



New York State Board for Professional Medical Conduct

433 River Street, Suite 303 Troy, New York 12180-2299 • (518) 402-0863

Antonia C. Novello, M.D., M.P.H.
Commissioner
NYS Department of Health
Dennis P. Whalen
Executive Deputy Commissioner
NYS Department of Health
Anne F. Saile, Director
Office of Professional Medical Conduct

William P. Dillon, M.D.
Chair
Denise M. Bolan, R.P.A.
Vice Chair
Ansel R. Marks, M.D., J.D.
Executive Secretary

April 28, 2000

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Augustine Velez, M.D.
4497 Freeman Road
Orchard Park, NY 14127

RE: License No. 148521

Dear Dr. Velez:

Enclosed please find Order #BPMC 00-125 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect **April 28, 2000.**

If the penalty imposed by the Order is a surrender, revocation or suspension of this license, you are required to deliver to the Board the license and registration within five (5) days of receipt of the Order to Board for Professional Medical Conduct, New York State Department of Health, Hedley Park Place, Suite 303, 433 River Street, Troy, New York 12180.

Sincerely,

Ansel R. Marks, M.D., J.D.
Executive Secretary
Board for Professional Medical Conduct

Enclosure

cc: Herbert L. Greenman, Esq.
Lipsitz, Green, Fahringer, Roll, Salisbury & Cambria, LLP
42 Delaware Avenue, Suite 300
Buffalo, NY 14202-3857

Valerie B. Donovan, Esq.

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

-----X
IN THE MATTER : SURRENDER
OF : ORDER
AUGUSTINE VELEZ, M.D. : BPMC #00-125
-----X

AUGUSTINE VELEZ, M.D., says:

On or about October 30, 1981, I was licensed to practice medicine as a physician in the State of New York having been issued License No. 148521 by the New York State Education Department. My address is 4497 Freeman Road, Orchard Park, New York 14127.

I understand that I have been charged with nineteen specifications of professional misconduct as set forth in the Statement of Charges, annexed hereto, made a part hereof and marked as Exhibit "A".

I am applying to the State Board for Professional Medical Conduct for an agreement to allow me to surrender my license as a physician in the State of New York and request that the Board issue this Surrender Order.

I admit guilt to specifications 1, 2, 3, 9, 10, 11 and 17 in full satisfaction of the charges set forth in the Statement of Charges.

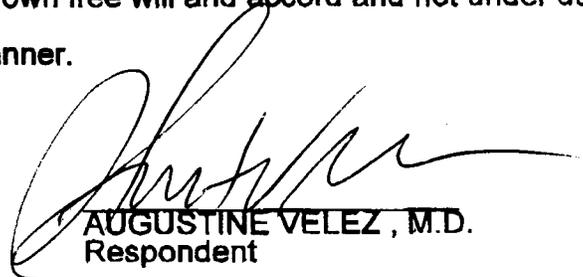
I understand that, in the event that this proposed agreement is not granted by the State Board for Professional Medical Conduct, nothing contained herein shall be binding upon me or construed to be an admission of any act of misconduct alleged or charged

against me, such proposed agreement shall not be used against me in any way, and shall be kept in strict confidence during the pendency of the professional misconduct disciplinary proceeding; and such denial by the State Board for Professional Medical Conduct shall be made without prejudice to the continuance of any disciplinary proceeding and the final determination by a Committee on Professional Medical Conduct pursuant to the provisions of the Public Health Law.

I agree that in the event the State Board for Professional Medical Conduct agrees with my proposal, this Order shall be issued striking my name from the roster of physicians in the State of New York without further notice to me. I agree that this Order shall be effective upon issuance by the Board, which may be accomplished by mailing, by first class mail, a copy of the Order to me at the address set forth above, or to my attorney, or upon transmission via facsimile to me or my attorney, whichever is earliest.

I agree to comply with the provisions listed in Appendix B, attached hereto.

I am making this agreement of my own free will and accord and not under duress, compulsion, or restraint of any kind or manner.



AUGUSTINE VELEZ, M.D.
Respondent

AGREED TO:

Date: 4/10, 2000

Herbert L. Greenman
HERBERT L. GREENMAN
Attorney for Respondent

Date: 4/12, 2000

Valerie B. Donovan
VALERIE B. DONOVAN
Assistant Counsel
Bureau of Professional
Medical Conduct

Date: 4/17, 2000

Anne F. Saile
ANNE F. SAILE
Director, Office of
Professional Medical Conduct

ORDER

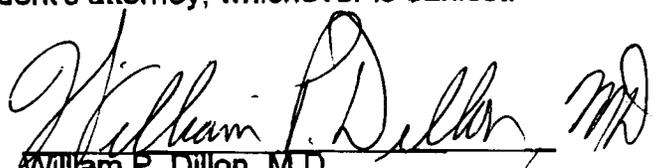
Upon the proposed agreement of AUGUSTINE VELEZ , M.D., to Surrender his license as a physician in the State of New York, which proposed agreement is made a part hereof, it is **AGREED TO** and

ORDERED, that the proposed agreement and the provisions thereof are hereby adopted; it is further

ORDERED, that the name of Respondent be stricken from the roster of physicians in the State of New York; it is further

ORDERED, that this Order shall be effective upon issuance by the Board, which may be accomplished by mailing, by first class mail, a copy of this Order to Respondent at the address set forth in this agreement or to Respondent's attorney, or upon transmissions via facsimile to Respondent or Respondent's attorney, whichever is earliest.

DATED: 4/20/00


William P. Dillon, M.D.
Chair
State Board for Professional
Medical Conduct

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

-----X

IN THE MATTER : STATEMENT
OF : OF
AUGUSTINE VELEZ, M.D. : CHARGES

-----X

AUGUSTINE VELEZ, M.D., the Respondent, was authorized to practice medicine in New York State on October 30, 1981, by the issuance of license number 148521 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. Respondent, on or about August 18-19, 1999, knowingly and intentionally stole approximately 22 pre-filled syringes of Demerol and 10 pre-filled syringes of morphine from the recovery room drug cabinet at the Lakeshore Health Care Center (LSHCC), 845 Routes 5 & 20, Irving, New York 14081; and/or helped Patient A (patients listed in Appendix) steal the above listed drugs from the recovery room drug cabinet.

B. On or about August 19, 1999, Respondent was arrested by the Sheriff of Chautauqua County, N.Y., and fraudulently and/or with knowing falseness stated in his Supporting General Deposition that Patient A, who had been with Respondent at the LSHCC, told Respondent that Patient A took the drugs from

LSHCC on or about August 18-19, 1999.

C. On or about August 19, 1999, Respondent was arrested by the Sheriff of Chautauqua County and signed an amended Supporting Deposition in which he stated fraudulently and/or with knowing falseness that he let Patient A into the room knowing that Patient A would take the Demerol and morphine from the recovery room drug cabinet at LSHCC on or about August 18-19, 1999, and that Respondent did not take the drugs.

D. On or about August 19, 1999, the Chautauqua County Sheriff's Office charged Respondent with petit larceny and issued an Appearance Ticket in connection with the theft of Demerol and morphine from the recovery room drug cabinet at LSHCC on or about August 18-19. On or about August 24, 1999, the Chautauqua County Sheriff's Office prepared informations accusing Respondent of committing the offenses of Petit Larceny and Criminal Facilitation in the Fourth Degree.

E. On or about August 22, 1999, Respondent fraudulently and/or with knowing falseness wrote a prescription for 40 Lortab 7.5 mg. for Patient B, knowing that the prescription was not for the use of Patient B. The address and birth date that Respondent provided on the prescription were not those of Patient B, but rather were slight permutations of Respondent's address and birth date.

F. On or about August 28, 1999, Respondent brought the prescription referred to in paragraph E, above, to Walgreen Pharmacy, Abbott Road, Lackawanna, N.Y.; the pharmacist filled the prescription for Respondent and Respondent paid for it with cash.

G. On or about August 30, 1999, Respondent fraudulently and/or with knowing falseness stated to the Deputy Superintendent of Administration, Lakeview Shock Incarceration Correctional Facility, a facility in which Respondent was employed as a Clinical Physician, that Respondent had "not been arrested or anything" by the Chautauqua County Sheriff, and that he was being framed by LSHCC and was being blamed for the actions of other doctors.

H. On or about August 31, 1999, Respondent fraudulently and/or with knowing falseness stated to the Deputy Superintendent of Administration, Lakeview Shock Incarceration Correctional Facility, that he had not been issued any ticket, summons, nor been arrested, and that LSHCC had accused Respondent of covering up for two doctors and of having an affair.

I. On or about September 7, 1999, Respondent fraudulently and/or with knowing falseness stated to the Chief Executive Officer, Tri-County Memorial Hospital, that the Chautauqua County Sheriff's press-release announcing the arrest of Respondent and stating that Respondent had admitted

to assisting in the theft of drugs, was not true, and/or denied any wrongdoing.

J. On or about November 1, 1999, the Office of Professional Medical Conduct (OPMC) sent Respondent a demand by certified mail, return receipt requested, requesting that pursuant to Public Health Law § 230-10(L), Respondent provide OPMC with a copy of the medical records for Patients A and B. Respondent did not provide OPMC with these records within the required statutory period.

SPECIFICATIONS OF MISCONDUCT

FIRST THROUGH EIGHTH SPECIFICATIONS

PRACTICING FRAUDULENTLY

The Respondent is charged with practicing the profession fraudulently within the meaning of N.Y. Educ. Law § 6530(2) in that the Petitioner charges:

1. The facts in paragraph A.
2. The facts in paragraphs A and/or B.
3. The facts in paragraphs A and/or C.
4. The facts in paragraph E.
5. The facts in paragraph F.
6. The facts in paragraphs A, B, C, D and/or G.
7. The facts in paragraphs A, B, C, D and/or H.
8. The facts in paragraphs A, B, C, D and/or I.

NINTH THROUGH SIXTEENTH SPECIFICATIONS

MORAL UNFITNESS

The Respondent is charged with the practice of medicine which evidences moral unfitness within the meaning of N.Y. Educ. Law § 6530(20) in that the Petitioner charges:

9. The facts in paragraph A.
10. The facts in paragraph A and/or B.
11. The facts in paragraphs A and/or C.
12. The facts in paragraph E.
13. The facts in paragraph F.
14. The facts in paragraphs A, B, C, D and/or G.
15. The facts in paragraphs A, B, C, D, G and/or H.
16. The facts in paragraphs A, B, D, D and/or I.

SEVENTEENTH AND EIGHTEENTH SPECIFICATIONS

FAILURE TO COMPLY WITH STATE REGULATIONS

The Respondent is charged with a willful negligent failure to comply with substantial provisions of federal, state rules or regulations governing the practice of medicine within the meaning of N.Y. Educ. Law § 6530(16) in that the Petitioner charges:

17. The facts in paragraph A.
18. The facts in paragraphs E and/or F.

NINETEENTH SPECIFICATION

FAILURE TO PRODUCE RECORDS

The Respondent is charged with failing to respond within thirty days to written communications from the Department of Health and to make available records with respect to an inquiry about his professional misconduct within the meaning of N.Y. Educ. Law § 6530(28) in that the Petitioner charges:

19. The facts in paragraph J.

DATED: *March 7*, 2000
Albany, New York

Peter D. Van Buren
PETER D. VAN BUREN
Deputy Counsel
Bureau of Professional
Medical Conduct

APPENDIX B

1. Respondent shall immediately cease and desist from engaging in the practice of medicine in accordance with the terms of the Order. In addition, Respondent shall refrain from providing an opinion as to professional practice or its application and from representing himself as being eligible to practice medicine.
2. Respondent shall have delivered to OPMC at Hedley Park Place, 433 River Street 4th Floor, Troy, NY 12180-2299 his original license to practice medicine in New York State and current biennial registration within thirty (30) days of the effective date of the Order.
3. Respondent shall within fifteen (15) days of the Order notify his patients of the cessation of his medical practice and will refer all patients to another licensed practicing physician for their continued care, as appropriate.
4. Respondent shall make arrangements for the transfer and maintenance of the medical records of his patients. Within thirty days of the effective date of the Order, Respondent shall notify OPMC of these arrangements including the appropriate and acceptable contact person's name, address, and telephone number who shall have access to these records. Original records shall be retained for at least six years after the last date of service rendered to a patient or, in the case of a minor, for at least six years after the last date of service or three years after the patient reaches the age of majority whichever time period is longer. Records shall be maintained in a safe and secure place which is reasonably accessible to former patients. The arrangements shall include provisions to ensure that the information on the record is kept confidential and made available only to authorized persons. When a patient or and/or his or her representative requests a copy of the patient's medical record or requests that the original medical record be forwarded to another health care provider, a copy of the record shall be promptly provided or forwarded at a reasonable cost to the patient (not to exceed seventy-five cents per page.) Radiographic, sonographic and like materials shall be provided at cost. A qualified person shall not be denied access to patient information solely because of their inability to pay.
5. In the event that Respondent holds a Drug Enforcement Agency (DEA) certificate, Respondent shall within fifteen (15) days advise the DEA in writing of the licensure action and shall surrender his DEA controlled substance privileges to the DEA. Respondent shall promptly surrender any unused DEA #222 U.S. Official Order Forms Schedules 1 and 2 to the DEA.
6. Respondent shall within fifteen (15) days return any unused New York State official prescription forms to the Bureau of Controlled Substances of the New York State Department of Health. Respondent shall cause all prescription pads bearing his name to be destroyed. If no other licensee is providing services at his practice location, all medications shall be properly disposed.
7. Respondent shall not share, occupy or use office space in which another licensee provides health care services. Respondent shall cause all signs to be removed within fifteen (15) days and stop all advertisements, professional listings whether in telephone directories or otherwise, professional stationery or billings by which his eligibility to practice is represented.
8. Respondent shall not charge, receive or share any fee or distribution of dividends for professional services rendered by himself or others while barred from engaging in the practice of medicine. Respondent may be compensated for the reasonable value of

services lawfully rendered and disbursements incurred on a patient's behalf prior to the effective date of this Order.

9. If Respondent is a shareholder in any professional service corporation organized to engage in the practice of medicine and if his license is revoked, surrendered or suspended for a term of six months or more under the terms of this Order, Respondent shall divest himself of all financial interest in the professional services corporation in accordance with New York Business Corporation Law. Such divestiture shall occur within 90 days. If Respondent is the sole shareholder in a professional services corporation, the corporation must be dissolved or sold within ninety (90) days of the effective date of this Order.

10. Failure to comply with the above directives may result in a civil penalty or further criminal penalties as may be authorized pursuant to the law. Under Section 6512 of the Education Law it is a Class E Felony, punishable by imprisonment of up to 4 years, to practice the profession of medicine when such professional license has been suspended, revoked or annulled. Such punishment is in addition to the penalties for professional misconduct set forth in section 230 a. 1. of the Public Health Law, which includes fines of up to \$10,000 for each specification of charges of which the Respondent is found guilty and may include revocation of a suspended license.