) years probation to include compliance with a PRN contract.

22. On March 22, 1992 Dr. Garcia was charged by the Department with the following:

a. billing an insurance company for services he stated he rendered in March of 1990 that he never rendered; falsifying records to support the fraudulent billings; and threatening a witness during the investigation of the fraudulent billing;

b. practicing medicine after he was served with the Emergency Suspension Order issued by the Department on February 13, 1991 in that he treated one patient after the order was served; and

c. unlawfully taking Demerol from a pharmacy while in Parkside Recovery Center, which resulted in the positive urine on May 29, 1990.

23. Dr. Garcia complied with the PRN contract and on July 20, 1992, the Board of Medicine reinstated Dr. Garcia's license to practice medicine. Dr. Garcia was placed on probation, a term of which was that he had to stay in compliance with his PRN contract.

24. On December 24, 1996, the Board of Medicine placed Dr. Garcia on one additional year of probation in response to the charges filed on March 22, 1992 (listed above).

25. In 1996, Dr. Garcia, who is married, became romantically involved with an employee. The relationship lasted several months, until the employee terminated the relationship. Dr. Garcia fired the employee, then began to contact her repeatedly in an attempt to reestablish their relationship. He threatened on several occasions to kill her and then commit suicide. Several Metro-Dade Police Department reports were filed regarding Dr. Garcia stalking the victim. The victim filed for a civil injunction which was granted, but was not served by April 1, 1997.

26. On April 1, 1997, Dr. Garcia broke into the victim's home through a window at 3:00 a.m. and threatened to kill her with a gun. She managed to flee her home and contact the police. Dr. Garcia was arrested on April 9, 1997 and was charged with armed burglary of an occupied dwelling and aggravated stalking.

27. On May 20, 1997, Dr. Goetz of PRN notified the Agency that Dr. Garcia is no longer in compliance with his contract and is not being monitored. Dr. Goetz states that he can not ensure the safety of the public should Dr. Garcia continue to practice.

28. On May 29, 1997, Dr. Garcia was indicted in United States District Court, Middle District of Florida, Tampa Division, on the following counts:

- a. one count of conspiring to defraud the United States by defrauding the Medicare and Medicaid program;
- b. eight counts of making false and fraudulent claims to Medicaid;
- c. nine counts of making false and fraudulent claims to Medicare.

29. The indictment alleges that between 1994 and 1995 Dr. Garcia was a principal in an extensive scheme to defraud the Medicare and Medicaid programs of monies by submitting bills for services not rendered to patients in Adult Congregate Living Facilities.

30. Dr. Garcia has committed acts in violation of the statutes governing the practice of medicine. Dr. Garcia presents an immediate and serious danger to the health, safety and welfare of the public. Dr. Garcia's history of impairment, erratic behavior and his history of willingness to commit fraudulent acts indicates that Dr. Garcia is unable to control his behavior and comply with the laws governing his profession. No means short of suspension can ensure the safety of the public.

CONCLUSIONS OF LAW

1. The Director of the Agency for Health Care Administration has jurisdiction over this matter pursuant to Section 455.225(8), Florida Statutes.

2. Based on the foregoing Findings of Fact, the Director concludes that Dr. Garcia has violated Section 458.365(1)(s), Florida Statutes, by being unable to practice medicine with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition.

3. The Director finds that Dr. Garcia's continued practice of medicine constitutes an immediate and serious danger to the health, safety and welfare of the public due to his impairment; and that this summary suspension procedure is fair under the circumstances to adequately protect the public.

WHEREFORE, in accordance with Sections 120.54(4) and 120.60(6), Florida Statutes (Supp. 1996), it is

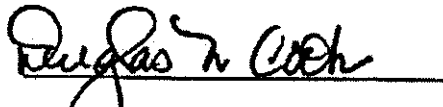
THEREUPON ORDERED THAT:

1. The license of Nestor Garcia, M.D., license number ME 0048998 is hereby immediately suspended.

2. A proceeding seeking formal suspension or revocation of the license to practice medicine of Nestor Garcia, M.D., will be promptly instituted and acted upon in compliance with Section 120.60(6), Florida Statutes (Supp. 1996), and this order shall be filed in accordance with Section 120.54(4), Florida Statutes (Supp. 1996).

3. Dr. Garcia shall comply with the rules set forth in Rule 59-R(10), Florida Administrative Code, regarding closing his practice.

DONE and ORDERED this 5th day of June, 1997.



DOUGLAS M. COOK
DIRECTOR
Agency for Health Care Administration
2727 Mahan Drive
Tallahassee, Florida 32308