

FILED

Department of Business and Professional Regulation

DEPUTY CLERK

DEPARTMENT OF BUSINESS AND
PROFESSIONAL REGULATION
BOARD OF MEDICINE

DEPARTMENT OF BUSINESS AND
PROFESSIONAL REGULATION,

CLERK

DATE

Randolph B. ...
12-8-93

Petitioner,

v.

DBPR CASE NUMBER: 92-04092
LICENSE NUMBER: ME 0020490

WILFREDO DE JES BAQUERO, M.D.,

Respondent.

FINAL ORDER

THIS MATTER came before the Board of Medicine (Board) pursuant to Section 120.57(3), Florida Statutes, on December 3, 1993, in Boca Raton, Florida, for consideration of a Consent Agreement (attached hereto as Exhibit A) entered into between the parties in the above-styled case. Upon consideration of the Consent Agreement, the documents submitted in support thereof, the arguments of the parties, and being otherwise advised in the premises,

IT IS HEREBY ORDERED AND ADJUDGED that the Consent Agreement as submitted be and is hereby approved and adopted in toto and incorporated by reference herein. Accordingly, the parties shall adhere to and abide by all of the terms and conditions of the Consent Agreement.

This Final Order takes effect upon filing with the Clerk of the Department.

DONE AND ORDERED this 4 day December, 1993.

BOARD OF MEDICINE



EDWARD A. DAUER, M.D.
CHAIRMAN

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been provided by certified U.S. Mail to Wilfredo De Jes Baquero, M.D., Post Office Box 451938, Miami, Florida 33245-1938, Lee Sims Kniskern, Esquire, 2121 Ponce De Leon Boulevard, Suite 630, Coral Gables, Florida 33134-5222 and by interoffice delivery to Larry G. McPherson, Jr., Chief Medical Attorney, Department of Business and Professional Regulation, Northwood Centre, 1940 North Monroe Street, Tallahassee, Florida 32399-0792, at or before 5:00 P.M., this 8 day of December, 1993.



MARM M. HARRIS, Ph.D.
Executive Director

STATE OF FLORIDA
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

DEPARTMENT OF PROFESSIONAL REGULATION,

Petitioner,

v.

DPR CASE NO. 9204092

WILFREDO DE JESUS BAQUERO, M.D.,

Respondent.

CONSENT AGREEMENT

WILFREDO DE JESUS BAQUERO, M.D., referred to as the "Respondent", and the Department of Business and Professional Regulation, referred to as "Department", stipulate and agree to the following Agreement and to the entry of a Final Order of the Board of Medicine, referred to as "Board", incorporating the Stipulated Facts and Stipulated Disposition in this matter.

STIPULATED FACTS

1. At all times material hereto, Respondent was a licensed physician in the State of Florida having been issued license number ME 0020490.
2. Respondent was charged by an Amended Administrative Complaint filed by the Department and properly served upon Respondent with violations of Chapter 458, Florida Statutes, and the rules enacted pursuant thereto. A true and correct copy of the Amended Administrative Complaint is attached hereto as Exhibit A.
3. Respondent neither admits or denies the allegations of fact contained in the Amended Administrative Complaint.

STIPULATED CONCLUSIONS OF LAW

1. Respondent admits that, in his capacity as a licensed physician;, he is subject to the provisions of Chapters 455 and 458, Florida Statutes, and the jurisdiction of the Department and the Board.

2. Respondent admits that the facts set forth in the Amended Administrative Complaint, if proven, would constitute violations of Chapter 458, Florida Statutes, as alleged in the Amended Administrative Complaint.

STIPULATED DISPOSITION

1. FUTURE CONDUCT. Respondent shall not in the future violate Chapters 455, 458 and 893, Florida Statutes, or the rules promulgated pursuant thereto.

2. FINE. The Board shall impose an administrative fine in the amount of three thousand dollars (\$3,000.00) against the Respondent. The fine shall be paid by the Respondent to the Executive Director of the Board within the following installment schedule: one thousand dollars (\$1,000.00) within thirty (30) days of the imposition by Final Order of the Board and two thousand dollars (\$2,000.00) within six (6) months of imposition by Final Order of the Board.

3. REPRIMAND. The Respondent shall receive a reprimand from the Board of Medicine.

4. RESPONDENT'S AFFIDAVIT. The Respondent shall submit a notarized affidavit to the Board of Medicine prior to the consideration of the case by the Board which states that he has reviewed and understands the following: Section 465.024 through Section 465.187, Florida Statutes, Section 893.01 through Section

893.1351, Florida Statutes, Section 458.331(1), Florida Statutes, and Section 455.225, Florida Statutes and Chapter 21 USC, Sections 1305, 1306.

5. Respondent shall attend twenty (20) hours of Category I Continuing Medical Education courses, four of which shall be in the area of Risk Management in the biennium of the Final Order. In addition, Respondent shall submit documentation in the form of certified copies of receipts, vouchers, certificates, or other papers, such as Physicians' Recognition Awards issued by the American Medical Association, as may be necessary to document of completion of this Continuing Medical Education requirement. All such documentation shall be sent to the Board of Medicine, Attention: Final Order Compliance Section, regardless of whether some or any of such documentation was previously provided during the course of any audit or discussion with counsel for the Department. These hours shall be in addition to those hours required for renewal of licensure. Unless otherwise approved by the Board, said Continuing Medical Education courses shall consist of a formal live lecture format.

6. Respondent shall complete the course, "Protecting Your Medical Practice, Clinical, Legal and Ethical Issues in Prescribing Abusable Drugs", sponsored by the Florida Medical Association and the University of South Florida, or a Board approved equivalent, within one (1) year of the date of the Final Order.

7. Respondent shall report to the Board when he obtains a DEA number, and may prescribe controlled substances only by utilizing sequentially numbered triplicate prescription pads. One

copy will be given to the patient, one copy for the file and one copy to the Department's investigator within one month after issuing said prescription.

8. It is expressly understood that this Agreement is subject to the approval of the Board and the Department. In this regard, the foregoing paragraphs (and only the foregoing paragraphs) shall have no force and effect unless a Final Order incorporating the terms of this Agreement is entered by the Board.

9. Should this Agreement be rejected, no statement made in furtherance of this Agreement by the Respondent may be used as direct evidence against the Respondent in any proceeding; however, such statements may be used by the Petitioner for impeachment purposes.

10. Respondent and the Department fully understand that this joint Agreement and subsequent Final Order incorporating same will in no way preclude additional proceedings by the Board and/or the Department against the Respondent for acts or omissions not specifically set forth in the Amended Administrative Complaint attached as Exhibit "A" herein.

11. Upon the Board's adoption of this Agreement, Respondent expressly waives all further procedural steps, and expressly waives all rights to seek judicial review of or to otherwise challenge or contest the validity of the Agreement and the Final Order of the Board incorporating said Agreement.

12. Upon the Board's adoption of this Agreement, the parties hereby agree that each party will bear his own attorney's fees and costs resulting from prosecution or defense of this matter.

Respondent waives the right to seek any attorney's fees or costs from the Department in connection with this matter.

13. This Agreement is executed by the Respondent for the purpose of avoiding further administrative action with respect to this cause. In this regard, Respondent authorizes the Board to review and examine all investigative file materials concerning Respondent prior to or in conjunction with consideration of the Agreement. Furthermore, should this joint Agreement not be accepted by the Board, it is agreed that presentation to and consideration of this Agreement and other documents and matters by the Board shall not unfairly or illegally prejudice the Board or any of its members from further participation, consideration or resolution of these proceedings.

SIGNED this 11 day of October, 1993.

Wilfredo De Jesus Baguero, M.D.
(Respondent's Name)

Before me, personally appeared Wilfredo De Jesus Baguero, M.D., whose identity is known to me by Florida Driver's License (type of identification) and who, under oath, acknowledges that his signature appears above.

Sworn to and subscribed before me this 11th day of October, 1993.

Michael R. Huxley
Notary Public, State of Florida
BONDED THRU HUCKLEBERRY & ASSOCIATES

My commission expires:

NOTARY PUBLIC, STATE OF FLORIDA
MY COMMISSION EXPIRES OCTOBER 25, 1993
BONDED THRU HUCKLEBERRY & ASSOCIATES

APPROVED this 13 day of October, 1993.

George Stuart
Secretary

By: [Signature]

Larry G. McPherson, Jr.
Chief Attorney
Medical Section

STATE OF FLORIDA
DEPARTMENT OF PROFESSIONAL REGULATION
BOARD OF MEDICINE

DEPARTMENT OF PROFESSIONAL
REGULATION,

PETITIONER,

vs.

CASE NO. 9204092

WILFREDO DE JESUS BAQUERO, 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 WILFREDO DE JESUS BAQUERO, 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 0020490. Respondent's last known address is Post Office Box 451938, Miami, Florida 33245-1938.
3. Respondent's area of practice is psychiatry. Respondent is not board certified. Respondent owns and operates Hospital Centro, a mental health care facility located in Santo Domingo, Dominican Republic.

4. Respondent's Drug Enforcement Administration (DEA) registration number (#AB5759230) expired as of July 31, 1975.

5. On or about February 26, 1982, Respondent wrote a prescription for 200 units of Tuinal 100 mgs and a second prescription for 200 units of Tuinal 200 mgs.

6. On or about March 10, 1982, Respondent then presented said prescription to the Mi Farmacia Preferida, Inc., (My Preferred Pharmacy), located at 338 Southwest Twelfth Avenue, Miami, Florida. Respondent's prescription was filled at Mi Farmacia Preferida, Inc., at that time. Respondent then transported the medication to Santa Domingo for administration to his patients in the Dominican Republic.

7. Tuinal is defined as a legend drug by Section 465.003(7), Florida Statutes, and contains secobarbital, a Schedule II controlled substance listed in Chapter 893, Florida Statutes.

8. On or about June 30, 1990, Respondent wrote a prescription for 45 units of Tranxene, and two (2) identical prescriptions for 100 units of Glutethimide tablets (each Glutethimide prescription authorized 10 refills x 100 units per prescription for a total of 1,000 units per prescription). Respondent then presented said prescription to the Mi Farmacia Preferida, Inc. Respondent's prescription was filled at Mi Farmacia Preferida, Inc., that same day. Respondent then transported the medication to Santa Domingo for administration to his patients at the Hospital Centro in the Dominican Republic.

9. Tranxene is defined as a legend drug by Section 465.003(7), Florida Statutes, and contains Chlorzepate, a Schedule IV controlled substance listed in Chapter 893, Florida Statutes.

10. Respondent continued to write prescriptions for legend drugs which contained controlled substances without an actively current DEA registration number. No controlled substances could be obtained, stored, administered, prescribed or dispensed under DEA registration number AB5759230 after the date of its expiration, July 31, 1975.

11. On or about November 23, 1992, the Department received a notarized certification of registration history from Charles M. Metcalf, Staff Coordinator, DEA Registration Unit, which confirmed that Respondent's Drug Enforcement Administration (DEA) registration number (#AB5759230) had in fact expired as of July 31, 1975.

12. Section 893.04(1)(c)(1), Florida Statutes, requires all dispensing practitioners, including Respondent, to record the full name and address of the person for whom the controlled substance is dispensed on the face of the prescription for the controlled substance.

13. Respondent failed to record the full names and addresses of the patients for whom he dispensed controlled substances on the face of the aforementioned prescriptions for Tuinal, Tranxene and Glutethimide.

COUNT ONE

14. Petitioner realleges and incorporates paragraphs one (1) through thirteen (13) as if fully set forth herein this Count One.

15. Respondent inappropriately prescribed legend drugs, including controlled substances, in that Respondent continued to write prescriptions for legend drugs which contained controlled substances without an actively current DEA registration number. No controlled substances could be obtained, stored, administered, prescribed or dispensed under DEA registration number AB5759230 after the date of its expiration, July 31, 1975.

16. Based on the preceding allegations, Respondent violated Section 458.331(1)(g), Florida Statutes, 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.

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COUNT TWO

17. Petitioner realleges and incorporates paragraphs one (1) through thirteen (13) and fifteen (15) as if fully set forth herein this Count Two.

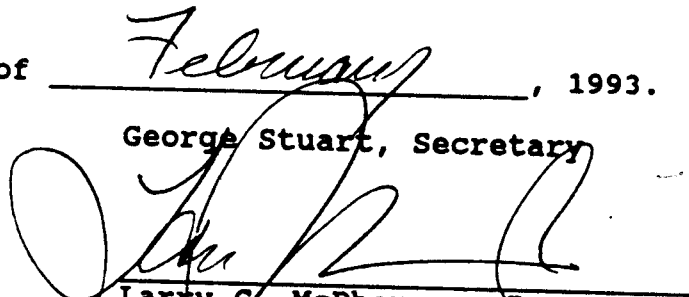
18. Respondent failed to perform any statutory or legal obligation placed upon a licensed physician in that Respondent failed to record the full names and addresses of the patients for whom he dispensed controlled substances on the face of the prescriptions for Tuinal, Tranxene and Glutethimide.

19. Based on the preceding allegations, Respondent violated Section 458.331(1)(g), Florida Statutes, failing to perform any statutory or legal obligation placed upon a licensed physician by violating the provisions of Section 893.04(1)(c), Florida Statutes.

WHEREFORE, the Petitioner respectfully requests the Board of Medicine enter an Order imposing one or more of the following penalties: 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, and/or any other relief that the Board deems appropriate.

SIGNED this 4 day of February, 1993.

George Stuart, Secretary



Larry G. McPherson, Jr.
Chief Medical Attorney

FILED

Department of Professional Regulation

DEPUTY CLERK

CLERK Becky R. Khan

DATE 2-9-93

COUNSEL FOR DEPARTMENT:

Larry G. McPherson, Jr.
Chief Medical Attorney
Department of Professional Regulation
1940 North Monroe Street
Tallahassee, Florida 32399-0750
Florida Bar #788643
RPC/rb
PCP: January 29, 1993
Murray, Slade and Rodriguez

MEMORANDUM

TO: Compliance Tracking File

FROM: Client Services Unit

DATE: August 7, 2006

SUBJECT: Closing Document

Due to the history and age of this file, it is apparent that it should have been closed; however, no closing order or notice of completion was entered into this file during the normal course of business. In the absence of this documentation, this memorandum will serve as the official closing document and terminates compliance tracking activities for the attached Final Order.