


STATE OF FLORIDA
DEPARTMENT OF PROFESSIONAL REGULATION

BOARD: MEDICINE
CASE NUMBER: 0084461
COMPLAINT MADE BY: 
DATE COMPLAINT RECEIVED: May 14, 1987
COMPLAINT MADE AGAINST: Benjamin R. Villalba, M.D.
3661 South Miami Avenue
Suite 810
Miami, Florida 33133
REVIEWED BY: Leslie Brookmeyer/JK
STAFF RECOMMENDATION: CLOSE (PL 06)

CLOSING ORDER

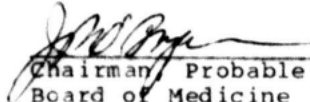
THE COMPLAINT: Complainant alleges that the Subject of the investigation failed to keep adequate medical record justifying the course of treatment and inappropriately and/or excessively prescribing medication to patients by authorizing refills of prescriptions on a "per required need" (prn) basis.

THE FACTS: Investigation established that the Subject of the investigation had called in prescriptions on three patients and not recorded them in his medical records. However, two of the three patients involved were not the Subject's patients. The patients' regular physician, for whom the Subject was covering, did have records of prescription written by the Subject. Investigation further revealed that the prescriptions allegedly given by the Subject on a (prn) basis were the result of irregular practices at the pharmacy where the patients had their prescriptions refilled. These pharmacies are currently being investigated by the Drug Enforcement Agency.

THE LAW: Based on the foregoing, there is sufficient evidence to support a probable cause that the Subject violated the provisions of Section 458.331(1)(n), Florida Statutes other rules promulgated thereunder. However under the circumstances the Subject will be issued a Letter of Guidance.

It is, therefore, ORDERED that this matter should be and the same is hereby CLOSED with a Letter of Guidance.

DONE and ORDERED this 30 day of September, 1987.


Chairman, Probable Cause Panel
Board of Medicine

LB/JK/ba
8/24/87



Department of Professional Regulation

130 North Monroe Street
Tallahassee, Florida 32399-0750

October 2, 1987

Benjamin R. Villalba, M.D.
3661 South Miami Ave., Suite 810
Miami, Florida 33139

RE: Case No. 0084461

Dear Dr. Villalba:

Please be advised that the complaint referenced above, filed against you by Harold Dieter, DEA and regarding allegations that you failed to keep written medical records justifying called-in prescriptions has been investigated and the findings reviewed by the Probable Cause Panel of the Board of Medicine. Based upon the evidence obtained, the Panel determined there was sufficient evidence to establish probable cause to believe that a violation of Chapter 458, Florida Statutes, has occurred.

The Panel recommended, however, that this case be closed by issuing you this letter of guidance in lieu of formal prosecution. The Panel found probable cause to believe you had violated the following statute:

Section 458.331(1)(m), Florida Statutes, failing to keep medical records justifying the course of treatment of the patient, including, but not limited to, patient histories, examination results, and test results.

Probable cause of a violation of this statute was based on evidence that you did not have medical records for called-in prescriptions.

In the future, I am sure that you will conduct your medical practice in full compliance with the provisions of Chapter 458, Florida Statutes. If probable cause of a violation is found in the future, the Department will not hesitate to seek full prosecution.

Sincerely,


Leslie Brookmeyer
Senior Attorney

LB/jh/sdc



JUN 8 1987
 DPR
 INVESTIGATIVE SERVICES

INVESTIGATIVE REPORT

Office: Miami		Date of Complaint: May 14, 1987		Case No. ME 0084461	
Subject: VILLALBA, BENJAMIN R. 3661 South Miami Avenue Suite 810 Miami, Florida 33133			Complainant: DIETER, HAROLD Mr., DEA 8400 N. W. 53rd Street Miami, Florida 33166		
License No./Profession: ME 0033974				Date of Report: June 3, 1987	
Period of Investigation: June 1, 1987 to June 3, 1987				Type Report: Prelim. () Final (XX) Suppl. ()	
Violation: (List Statute/Rule No. & Violation Description) F.S. 458.331 (1)(g)(n) Failure to maintain accurate records.					
Synopsis: This investigation was predicated on a complaint filed with the Department on May 14, 1987 by Mr. HAROLD E. DIETER, Supervisor, DRUG ENFORCEMENT ADMINISTRATION. The complaint alleges the possibility that Dr. BENJAMIN R. VILLALBA, M.D. violated F.S. 458.331 (1)(g)(n). Mr. DIETER wrote that during the course of the investigation they discovered several call in prescriptions allegedly made by the Subject Dr. VILLALBA, who when questioned could not present prescription or medical records to justify the medication ordered. When Dr. VILLALBA was interviewed he stated that two of the three patients that were involved were patients of another doctor and their records were not available to him. He denied ever adding refills PRN. Later in the investigation Ms. JAN BRYANT, DEA Investigator was contacted and advised that their investigation is ongoing. She stated that the patients involved had been interviewed and stated on occasion they had called the pharmacy and additional medication was received without prescription or further contact with the doctor. Ms. BRYANT continued that there is a possibility that person/s unknown at this pharmacy may be responsible.					
Related Cases:					
Investigator/Date: H.F.F. 6-3-87		Approved by/Date: A.J.B. 6-3-87		Reviewed by:	
HUGH F. FITZPATRICK		ALBERT J. BOURKE, JR.			
Distribution: Investigation Time: 25					