



STATE OF NEW YORK
DEPARTMENT OF HEALTH

433 River Street, Suite 303

Troy, New York 12180-2299

Barbara A. DeBuono, M.D., M.P.H.
Commissioner

Dennis P. Whalen
Executive Deputy Commissioner

PUBLIC

August 25, 1997

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Rolando Roberto Sanchez, M.D.
837 South Boulevard
Tampa, FL 33606

Terrence Sheehan, Esq.
NYS Department of Health
5 Penn Plaza - Sixth Floor
New York, New York 10001

Michael K. Blazicek, Esq.
Stehens, Lynn, Klein & McNicholas
Suite 2500
101 East Kennedy Blvd.
Tampa, FL 33602

RE: In the Matter of Rolando Roberto Sanchez, M.D.

Dear Dr. Sanchez, Mr. Blazicek and Mr. Sheehan:

Enclosed please find the Determination and Order (No. BPMC-97-205) of the Hearing Committee in the above referenced matter. This Determination and Order shall be deemed effective upon the receipt or seven (7) days after mailing by certified mail as per the provisions of §230, subdivision 10, paragraph (h) of the New York State Public Health Law.

Five days after receipt of this Order, you will be required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate. Delivery shall be by either **certified mail or in person** to:

Office of Professional Medical Conduct
New York State Department of Health
Hedley Park Place
433 River Street - Fourth Floor
Troy, New York 12180

If your license or registration certificate is lost, misplaced or its whereabouts is otherwise unknown, you shall submit an affidavit to that effect. If subsequently you locate the requested items, they must then be delivered to the Office of Professional Medical Conduct in the manner noted above.

As prescribed by the New York State Public Health Law §230, subdivision 10, paragraph (i), and §230-c subdivisions 1 through 5, (McKinney Supp. 1992), "the determination of a committee on professional medical conduct may be reviewed by the Administrative Review Board for professional medical conduct." Either the licensee or the Department may seek a review of a committee determination.

Request for review of the Committee's determination by the Administrative Review Board stays penalties **other than suspension or revocation** until final determination by that Board. Summary orders are not stayed by Administrative Review Board reviews.

All notices of review must be served, by **certified mail**, upon the Administrative Review Board **and** the adverse party within fourteen (14) days of service and receipt of the enclosed Determination and Order.

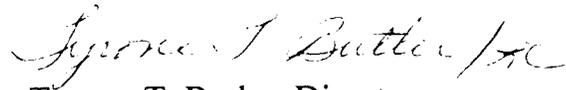
The notice of review served on the Administrative Review Board should be forwarded to:

James F. Horan, Esq., Administrative Law Judge
New York State Department of Health
Bureau of Adjudication
Hedley Park Place
433 River Street, Fifth Floor
Troy, New York 12180

The parties shall have 30 days from the notice of appeal in which to file their briefs to the Administrative Review Board. Six copies of all papers must also be sent to the attention of Mr. Horan at the above address and one copy to the other party. The stipulated record in this matter shall consist of the official hearing transcript(s) and all documents in evidence.

Parties will be notified by mail of the Administrative Review Board's
Determination and Order.

Sincerely,

A handwritten signature in cursive script that reads "Tyrone T. Butler".

Tyrone T. Butler, Director
Bureau of Adjudication

TTB:crc
Enclosure

STATE OF NEW YORK : DEPARTMENT OF HEALTH
STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

COPY

IN THE MATTER
OF
ROLANDO ROBERTO SANCHEZ, M.D.

DETERMINATION
AND
ORDER

BPMC-97-205

A Notice of Referral Proceedings and Statement of Charges, both dated May 5, 1997 were served upon the Respondent, **ROLANDO ROBERTO SANCHEZ, M.D.**

ROBERT J. O'CONNOR, M.D., Chairperson, **RICHARD ASHLEY, M.D.** and **MR DENNIS GARCIA**, duly designated members of the State Board for Professional Medical Conduct, served as the Hearing Committee in this matter pursuant to Section 230(10)(e) of the Public Health Law. **MICHAEL P. MCDERMOTT, ESQ.**, Administrative Law Judge, served as the Administrative Officer.

A hearing was held on August 13, 1997, at the Offices of the New York State Department of Health, 5 Penn Plaza, New York, New York. The Department appeared by **HENRY M. GREENBERG, ESQ.** General Counsel, by **TERRENCE SHEEHAN, ESQ.**, of Counsel. The Respondent appeared in person and was represented by **STEPHENS, LYNN, KLEIN & MCNICHOLAS**, Suite 2500, 101 East Kennedy Blvd., Tampa, Florida 33602, by **MICHAEL K. BLAZICEK, ESQ.**, of Counsel.

Evidence was received and transcripts of these proceedings were made.

After consideration of the entire record, the Hearing Committee issues this Determination and Order.

STATEMENT OF CASE

This case was brought pursuant to Public Health Law Section 230(10)(p). The statute provides for an expedited hearing where a licensee is charged solely with a violation of

Education Law Section 6530(9). In such case, a licensee is charged with misconduct based upon a prior criminal conviction in New York or another jurisdiction, or upon a prior administrative adjudication regarding conduct which would amount to professional misconduct if committed in New York. The scope of an expedited hearing is limited to a determination of the nature and severity of the penalty to be imposed upon the licensee.

In the instant case, the Respondent is charged with professional misconduct pursuant to Education Law Section 6530(9)(b). A copy of the Notice of Referral Proceeding and Statement of Charges is attached to this Determination and Order as Appendix I.

FINDINGS OF FACT

The following Findings of Fact were made after a review of the entire record in this matter. Numbers in parentheses refer to transcript page numbers or exhibits. These citations represent evidence found persuasive by the Hearing Committee in arriving at a particular finding. Conflicting evidence, if any, was considered and rejected in favor of the cited evidence. All Hearing Committee findings were unanimous unless otherwise stated.

1. **ROLANDO ROBERTO SANCHEZ, M.D.**, the Respondent, was authorized to practice medicine in New York State on September 3, 1976, by the issuance of license number 128231 by the New York State Education Department (Pet's. Ex. 1).
2. By "**FINAL ORDER**", dated January 26, 1996, the State Board of Florida, Agency for Health Care Administration, Board of Medicine, hereinafter "Florida Board", found, after a hearing, that the Respondent had performed a leg amputation on the wrong leg of one patient (Patient #1) and had amputated another Patient's (Patient #2) right fourth toe without the patient's consent (Pet's. Ex. 3).
3. Based on these violations, the "Florida Board" reprimanded the Respondent; fined him Ten Thousand (\$10,000) Dollars; suspended his license to practice medicine in the State of Florida for a period of six (6) months; and placed him on probation for a period of two (2) years. The terms of said probation includes, among other things, a practice monitor (Pet's. Ex. 3).

4. In its "**DISPOSITION**" of this case, the "Florida Board" noted:

"The Board specifically finds as mitigation the following facts set forth in the record of this case:

- a. Respondent has practiced for almost 20 years as a licensed physician'
- b. Respondent is board certified in his specialty area of medical practice;
- c. Both of patient #1's legs were badly diseased and eventually would have been removed as a matter of medical necessity;
- d. The Board has not used the penalty of suspension , in prior cases of wrongside surgery; and
- e. The fault that existed with regard to the removal of Patient #2's toe was a matter of procedure involving the patient informed consent process rather than a substantive error involving medical technique or ability.

Furthermore, the Board believes that the record in this case establishes that Respondent's errors were not intentional and it is the Board's position that punitive action does not serve to deter acts of neglect" (Pet's. Ex. 3).

VOTE OF THE HEARING COMMITTEE
(All votes were unanimous unless otherwise specified)

SPECIFICATION
HAVING BEEN FOUND GUILTY OF
PROFESSIONAL MISCONDUCT

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(9)(b) (McKinney Supp. 1997) by having been found guilty of improper professional practice or professional misconduct by a duly authorized professional disciplinary agency of another state where the conduct upon which the findings was based would, if committed in New York State, constitute professional misconduct under the laws of New York State.

VOTE: SUSTAINED (3-0)

DETERMINATION OF THE HEARING COMMITTEE

After a review of the entire record in this matter, the Hearing Committee determines unanimously (3-0) that an appropriate penalty in this case would be to suspend the Respondent's license to practice medicine in New York State for a period to coincide with the probation imposed by the Florida Board. In order for the Respondent to have his New York State medical license restored, he must submit to the Office of Professional Medical Conduct evidence that he has satisfactorily fulfilled all of the terms of his Florida probation and that his Florida medical license has been fully restored.

If, at some future date, the Respondent chooses to return to practice in New York he must:

- ◆ provide ninety days prior notice concerning his return to the Office of Professional Medical Conduct,
- ◆ include with the notice proof that his license remains in good standing in all states where he maintains a license; and,
- ◆ provide information concerning this disciplinary action to any New York hospital at which he applies for privileges and/or employment.

ORDER

IT IS HEREBY ORDERED THAT:

1. The Respondent's license to practice medicine in the State of New York is hereby **SUSPENDED** for a period to coincide with the probation imposed by the Florida Board.
2. In order for the Respondent to have his New York State medical license restored, he must submit to the Office of Professional Medical Conduct evidence that he has satisfactorily fulfilled all of the terms of his Florida probation and that his Florida medical license has been fully restored.
3. If, at some future date, the Respondent chooses to return to practice in New York he must:
 - ◆ provide ninety days prior notice concerning his return to the Office of Professional Medical Conduct,
 - ◆ include with the notice proof that his license remains in good standing in all states where he maintains a license; and
 - ◆ provide information concerning this disciplinary action to any New York hospital at which he applies for privileges and/or employment.

4. This Order shall be effective upon service on the Respondent or the Respondent's attorney by personal service or by certified or registered mail.

DATED: **Staten Island, New York**

August 21, 1997



ROBERT J. O'CONNOR, M.D., Chairman

**RICHARD ASHLEY, M.D.
MR. DENNIS GARCIA**

TO: Rolando Roberto Sanchez, M.D.
837 South Boulevard
Tampa, FL 33606

Michael K. Blazicek, Esq.
Stephens, Lynn, Klein & McNicholas
Suite 2500
101 East Kennedy Blvd.
Tampa, FL 33602

Terrence Sheehan, Esq.
NYS Department of Health
5 Penn Plaza - Sixth Floor
New York, New York 10001

IN THE MATTER
OF
ROLANDO ROBERTO SANCHEZ, M.D.

STATEMENT
OF
CHARGES

ROLANDO ROBERTO SANCHEZ, M.D., the Respondent, was authorized to practice medicine in New York State on or about September 3, 1976, by the issuance of license number 128231 by the New York State Education Department.

FACTUAL ALLEGATIONS

- A. On or about January 26, 1996 the Florida Agency for Health Care Administration found, after a hearing, that Respondent had performed a leg amputation on the wrong leg on one patient and had amputated another patient's right fourth toe without the patient's consent.

Based on these violations, the Florida Agency for Health Care Administration suspended Respondent's medical license for six months, placed him on probation for two years, required that Respondent have his office practice reviewed by a certified risk manager and fined him \$10,000.

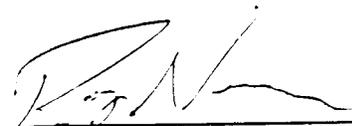
SPECIFICATION OF CHARGES

SPECIFICATION
HAVING BEEN FOUND GUILTY OF
PROFESSIONAL MISCONDUCT

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(9)(b)(McKinney Supp. 1997) by having been found guilty of improper professional practice or professional misconduct by a duly authorized professional disciplinary agency of another state where the conduct upon which the finding was based would, if committed in New York state, constitute professional misconduct under the laws of New York State [namely N.Y. Educ. Law §§ (3), (4) and (26)] as alleged in the facts of the following:

1. Paragraph A.

DATED: May 5, 1997
New York, New York



ROY NEMERSON
Deputy Counsel
Bureau of Professional
Medical Conduct