

BEFORE THE SOUTH CAROLINA STATE BOARD OF MEDICAL EXAMINERS

In the Matter of:

ANGEL PEREZ, M.D.,

License No. 21861

OGC #06-0052

OIE #2004-349

Respondent.

FINAL ORDER
(Public)

This matter came before the State Board of Medical Examiners (the Board) on February 5, 2007 for hearing pursuant to the Notice and Complaint which was served upon the Respondent and filed with the Board. A quorum of Board members was present. The hearing was held pursuant to S.C. Code Ann. §§40-47-117 (1976), as amended, and provisions of the S.C. Administrative Procedures Act (the APA), S.C. Code Ann. §1-23-10, *et seq.*, (1976), as amended, to determine whether sanctions should be imposed based upon the Memorandum of Agreement and Stipulations agreed upon by the Respondent and the State. The State was represented by Sheridan H. Spoon, Esquire, Assistant General Counsel, South Carolina Department of Labor, Licensing and Regulation. The Respondent appeared and was represented by Aaron J. Kozloski, Esquire.

The Respondent was charged with violation of S.C. Code Ann. §§40-47-200(F)(2), (7), (8), (9), (11) and (12) (1976), as amended, and S.C. Code of Reg. No. 81-60(A), (B) and (C) (Supp. 2004) of the Rules and Regulations of the Board.

FINDINGS OF FACT

Based upon the preponderance of the evidence on the whole record, the Board finds the facts of the case to be as follows:

1. The Respondent is a physician who is duly licensed to practice in South Carolina and was so licensed at all times relevant to the matters alleged in the Complaint.
2. On December 13, 2006, the Respondent signed a Memorandum of Agreement and Stipulations in which he waived his right to a formal hearing before a disciplinary panel, and in which the Respondent admitted the following facts:
 - A. On or about June 30, 2003, and July 10, 2003, Respondent unlawfully obtained a quantity of Demerol, a Schedule II controlled substance, by fraud. Respondent

admits that he wrote prescriptions for Demerol in the name of his secretary. Respondent's secretary, on both occasions, had the prescriptions filled and brought the Demerol back to Respondent's home.

- B. Respondent admits that he then gave the Demerol to his supervisor. Respondent admits that said prescriptions were written and provided without a legitimate doctor/patient relationship and for no legitimate medical purpose. Respondent admits that he did not create or maintain any medical records for said supervisor.
- C. Respondent admits that, on or about October 18, 2004, he wrote and signed a voluntary affidavit admitting that on both June 6, 2003 and July 10, 2003, he "wrote Demerol for Darlene Sinclair" and "gave [it] to Mary Faucette, for a non-medical indication."
- D. Respondent admits that he, on or about October 20, 2004, was arrested by the South Carolina Department of Health and Environmental Control for obtaining controlled substances by fraud, deceit, and/or subterfuge.
- E. Respondent admits that on or about December 9, 2005, he gave a statement to DHEC in which he admits writing the fraudulent prescriptions.

3. The Respondent admits that the aforementioned acts of Respondent present grounds that constitute misconduct, as alleged.

4. The Respondent appeared and answered questions from Board members, and he also expressed his regret for allowing himself to be pressured into writing the prescriptions in questions. According to the Respondent, he has completed a pre-trial program which will resolve the criminal charges brought by DHEC.

CONCLUSIONS OF LAW

Based upon careful consideration of the facts in this matter, the Board finds and concludes as a matter of law that:

1. The Board has jurisdiction in this matter and, upon finding that a licensee has violated any of the provisions of S.C. Code Ann. §§40-1-110 and 40-47-110 (1976), as amended, has the authority to order the revocation or suspension of a license to practice medicine or osteopathy, publicly or privately reprimand the holder of a license, or take other reasonable action short of revocation or suspension, such as requiring the licensee to undertake additional professional training subject to the direction and supervision of the Board or imposing restraint upon the medical or osteopathic practice of the licensee as circumstances warrant until the licensee demonstrates to the Board adequate professional competence. Additionally, the

Board may require the licensee to pay a fine of up to twenty-five thousand dollars and the costs of the disciplinary action.

2. The Respondent has violated S.C. Code Ann. §§40-47-200(F)(7) and (12) (1976), as amended, in that the Respondent engaged in misconduct by violating the following principles of medical ethics adopted by the Board:

A. S.C. Code of Regs. 81-60(C) in that the Respondent failed to respect the law, as evidenced by Respondent's admission that he wrote prescriptions for Demerol in the name of his secretary that were actually intended for and were given to Respondent's supervisor; and Respondent's additional admission that said prescriptions were written and provided without a legitimate doctor/patient relationship and for no legitimate medical purpose.

3. The Respondent has violated S.C. Code Ann. §40-47-200(F)(9) (1976), as amended, in that the Respondent is guilty of the use of a false or fraudulent statement in a document connected with the practice of medicine, as evidenced by the Respondent's admission that he wrote prescriptions for Demerol in the name of his secretary that were actually intended for and were given to Respondent's supervisor.

4. The Respondent has violated S.C. Code Ann. §40-47-200(F)(11) (1976), as amended, in that the Respondent intentionally violated the medical practice laws, as evidenced by the Respondent's admission that he wrote prescriptions for Demerol in the name of his secretary that were actually intended for and were given to Respondent's supervisor; and Respondent's additional admission that said prescriptions were written and provided without a legitimate doctor/patient relationship and for no legitimate medical purpose.

5. The sanction imposed is consistent with the purpose of these proceedings and has been made after weighing the public interest and the need for the continuing services of qualified physicians against the countervailing concern that society be protected from professional ineptitude and misconduct.

6. The sanction imposed is designed not to punish the Respondent, but to protect the life, health and welfare of the people at large.

NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED that:

1. The Respondent shall be, and hereby is, issued a public reprimand.
2. The Respondent shall pay a fine in the amount of Two Thousand and No/100 (\$2,000.00) Dollars, plus costs associated with this disciplinary action in the amount of Two Hundred/Seventy-Four and 50/100 (\$274.50) Dollars. Said fine and costs must be paid within six months of the date of this final order, and shall not be deemed paid until received by the Board. Respondent's failure to pay the fine and costs

within the time frame stated herein may result in the immediate temporary suspension of his license to practice medicine in this State pending hearing into the matter and until further order of the Board.

3. This final order shall take effect immediately upon service of the order upon the Respondent or Respondent's counsel.

AND IT IS SO ORDERED.

STATE BOARD OF MEDICAL EXAMINERS

BY:



LOUIS E. COSTA, II, M.D.

President of the Board

Mar 15, 2007.