



MAY 2 1986

DPR
INVESTIGATIVE SERVICES

INVESTIGATIVE REPORT

Office: DPR/OIS Lake Worth	Date of Complaint: April 11, 1986	Case No. 0070022 ME
Subject: EDUARDO A. GARCIA, M.D. 3418 Ocean Drive Vero Beach, Florida 32960 (305) 231-0222	Complainant: DEPARTMENT OF PROFESSIONAL REGULATION	
License No./Profession: 0021719/Physician	Date of Report: 4/29/86	
Period of Investigation: April 11, 1986 through April 28, 1986	Type Report: Prelim. () Final: XXX () Suppl. ()	
Violation: (List Statute/Rule No. & Violation Description) FSS 458.331 (1)(q)-Alleged prescribing, dispensing, administering...a legend drug, including any controlled substances, other than in the course of the physician's professional practice.		
Synopsis:		
<p>1. This investigation is predicated upon receipt of a Uniform Complaint Form (Exhibit#1), dated April 11, 1986, in which it is alleged that EDUARDO A. GARCIA, M.D., wrote 10 prescriptions for Demerol and one prescription for Percodan, for patient, [REDACTED], and these prescriptions were filled at OSCEOLA PHARMACY in Vero Beach in 1985. It is further alleged that patient, [REDACTED], claims to never have had any prescriptions filled at said pharmacy and that he stopped seeing GARCIA in February of 1986 because he felt that GARCIA was overmedicating him.</p> <p>2. This investigator notified GARCIA in person at his office on April 22, 1986, as to the nature of the complaint filed against him.</p> <p>3. Investigative efforts appear to have substantiated the following:</p> <p style="padding-left: 40px;">GARCIA failed to maintain accurate medical records concerning his treatment of [REDACTED]</p> <p style="padding-left: 40px;">GARCIA had prescriptions for Schedule II substances filled in the name of [REDACTED] for office use.</p> <p style="padding-left: 40px;">GARCIA improperly wrote prescriptions with more than one Schedule II substance on the same form and with a Schedule II substance and another substance on the same form.</p> <p style="padding-left: 40px;">GARCIA falsified his records on [REDACTED]</p> <p style="padding-left: 40px;">GARCIA failed to maintain an inventory of Schedule II substances in his office.</p>		
Related Cases: 0057170ME/GARCIA; 0063395ME/GARCIA; 0066709ME/GARCIA; 0070023ME/GARCIA		
Investigator/Date: Chris J. Teibert, WI-28 4-30-86	Approved by/Date: Robert A. Kehr, SUPV., WI-01 4/30/86	Reviewed by:
Distribution: 23.8 HES		

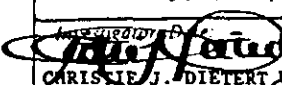
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INVESTIGATIVE REPORT

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License No./Profession: 0021719/Physician		Date of Report: 4/30/86
Period of Investigation: April 11, 1986 thru April 28, 1986		Type Report: Prelim. () Final (x) Suppl. ()
Violation: (List Statute/Rule No. & Violation Description) FSS 458.331(1)(q) Alleged prescribing, dispensing, administering...a legend drug, including any controlled substance, other than in the course of the physician's professional practice FSS 458.331(1)(t) Alleged gross or repeated malpractice or the failure to practice medicine with that level of care, skill, and treatment... which is recognized as being acceptable...		
<ol style="list-style-type: none"> This investigation is predicated upon receipt of a Uniform Complaint Form (EXHIBIT #1) dated April 11, 1986, in which it is alleged that EDUARDO A. GARCIA, M.D. has been prescribing Demerol, Darvocet and Percodan to [REDACTED] his lover, who is addicted to Demerol. This investigator notified GARCIA in person at his office on April 22, 1986, as to the nature of the complaint filed against him. Investigative efforts appear to have substantiated the following: GARCIA has treated [REDACTED] without a valid physician/patient relationship. GARCIA's treatment records of [REDACTED] do not support the prescriptions that he has prescribed for her. There does not appear to be medical justification for the Demerol GARCIA prescribed for [REDACTED]. 		
Related Cases: 0057170ME/Garcia; 0063395ME/Garcia; 0066709ME/Garcia; 0070022ME/Garcia		
Investigated by:  ROBERT A. KEHR, SUPV., WI-01		Reviewed by:
Distribution: 16310		

STATE OF FLORIDA
DEPARTMENT OF PROFESSIONAL REGULATION
BOARD OF MEDICINE

DEPARTMENT OF PROFESSIONAL
REGULATION,

Petitioner,

vs.

CASE NUMBER: 0070022
0070023

EDUARDO A. GARCIA, M.D.,

Respondent.

ADMINISTRATIVE COMPLAINT

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

1. Petitioner, the Department of Professional Regulation, 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 0021719. Respondent's last known address is 3418 Ocean Drive, Vero Beach, Florida 32960.
3. Between on or about May 23, 1975 and on or about April 19, 1984, Respondent was the treating physician for patient S.H. for pharyngitis, sinusitis, alcoholism, migraine headaches and menstrual cramps.
4. Between approximately 1974 and in or about April 1985, S.H. was employed by Respondent in Respondent's medical practice. Additionally, at all times material hereto, Respondent and S.H. were "lovers".
5. Between at least on or about October 1, 1984 and on or about December 26, 1985, Respondent excessively and/or

inappropriately prescribed at least Demerol 50 mg., Percodan, Demerol 100 mg. injectible, Darvocet N-100 and Fiorinal to S.H.

6. Demerol is the brand name for meperidine hydrochloride and is a Schedule II controlled substance, pursuant to Chapter 893, Florida Statutes.

7. Percodan is the brand name for a tablet containing oxycodone and aspirin, and is a Schedule II controlled substance, pursuant to Chapter 893, Florida Statutes.

8. Darvocet N-100 is the brand name for a tablet containing prepoxyphene napsylate with acetaminophen, and is a Schedule II controlled substance pursuant to Chapter 8993, Florida Statutes.

9. Fiorinal is the brand name for a tablet or capsule containing butalbital, aspirin, phenacetin and caffeine. Because it contains butalbital, Fiorinal is a Schedule III controlled substance pursuant to Chapter 893, Florida Statutes.

10. Respondent terminated his doctor/patient relationship with S.H. on or about April 19, 1984. Thereafter, Respondent prescribed the above-listed substances without a valid doctor/patient relationship. Alternatively, Respondent failed to maintain patient records for patient S.H. after April 19, 1984.

11. The above-described prescriptions to S.H. were outside the course of Respondent's professional practice.

COUNT I

12. Petitioner realleges paragraphs one through eleven above as if fully set forth herein this Count I.

13. Based on the foregoing, Respondent violated Section 458.331(1)(h), Florida Statutes (1983) [now Section 458.331(1)(g), Chapter 86-245, Laws of Florida], by failing to perform any statutory or legal obligation placed upon a licensed physician. The specific statutory duty which Respondent failed to perform is set forth in Section 893.05, Florida Statutes, which provides that a practitioner shall prescribe controlled substances in good faith and in the course of his professional practice only.

COUNT II

14. Petitioner realleges paragraphs one through eleven above as if fully set forth herein this Count II.

15. Based on the foregoing allegations, Respondent violated Section 458.331(1)(q), Florida Statutes, by prescribing, dispensing, administering, mixing or otherwise preparing a legend drug, including any controlled substances, other than in the course of the physician's professional practice.

COUNT III

16. Petitioner realleges paragraphs one through ten above as if fully set forth herein this Count III.

17. Respondent failed to maintain adequate records to justify his treatment of S.H.

18. Based on the foregoing allegations, Respondent violated Section 458.331(1)(n), Florida Statutes (1983) [now Section 458.331(1)(m), Chapter 86-245, Laws of Florida], 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.

COUNT IV

19. Petitioner realleges paragraphs one through eleven above as if fully set forth herein this Count IV.

20. Respondent, in his treatment of S.H., failed to practice medicine with that level of care, skill and treatment which is recognized by a reasonably prudent similar physician as acceptable under similar conditions and circumstances.

21. Based on the foregoing allegations, Respondent violated Section 458.331(1)(t), Florida Statutes, by 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.

COUNT V

22. Petitioner realleges paragraphs one and two above as if fully set forth herein this Count V.

23. Between on or about September 2, 1978 and on or about February 24, 1986, Respondent was the treating physician for patient G.B. The primary problem for which Respondent was treating G.B. was multiple lumbar nerve root compression caused by herniation and degeneration of the lumbar intervertebral disc, which necessitated multiple hospitalizations and frequent office visits.

24. In 1985, Respondent wrote ten prescriptions for Demerol and one prescription for Percodan for patient G.B., which Respondent then personally filled and then returned the medications received to his office. Respondent did this so that he would have medications in the office to give patients.

25. In addition, during the period in question, Respondent prescribed additional Demerol as well as Serak and Valium to G.B.

26. Respondent failed to maintain adequate patient records to justify his treatment of patient G.B.

27. Based on the foregoing allegations, Respondent violated Section 458.331(1)(n), Florida Statutes (1983) [now Section 458.331(1)(m), Chapter 86-245, Laws of Florida], 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.

COUNT VI

28. Petitioner realleges paragraphs one, two, and twenty-three through twenty-seven above as if fully set forth herein this Count VI.

29. Respondent, with reference to the patient records he maintained for patient G.B., failed to practice medicine with that level of care, skill and treatment which a reasonably prudent similar physician recognizes as acceptable under similar conditions and circumstances.

30. Based on the foregoing allegations, Respondent violated Section 458.331(1)(t), Florida Statutes, by 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.

COUNT VII

31. Petitioner realleges paragraphs one, two, and twenty-three through twenty-five above as if fully set forth herein in this Count VII.

32. Demerol is the brand name for a meperidine which is a Schedule II controlled substance, pursuant to Chapter 893, Florida Statutes.

33. Percodan is the brand name for a tablet containing oxycodone and aspirin. Because it contains oxycodone, Percodan is a Schedule II controlled substance pursuant to Chapter 893, Florida Statutes.

34. Although Respondent personally filled the above-mentioned prescriptions which he had made out for G.B. with the intent of dispensing those medications from his office, Respondent failed to maintain records pertaining to those controlled substances dispensed. Additionally, Respondent failed to maintain a biennial inventory of his office's controlled substances. These records are required by Section 893.07, Florida Statutes.

35. On some of the prescriptions Respondent issued for patient G.B. during the above-mentioned period, Respondent wrote an order for a Schedule II controlled and an order for a drug listed another schedule on the same script in violation of Section 893.02(17).

36. Based on the foregoing Respondent violated Section 458.331(1)(h), Florida Statutes (1983) [now Section 458.331(1)(g), Chapter 86-245, Laws of Florida], by failing to fulfill a statutory or legal obligation placed upon a licensed physician.

COUNT VIII

37. Petitioner realleges paragraphs one, two, and twenty-three through twenty-seven above as if fully set forth herein this Count VIII.

38. Based on the foregoing allegations, Respondent violated Section 458.331(1)(l), Florida Statutes (1983) [now Section 458.331(1)(k), Chapter 86-245, Laws of Florida], by making

deceptive, untrue or fraudulent representations in the practice of medicine.

COUNT IX

39. Petitioner realleges paragraphs one, two, and twenty-three through twenty-seven above as if fully set forth herein this Count IX.

40. Based on the foregoing, Respondent violated Section 458.331(1)(bb), Florida Statutes, by prescribing any medicinal drug appearing on Schedule II in Chapter 893, Florida Statutes, by the physician for office use.

WHEREFORE, the Petitioner respectfully requests that 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 26 day of November, 1986.

Fred Roche

FRED ROCHE, Secretary
Department of Professional
Regulation

[Signature]

COUNSEL FOR DEPARTMENT:

Stephanie A. Daniel
Senior Attorney
Department of Professional
Regulation
130 North Monroe Street
Tallahassee, Florida 32301
(904) 488-0062

SAD/11
10-28-86

PCP/Echevarria & O'Bryan

FILED

DEPARTMENT OF PROFESSIONAL REGULATION

Melinda H. Wagner
CLERK

DATE December 1, 1986

STATE OF FLORIDA
DEPARTMENT OF PROFESSIONAL REGULATION

BOARD: Medicine
CASE NUMBER: 0070022
COMPLAINT MADE BY: DPR
DATE COMPLAINT RECEIVED: April 11, 1987
COMPLAINT MADE AGAINST: Eduardo A. Garcia, M.D.
3418 Ocean Drive
Vero Beach, Florida 32960
REVIEWED BY: RAY SHOPE/RH
STAFF RECOMMENDATION: Close (PL-16)

CLOSING ORDER


THE COMPLAINT: Complainant alleged that the Subject had prescriptions filled in the name of a former patient for office use, and that medical records were falsified.

THE FACTS: Investigation failed to substantiate the allegations, however, Subject's license was revoked in another proceeding.

THE LAW: There is probable cause to believe that Subject has violated Chapter 458, Florida Statutes, however, in light of the fact that Subject is no longer licensed, this case should be closed.

It is, therefore, ORDERED that the complaint be, and the same is hereby CLOSED.

DONE and ORDERED this 30 day of January, 1988

Tom Gallagher, Secretary 


BY: BRUCE D. LAMB
Chief Medical Attorney

RS/RH/mt
13/14/87

STATE OF FLORIDA
DEPARTMENT OF PROFESSIONAL REGULATION

BOARD: Medicine
CASE NUMBER: 0070023
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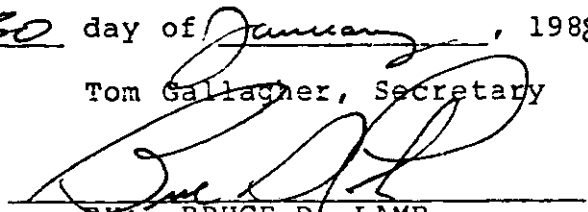
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Tom Gallagher, Secretary


BY: BRUCE D. LAMB
Chief Medical Attorney

RS/RH/mt
10/14/87

STATE OF FLORIDA
DEPARTMENT OF PROFESSIONAL REGULATION

DEPARTMENT OF PROFESSIONAL
REGULATION,

Petitioner,

vs.

CASE NOS. 0070022
0070023

EDUARDO A. GARCIA, M.D.,

Respondent.

MOTION FOR DEFAULT

COMES NOW the Petitioner, the Department of Professional Regulation, by and through the undersigned counsel and files this its Motion for Default and as grounds therefore would state:

1. An Administrative Complaint was filed in this case on December 1, 1986, alleging violations of Chapter 458, Florida Statutes. A copy of the aforesaid Administrative Complaint is attached hereto and incorporated herein as Exhibit A.

2. Service of the Administrative Complaint on Respondent was subsequently attempted by registered mail to Respondent's last known address. The Complaint was received by Respondent December 5, 1986. A copy of the signed receipt is attached hereto and incorporated herein as Exhibit B.

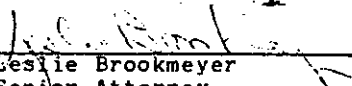
3. Respondent has failed to contact the Department of Professional Regulation concerning the Administrative Complaint.

4. A copy of the investigative file in this case sets forth a prima facie case establishing the violations as set forth in the Administrative Complaint. A copy of the investigative report is attached hereto and incorporated herein as Exhibit C.

WHEREFORE, Petitioner moves this Board of Medicine to enter an Order finding Respondent in default of Chapter 458, Florida Statutes, as alleged in the Administrative Complaint and

suspending Respondent's license to practice medicine with skill
and safety to patients.

Respectfully submitted,



Leslie Brookmeyer
Senior Attorney
Department of Professional
Regulation
130 North Monroe Street
Tallahassee, Florida 32399-0750
(904) 488-0062

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the
foregoing Motion for Default has been furnished to Edgardo A.
Garcia, M.D., 3418 Ocean Drive, Vero Beach, Florida 32960 by
United States mail this 14th day of April, 1987.



Leslie Brookmeyer
Senior Attorney

LB/mk
01/26/87