



# COMMONWEALTH of VIRGINIA

Department of Health Professions  
Board of Medicine

Bernard L. Henderson, Jr.  
Director

Hilary H. Connor, M.D.  
Executive Director

1601 Rolling Hills Drive, Suite 200  
Richmond, Virginia 23229-5005  
(804) 662-9908  
FAX (804) 662-9943

August 4, 1989

Nicholas T. McClean-Rice, M.D.  
Twin County Community Hospital  
200 Hospital Drive  
Galax, Virginia 24333

**CERTIFIED MAIL**  
(P 162 789 359)

Dear Dr. McClean-Rice:

This letter is official notification that an informal conference of the Virginia Board of Medicine will be held on September 6, 1989 at 2:30 p.m. at The Radisson Hotel-Lynchburg, 601 East Main Street, Lynchburg, Virginia. The conference will be conducted pursuant to Sections 54.1-2919 and 9-6.14:11 of the Code of Virginia (1950), as amended.

An informal conference committee, composed of three members of the Virginia Board of Medicine, will inquire into allegations that you may have violated certain laws governing the practice of medicine in Virginia. Specifically, you may have violated Section 54.2915.A(1), (2) and (3) [formerly Section 54-316(1), (2) and (3)], as further defined in Section 54.1-2914.A(3), (7), (9), (11) and (14) [formerly Section 54-317(3), (9), (11) and (15)] of the Code of Virginia (1950), as amended, in that:

1. From May 6, 1988 through June 12, 1988, you fraudulently prescribed to Individual A, outside of a bona fide physician-patient relationship, various controlled substances, to wit: 280 Diazepam 5 mg. (Schedule IV); 330 Restoril 30 mg. (Schedule IV); and 60 Chloral Hydrate 500 mg. (Schedule VI) with the knowledge that said controlled substances were for your own personal and unauthorized use and with the intent to evade the law with respect to said controlled substances' use.

2. On June 27, 1988, you fraudulently and unlawfully prescribed to Individual B, outside of a bona fide physician-patient relationship, 60 Diazepam 5 mg., a Schedule IV controlled substance of high abuse potential, with the knowledge that said controlled substance was for your own personal and unauthorized use and with the intent to evade the law with respect to said controlled substance's use.

3. You may be impaired to practice medicine with reasonable skill and safety by reason of your excessive, unauthorized concomitant use of Diazepam 5 mg. (Schedule IV), Restoril 30 mg. (Schedule IV), and Chloral Hydrate 500 mg. (Schedule VI).

In order to protect the privacy of the individuals referenced above, they have been referred to by letter only. Please see Attachment I of this notice for the identity of Individuals A and B. You may be represented by an attorney at the informal conference. The following actions may be taken by this informal conference committee:

1. If, after such conference at which the practitioner may appear, a majority of the committee is of the opinion that a suspension or revocation of the practitioner's license may be justified, or in the event of a violation of the terms of the probation hereinafter authorized, the committee shall present to the Board in writing its findings, and the Board may proceed with a formal hearing;

2. The committee may notify the practitioner in writing that he is fully exonerated of any charge that might affect his right to practice in the Commonwealth;

3. The committee may reprimand or censure the practitioner;

4. The committee may place the practitioner on probation for such time as it may designate and direct that during such period he furnish the committee or its chairman, at such intervals as the committee may direct, evidence that he is not practicing his profession in violation of the provisions of Chapter 29, Title 54.1 of the Code of Virginia, which governs the practice of medicine and the healing arts in this Commonwealth.

Should you fail to appear at the informal conference the Board may proceed to a formal administrative hearing in order to impose sanctions. Please inform this office whether you intend to appear at the conference at least ten (10) days prior to the scheduled date above. Also, please provide the Board with a telephone number where you may be reached.

Enclosed you will find copies of the relevant sections of the Administrative Process Act, which governs proceedings of this nature, as well as laws relating to the practice of medicine and the healing arts in Virginia.

Notice to Dr. McClean-Rice  
August 4, 1989  
Page 3

Should you have questions concerning this notice of the Board, please contact Karen D. Waldron, Deputy Executive Director, Discipline.

Sincerely,



Hilary H. Connor, M.D.  
Executive Director  
Virginia Board of Medicine

BH:lc0706N2:dw4

cc: G. Edward Calvert, M.D., President  
Howard M. Casway, Assistant Attorney General  
Bess Hodges, Legal Assistant  
Informal Conference Committee  
Division of Investigations (88-01101)  
George Wilbur, Director, Information and Education  
Probation Analyst

Enclosure:

Virginia Code Sections:  
54.1-2914 (formerly 54-317)  
54.1-2915 (formerly 54-316)  
54.1-2919  
9-6.14:11  
Attachment I

**VIRGINIA:**

**BEFORE THE BOARD OF MEDICINE**

**IN RE: Nicholas T. McClean-Rice, M.D.**

**CONSENT ORDER**

Pursuant to Sections 9-6.14:11 and 54.1-2919 of the Code of Virginia (1950), as amended ("Code"), an informal conference was held with Nicholas T. McClean-Rice, M.D. on December 6, 1989 in Lynchburg, Virginia. Members of the Virginia Board of Medicine ("Board") serving on the informal conference committee ("Committee") were: Ross Hart, Esquire, Chairperson; G. Edward Calvert, M.D.; and Wayne E. Engel, Ph.D. Dr. McClean-Rice was present and was not represented by legal counsel. The Board was represented by Howard M. Casway, Assistant Attorney General. The purpose of the informal conference was to inquire into allegations that Dr. McClean-Rice may have violated certain laws governing the practice of medicine in Virginia, as set forth in the Board's notice of informal conference dated August 4, 1989 which is incorporated by reference herein.

**CONSENT**

I, Nicholas T. McClean-Rice, M.D., by affixing my signature hereto, acknowledge that:

1. I have been specifically advised to seek the advice of counsel prior to signing this document;
2. I am aware that without my consent, no legal action can be taken against me, except pursuant to the Virginia Administrative Process Act, Section 9-6.14:1 et seq., of the Code;

3. I have the following rights, among others: the right to a formal fact finding hearing before the Board, to reasonable notice of said hearing, to representation by counsel, and the right to cross-examine witnesses against me;

4. I waive all such rights to a formal hearing;

5. I consent to the entry of this Consent Order affecting my license to practice medicine in the Commonwealth of Virginia.

**ORDER**

WHEREFORE, it is hereby ORDERED that the Board CONTINUE GENERALLY final disposition of the allegations set forth in its August 4, 1989 notice of informal conference upon the following terms and conditions:

1. Dr. McClean-Rice shall continue to comply with the terms and conditions of his November 3, 1989 aftercare contract with the Medical Society of Virginia's Physicians' Health and Effectiveness Committee ("PHEC").

2. Dr. McClean-Rice shall have all medical and treatment records regarding his hospitalization at Talbot Recovery Systems of Atlanta, Georgia provided to the Board within ninety (90) days of the entry of this Consent Order.

3. Dr. McClean-Rice shall submit to a comprehensive psychological evaluation by a Board approved clinical psychologist selected from a list of three provided by the Board.

4. Upon receipt of the report of his psychological evaluation and within ninety (90) days of the entry of this Consent Order, Dr. McClean-Rice shall be evaluated by the psychiatric consultants to the Board who shall provide a detailed and informative report of findings to the Board.

5. Dr. McClean-Rice shall sign an authorization form providing for unrestricted communication between the Board, psychiatric consultants for the Board, his Board approved evaluating clinical psychologist, the PHEC, and Talbot Recovery Systems of Atlanta, Georgia.

6. Upon receipt of the reports required by Terms Three and Four, and within six (6) months of the entry of this Consent Order, Dr. McClean-Rice shall be noticed to appear before the informal conference committee. The Committee shall provide the ongoing monitoring of Dr. McClean-Rice's continuance, determine the frequency of further appearances by Dr. McClean-Rice before it, and shall serve as the instrument of the Board responsible for approving and reviewing all information relative to the terms and conditions of this Consent Order.

7. In the interim, Dr. McClean-Rice shall maintain a course of conduct in his practice of medicine commensurate with the requirements of Chapter 29, Title 54.1 of the Code.

Violation of this Consent Order shall constitute grounds for the revocation of the license of Nicholas T. McClean-Rice, M.D. to practice medicine in Virginia. In the event Dr. McClean-Rice violates any of the terms and conditions of this Consent Order, a formal administrative hearing shall be convened to determine whether the license of Nicholas T. McClean-Rice shall be revoked.

Pursuant to Section 9-6.14:14 of the Code, the signed original of this Consent Order shall remain in the custody of the Department of Health Professions as a public record and shall be made available for public inspection and copying upon request.

FOR THE BOARD

Hilary H. Connor

Hilary H. Connor, M.D.  
Executive Director  
Virginia Board of Medicine

ENTERED: 1-2-90

SEEN AND AGREED TO:

Nicholas T. McClean-Rice

Nicholas T. McClean-Rice, M.D.

COMMONWEALTH OF VIRGINIA

COUNTY/CITY OF Galax, to wit:

Subscribed and sworn to before me, the undersigned Notary Public in and for the Commonwealth of Virginia at large, this 18th day of December, 1989 by Nicholas T. McClean-Rice, M.D.

Rebecca K. Ball

Notary Public

My commission expires: November 27, 1992

RECEIVED: January 3, 1990

Bernard L. Henderson, Jr.

Bernard L. Henderson, Jr., Director  
Department of Health Professions

BH/sp120701.orders



**VIRGINIA:**

**BEFORE THE BOARD OF MEDICINE**

**IN RE: NICHOLAS T. McCLEAN-RICE, M.D.**

**CONSENT ORDER**

Pursuant to Sections 9-6.14:11 and 54.1-2919 of the Code of Virginia (1950), as amended ("Code"), an informal conference was held with Nicholas T. McClean-Rice, M.D. on October 11, 1990 in Fredericksburg, Virginia. Members of the Virginia Board of Medicine ("Board") serving on the informal conference committee ("Committee") were: Franklin J. Pepper, M.D., Chairman; Tony C. Butera, D.P.M.; and Catherine S. Casey, M.D. Dr. McClean-Rice was present and was not represented by counsel. The Board was represented by Howard M. Casway, Assistant Attorney General. The purpose of the informal conference was to review Dr. McClean-Rice's compliance with terms of a Board Consent Order entered January 2, 1990 and inquire into allegations that Dr. McClean-Rice may have violated certain laws governing the practice of medicine in Virginia, as set forth in the Board's notices of informal conference dated September 11, 1990 and August 4, 1989.

**FINDINGS OF FACT**

Now having considered the evidence presented, the Committee makes the following findings of fact:

1. From May 6, 1988 through June 12, 1988, Dr. McClean-Rice fraudulently prescribed to Individual A, outside a bona fide physician-patient relationship, various controlled substances, to wit: 280 Diazepam 5 mg. (Schedule IV); 330 Restoril 30 mg. (Schedule IV); and 60 Chloral Hydrate 500



mg. (Schedule VI) with the knowledge that said controlled substances were for his own personal and unauthorized use and with the intent to evade the law with respect to said controlled substances' use.

2. On June 27, 1988, Dr. McClean-Rice fraudulently and unlawfully prescribed to Individual B outside a bona fide physician-patient relationship, 60 Diazepam 5 mg., a Schedule IV controlled substance of high abuse potential, with the knowledge that said controlled substance was for his own personal and unauthorized use and with the intent to evade the law with respect to said controlled substance's use.

3. In June 1988 Dr. McClean-Rice was impaired to practice medicine with reasonable skill and safety by reason of his excessive, unauthorized concomitant use of Diazepam 5 mg. (Schedule IV), Restoril 30 mg. (Schedule IV), and Chloral Hydrate 500 mg. (Schedule VI).

4. From August 3, 1989 through November 1, 1989 Dr. McClean-Rice received inpatient and outpatient chemical dependency treatment at Anchor Hospital and Talbott Recovery Center in College Park, Georgia.

5. Dr. McClean-Rice is currently engaged in the full-time practice of psychiatry in Harrisonburg, Virginia.

6. Dr. McClean-Rice has completed one year of a five year aftercare contract with the Medical Society of Virginia's Physicians' Health and Effectiveness Committee and is currently in compliance with said aftercare contract.

#### CONCLUSIONS OF LAW

The Committee concludes that Dr. McClean-Rice has violated Section 54.1-2915.A(1), (2) and (3), as further defined in Section 54.1-2914.A(3), (9), (11) and (14) of the Code.

#### CONSENT

I, Nicholas T. McClean-Rice, M.D., by affixing my signature hereto, acknowledge that:


1. I have been specifically advised to seek the advice of counsel prior to signing this document;
2. I am aware that without my consent, no legal action can be taken against me, except pursuant to the Virginia Administrative Process Act, Section 9-6.14:1 et seq., of the Code;
3. I have the following rights, among others: the right to a formal fact finding hearing before the Board, to reasonable notice of said hearing, to representation by counsel, and the right to cross-examine witnesses against me;
4. I waive all such rights to a formal hearing;
5. I admit to the foregoing findings of fact; and
6. I consent to the entry of this Consent Order affecting my license to practice medicine in the Commonwealth of Virginia.

**ORDER**

WHEREFORE, on the basis of Findings of Fact one and two, it hereby ORDERED that Nicholas T. McClean-Rice, M.D. be, and hereby is, REPRIMANDED.

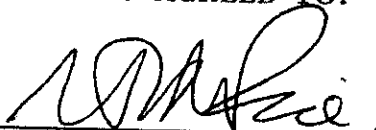
Pursuant to Section 9-6.14:14 of the Code, the signed original of this Consent Order shall remain in the custody of the Department of Health Professions as a public record and shall be made available for public inspection and copying upon request.

FOR THE BOARD:

  
\_\_\_\_\_  
Hilary H. Connor, M.D.  
Executive Director  
Virginia Board of Medicine

ENTERED: 12-4-90

SEEN AND AGREED TO:

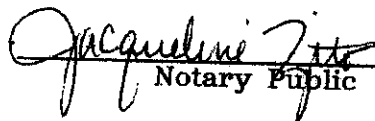


Nicholas T. McClean-Rice, M.D.

COMMONWEALTH OF VIRGINIA


COUNTY/CITY OF Harrisonburg, to wit:

Subscribed and sworn to before me, the undersigned Notary Public, in and for the Commonwealth of Virginia at large, this 27<sup>th</sup> day of November, 1990 by Nicholas T. McClean-Rice, M.D.

  
Notary Public

My commission expires: 2-20-93

RECEIVED: December 7, 1990

  
Bernard L. Henderson, Jr., Director  
Department of Health Professions

BH/sp1023o3.orders