

2. Respondent, on June 27, 1996, pled guilty to forty-six (46) counts of violating S.C. Code Ann. 43-47-60(B), by knowingly and wilfully making or causing to be made false claims, statements, or representations of a material fact in applications or requests, including electronic or computer generated claims, for benefits, payments, or reimbursements from a state or federal agency which administers or assists in the administration of the state's medical assistance or Medicaid program. (Indictment No. 96-GS-04-838).
3. Respondent, on or about or between December 1986, through June 1995, during treatment of the following twenty-three (23) patients, prescribed controlled substances, named below, without sufficient justification and outside of the range of acceptable medical treatment: (1) to patient ER- Desipramine, Aprazolam, Clorazepate, Clonazepam, Doxepin, Klonopin, and Zoloft; (2) to patient JA - Alprazolam; (3) to patient AR - Alprazolam and Temazepam; (4) to patient NM - Alprazolam and Zantac; (5) to patient SL - Alprazolam, Doral, Temazepam, and Ambien; (6) to patient ALR - Alprazolam and Hydrocodone; (7) to patient LW - Alprazolam, Prozac, and Pamelor; (8) to patient CM - Alprazolam and Diazepam; (9) to patient RL - Alprazolam; (10) to patient TB - Alprazolam; (11) to patient RM - Alprazolam; (12) to patient AM - Alprazolam and Desyrel; (13) to patient WM - Alprazolam; (14) to patient GH - Diazepam and Hydrocodone; (15) to patient TF - Alprazolam and Diazepam; (16) to patient DS - Alprazolam; (17) to patient KH - Alprazolam, Halcion, Prozac, and Diazepam; (18) to patient BF - Alprazolam, Diazepam, Pamelor and Trazodone; (19) to patient BG - Alprazolam (20) to patient DL - Paxil, Alprazolam, Diazepam, and Temazepam; (21) to patient MS - Alprazolam; (22) to patient SR - Alprazolam; and (23) to patient AM - Alprazolam.
4. The Respondent admitted that the aforementioned acts of the Respondent present grounds that constitute misconduct under S.C. Code Ann. §40-47-200(F)(Supp. 1995), as alleged.

CONCLUSIONS OF LAW

Based upon careful consideration of the facts in this matter and the stipulations and agreement of the parties, 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. §40-47-200, *supra*, has the authority to order the revocation or suspension of a license to practice medicine, 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 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 civil penalty of up to ten thousand dollars to the Board and the costs of the disciplinary action.

2. The Respondent has violated S.C. Code Ann. §§40-47-200(F)(2), (7), (8), (9), (10) and (11)(Supp.1995); Regulations No. 81-60(A),(B),and(C) (Supp. 1995) of the Rules and Regulations of the Board, in the following particulars:

3. Respondent's conduct enumerated in Findings of Fact #1 and #2 constitutes violations of the following Rules and Regulations of the Board:

- a. S.C. Code Ann. § 40-47-200(F)(2), in that Respondent plead guilty to a crime involving moral turpitude;
- b. S.C. Code Ann. § 40-47-200(F)(7), via violation of Regulation 81-60(B), in that Respondent failed to deal honestly with patients and colleagues;
- c. S.C. Code Ann. § 40-47-200(F)(7), via violation of Regulation 81-60(C), in that Respondent failed to respect the law;
- d. S.C. Code Ann. § 40-47-200(F)(8), in that Respondent engaged in dishonorable, unethical, or unprofessional conduct likely to deceive, defraud, or harm the public;
- e. S.C. Code Ann. § 40-47-200(F)(9), in that Respondent used false or fraudulent statements in a document connected with the practice of medicine;
- f. S.C. Code Ann. § 40-47-200(F)(10), in that Respondent obtained fees under dishonorable, false, or fraudulent circumstances; and
- g. S.C. Code Ann. § 40-47-200(F)(11), in that Respondent violated or attempted to violate, directly or indirectly, or assisted in or abetted the violation of or conspired to violate medical practice laws.

4. Respondent's conduct enumerated in Findings of Fact #3 constitutes violations of the following Rules and Regulations of the Board:

- a. S.C. Code Ann. § 40-47-200(F)(7), via Regulation 81-60(A), in that Respondent failed to provide competent medical service with compassion and respect for human dignity; and
- b. S.C. Code Ann. § 40-47-200(F)(8), in that Respondent engaged in dishonorable, unethical, or unprofessional conduct likely to deceive, defraud, or harm the public.

5. In determining an appropriate sanction the Board has considered, among other things, the nature and circumstances of the misconduct, the protection of the public, the standards of practice for physicians, the interests in the rehabilitation of the Respondent, and deterrence from future offenses. 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 medical doctors against the countervailing concern that society be protected from professional dishonesty or ineptitude. The sanction imposed is designed not to punish the physician, but to protect the life, health, and welfare of the people at large.

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

1. The Respondent be and hereby is publicly reprimanded.
2. The Respondent's license to practice medicine in this State is hereby indefinitely suspended. This suspension shall be stayed when the Respondent has satisfied the following specified pre-conditions for reinstatement:
 - A. The Respondent shall pay a fine of Ten Thousand and No/100 (\$10,000.00) Dollars. This fine shall not be deemed paid until received by the Board. The Respondent's license shall be reinstated and the suspension stayed after the fine has been paid.
 - B. The Respondent shall arrange to work in a practice setting in a salaried position, either in an institutional or group setting. Such practice setting, and any changes therein, must be approved, in writing, in advance by the Board. It is the Board's intent with this condition to avoid Respondent working in a private practice setting alone with responsibility for third party billing which would result in a direct pecuniary benefit to Respondent.
3. Thereafter, the Respondent's license shall be continued in a probationary status for an indefinite period of time upon the following terms and conditions of probation, which shall remain in effect until further order of the Board:
 - A. Within one (1) year of the date of this Order, Respondent must attend and document completion of the Clinical, Legal, and Ethical Issues in Prescribing Abusable Drugs program and the Quality Medical Record Keeping for Health Care Professionals course offered by the Florida Medical Association and the University of South Florida, or an equivalent course approved in advance, in writing, by the

Board. Respondent must file written proof of compliance with the Board within fifteen (15) days after completing this requirement. The cost of the course shall be borne by the Respondent. Failure to comply with this requirement shall result in the immediate suspension of Respondent's license to practice medicine until such time as full compliance has been made by Respondent.

B. Respondent shall use triplicate copies of prescriptions for all controlled substances written by him. One copy shall be delivered to the patient; one copy shall be delivered to the Board upon request at such times as the Board may desire; and one copy shall be maintained by Respondent in a readily retrievable manner in Respondent's office for inspection by representatives of the Board or its designee.

C. The Respondent's medical records (office, hospital, and surgical activity) shall be subject to random periodic review by the Board or its designee.

D. The Respondent shall promptly advise this Board in writing of any changes in address, practice, hospital privileges, professional status, or compliance with this final order.

4. Failure by the Respondent to abide by any of the aforementioned conditions of probation during the period of probation shall warrant the immediate revocation of probation and the immediate imposition of the aforementioned indefinite suspension of his license to practice medicine in this State pending hearing into the matter and until further order of the Board.

5. The Respondent shall cooperate with the Board, its attorneys, investigators, and other representatives in the investigation of Respondent's practice and compliance with the provisions of this final order. It is the Respondent's responsibility to demonstrate compliance with each and every provision of this final order. The Respondent may be required to furnish the Board with additional information as may be deemed necessary by the Board or its representatives.

AND IT IS SO ORDERED by majority vote of the total membership of the board.

STATE BOARD OF MEDICAL EXAMINERS

BY: *Ben C. Pendarvis, Jr. M.D.*
BEN C. PENDARVIS, JR., M.D.
President of the Board

August 12, 1996.