

STATE OF FLORIDA
AGENCY FOR HEALTH CARE ADMINISTRATION

AGENCY FOR HEALTH CARE)
ADMINISTRATION,)
)
PETITIONER,)
)
vs.)
)
IRVING D. ROYCE, M.D.,)
)
RESPONDENT.)

CASE NO. 91-05328

CORRECTED ADMINISTRATIVE COMPLAINT

COMES NOW the Petitioner, Agency for Health Care Administration, hereinafter referred to as "Petitioner," and files this Corrected Administrative Complaint before the Board of Medicine against Irving D. Royce, 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 20.42, 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 0010545. Respondent's last known address is 17122 W. Dixie Hwy., Miami, FL 33160.
3. Respondent's area of specialty is psychiatry and he is not Board-certified.
4. Respondent was trained as a psychiatrist and practiced psychiatry exclusively from 1959 until 1971. Since 1971, however, Respondent has practiced Psychiatry and Family Practice. Except for a rotating internship from 1952-1953, Respondent has had no formal training in Family

Ex 3

Practice. But, Respondent's business card indicates "Family Practice/Psychiatry" services. He has also advertised as treating patients for Weight Control Services through hypnosis, pills, injections, and prozac as well as psychiatry.

5. On or about October 23, 1990, Patient B.G., a fifty-six year-old female with a history of alcoholism, presented to Respondent's office complaining of a headache caused by a blow to the neck. During such visit, Respondent administered Vicodin p.o. and Compazine I.V., leaving the patient temporarily unresponsive and vomiting. However, Patient B.G. admitted to having consumed four cans of beer before arriving.

6. Vicodin is a legend drug as defined by Section 465.003(7), Florida Statutes, and may be used for pain relief. Vicodin is also a Schedule III controlled substance listed in Chapter 893.03, Florida Statutes. When used with other central nervous system (CNS) depressants, it produces an additive CNS depression.

7. Compazine I.V. is a legend drug as defined by Section 465.003(7), Florida Statutes, and may be used to treat a migraine headache.

8. Following Respondent's administering Vicodin and Compazine I.V. to Patient B.G., the patient suffered respiratory arrest, prompting Respondent's office to phone 911 for rescue/assistance. When the rescue team arrived, Respondent was attempting to bag the patient, but without success because the airway was blocked by vomit. According to the rescue report, the patient aspirated vomit during Respondent's attempt to resuscitate her.

9. Respondent, in his administration of Compazine and Vicodin to Patient B.G., endangered the patient's health by administering an overdose, and then failed to properly administer resuscitation techniques.

10. Upon arrival, the rescue team administered Narcan, and the patient subsequently regained consciousness. Patient B.G. was then transported to Parkway Regional Medical Center [PRMC]. The report filed by the rescue team indicated that the patient had suffered respiratory arrest secondary to drug overdose. Patient B.G.'s written medical records at PRMC concurred, indicating that she was admitted into the emergency room as a result of a possible overdose, but the patient subsequently refused treatment and left. Her final diagnosis was an alcohol induced headache, with pneumonitis ruled out.

11. Records from PRMC reveal that Patient B.G. had in fact consumed four (4) beers prior to the office visit, had a history of alcoholism, and had been taking Doriden, Catapres, Compazine, Ativan, and Talwin.

12. From on or about January 7, 1990, to on or about October 23, 1990, Respondent prescribed numerous medications to Patient B.G. including, but not limited to:

Vicodin	14
Talwin	112
Halcion	206
Placidyl	7
Desreyl	60
Ativan	120
Prozac	58
Percocet	15
Roxicet	15
Phenergan Syrup with Codeine	120 dose
Valium 10mg	7
Soma 350mg	32

During such time, Respondent also dispensed the following to Patient B.G. from his office:

Elavil	45
Plegine	72

13. Talwin is a legend drug as defined by Section 465.003(7), Florida Statutes. It is also a Schedule IV controlled substance listed in Chapter 893.03, Florida Statutes, and is used for pain relief. It can have additive central nervous system depressant properties when taken in combination with alcohol or other CNS depressants.

14. Halcion is a legend drug as defined by Section 465.003(7), Florida Statutes. It is also a Schedule IV controlled substance listed in Chapter 893.03, Florida Statutes, and is used for the short-term treatment of insomnia. It is a CNS depressant and should be carefully considered before administering to a patient suffering from alcoholism. Overdosage results in respiratory depression and apnea.

15. Placydil is a legend drug as defined by Section 465.003(7), Florida Statutes. It is also a Schedule IV controlled substance listed in Chapter 893.03, Florida Statutes, and is used as a short-term hypnotic therapy. Its concomitant consumption with alcohol, barbiturates, and other CNS depressants may produce exaggerated depressant effects and should be avoided.

16. Desreyl [also known as Trazodone] is a legend drug as defined by Section 465.003(7), Florida Statutes, and is used in the treatment of depression. It can enhance response to alcohol, barbiturates, and other CNS depressants.

17. Ativan is a legend drug as defined by Section 465.003(7), Florida Statutes. It is also a Schedule IV controlled substance listed in Chapter 893.03, Florida Statutes, and is used for management of anxiety. It is not recommended for patients with a primary depressive disorder and will diminish tolerance for alcohol and other CNS depressants.

18. Prozac is a legend drug as defined by Section 465.003(7), Florida Statutes, and is used for the treatment of depression.

19. Percocet is a legend drug as defined by Section 465.003(7), Florida Statutes. It is also a Schedule II Controlled Substance listed in Chapter 893.03, Florida Statutes, and is used for the relief of moderate to moderately severe pain.

20. Roxicet is a legend drug as defined by Section 465.003(7), Florida Statutes. It is also a Schedule II Controlled Substance listed in Chapter 893.03, Florida Statutes, and is used for the relief of moderate to moderately severe pain.

21. Valium is a legend drug as defined by Section 465.003(7), Florida Statutes. It is also a Schedule IV Controlled Substance listed in Chapter 893.03, Florida Statutes, and is indicated for the management of anxiety disorders and for the short-term relief of the symptoms of anxiety.

22. Soma 350 mg is a legend drug as defined by Section 465.003(7), Florida Statutes, and is indicated as an adjunct to rest, physical therapy, and other measures for the relief of discomfort associated with acute painful conditions.

23. Phenergan with Codeine is a legend drug as defined by Section 465.003(7), Florida Statutes. It is also a Schedule V Controlled Substance listed in Chapter 893.03, Florida Statutes, and is used for the temporary relief of coughs and upper respiratory symptoms associated with allergy or the common cold.

24. Elavil is a legend drug as defined by Section 465.003(7), Florida Statutes, and is used for relief of depression. It can enhance the response to alcohol and the effects of barbiturates and other CNS depressants. In patients who may use alcohol excessively, the potentiation may increase the danger inherent in overdose.

25. Plegine is a legend drug as defined by Section 465.003(7), Florida Statutes. It is also a Schedule III controlled substance listed in Chapter 893.03, Florida Statutes, and is indicated in the

management of exogenous obesity as a short-term adjunct in a regimen of weight reduction. It is contraindicated in patients taking other CNS stimulants.

26. The above described medications administered and/or prescribed to Patient B.G. by Respondent are a mixture of anxiolytic, antidepressant, analgesic, antihypertensive, and hypnotic classifications. The mingling of such classifications by Respondent for Patient B.G.'s use was contra-indicated given the patient's condition.

27. Respondent, in his treatment of Patient B.G., failed to maintain adequate written medical records justifying the course of treatment, particularly the prescribing and dispensing of the above referenced legend drugs and controlled substances.

COUNT ONE

28. Petitioner realleges and incorporates paragraphs one (1) through twenty-seven (27) as fully set forth herein this Count One.

29. Respondent, in his treatment of Patient B.G., practiced medicine below the acceptable standard of care in that Respondent: inappropriately administered legend drugs, including controlled substances, to Patient B.G. which later contributed to Patient B.G.'s overdose; administered improper and unsafe resuscitative measures after Patient B.G.'s respiratory arrest; and prescribed classifications of medications which were contra-indicated to Patient B.G. with no medical justification, endangering the patient's health, particularly given the patient's history of alcohol and substance abuse.

30. Based upon the foregoing, Respondent 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 TWO

31. Petitioner realleges and incorporates Paragraphs one (1) through twenty-seven (27) and twenty-nine (29) as if fully set forth herein this Count Two.

32. Respondent, in his treatment of Patient B.G., failed to keep adequate written medical records in that Respondent: failed to document an appropriate treatment plan for Patient B.G. while prescribing numerous amounts of legend drugs, including controlled substances, for the patient; failed to document and/or justify the course of treatment utilized in Patient B.G.'s care.

33. Based upon the foregoing, Respondent violated Section 458.331(1)(m), Florida Statutes, failing to keep written medical records justifying the course of treatment of the patient, including, but not limited to, patient histories; examination results; test results; records of drugs prescribed, dispensed, or administered; and reports of consultations and hospitalizations.

COUNT THREE

34. Petitioner realleges and incorporates Paragraphs one (1) through twenty-seven (27), twenty-nine (29), and thirty-two (32) as if fully set forth herein this Count Three.

35. Respondent, in his treatment of Patient B.G., inappropriately prescribed legend drugs in that Respondent: prescribed excessive amounts of medications including Phenergan with Codeine, Percocet, Roxicet, Talwin, Halcion, Ativan, Vicodan, Placidyl, Desreyl, Prozac, Soma, and Valium which later contributed to Patient B.G.'s overdose; and prescribed classifications of medications to Patient B.G. which were contra-indicated, without medical justification, endangering the patient's health, particularly given her history of alcohol and substance abuse.


36. Based upon the foregoing, Respondent 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 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 physician's professional practice, without regard to his intent.

WHEREFORE, the Petitioner respectfully requests the Board of Medicine enter an Order imposing one or more of the following penalties: permanent revocation or suspension of the Respondent's license, restriction of the Respondent's practice, imposition of an administrative fine, issuance of a reprimand, placement of the Respondent on probation, the assessment of costs related to the investigation and prosecution of this case, other than costs associated with an attorney's time, as provided for in Section 455.227(3), Florida Statutes, and/or any other relief that the Board deems appropriate.

SIGNED this 20 day of June, 1997.

Douglas M. Cook, Director

FILED
AGENCY FOR
HEALTH CARE ADMINISTRATION
DEPUTY CLERK
CLERK *Stephan J. Dor*
DATE 6-20-97


Larry G. McPherson, Jr.
Chief Medical Attorney

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RPC/hlb/ws
PCP: February 28, 1997
PCP Members: Winchester, Pardue

STATE OF FLORIDA
BOARD OF MEDICINE

By: W.cki R. Keran
Deputy Agency Clerk

DEPARTMENT OF HEALTH,

Petitioner,

vs.

CASE NO.: 1991-05328
LICENSE NO.: ME0010545

IRVING D. ROYCE, M.D.,

Respondent.

FINAL ORDER

THIS CAUSE came before the Board of Medicine (Board) pursuant to Sections 120.569 and 120.57(2), Florida Statutes, on February 2, 2002, in Jacksonville, Florida, for consideration of the Administrative Complaint (attached hereto as Exhibit A) in the above-styled cause. On January 28, 2002, Respondent filed a motion for hearing pursuant to Section 120.57(1), Florida Statutes, which motion was denied by the Board. The Board made a proposal for Consent Agreement, which was accepted by the parties on the record.

IT IS HEREBY ORDERED AND ADJUDGED that Consent Agreement accepted on the record by the parties is adopted as the Final Order of the Board. The Consent Agreement requires that within one six months from the date this Final Order is filed, Respondent shall document the completion of 50 hours of community service. Community service shall consist of the delivery of medical services directly to patients, without fee or cost to the patient, for the good of the people of the State of Florida. Affidavits detailing the completion of community

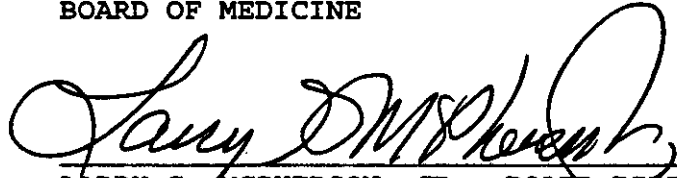
service requirements shall be filed with the Board's Probationer's Committee.

Accordingly, the parties shall adhere to and abide by all the terms and conditions of this Stipulation.

This Final Order shall take effect upon being filed with the Clerk of the Department of Health.

*DONE AND ORDERED THIS
19TH DAY OF FEBRUARY 2002
LGM*

BOARD OF MEDICINE


LARRY G. MCPHERSON, JR., BOARD DIRECTOR
For
ZACHARIAH P. ZACHARIAH, M.D.
CHAIRMAN

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Final Order has been provided by U.S. Mail to Irving D. Royce, M.D., 1200 Southwest 2nd Avenue, Miami, Florida 33130; to Monica Felder, Esquire, Dresnick, Ellsworth & Felder, 201 Alhambra Circle, Suite 701, Coral Gables, Florida 33134-5108, and by interoffice delivery to Nancy M. Snurkowski, Chief Medical Attorney, and Lisa Pease, Senior Attorney - Appeals, Agency for Health Care Administration, 2727 Mahan Drive, Tallahassee, Florida 32308-5403, on or before 5:00 p.m., this 27 day of February, 2002.

