

STATE OF WASHINGTON
MEDICAL QUALITY ASSURANCE COMMISSION

In the Matter of Disciplinary)
Action Concerning) No. 91-05-0023MD
) 92-09-0025MD
) 93-03-0007MD
)
Richard P. Huemer, M.D.,) STIPULATION AND
) AGREED ORDER
Respondent.)
_____)

The Medical Quality Assurance Commission (formerly the Medical Disciplinary Board), by and through Department of Health Staff Attorney, Ann Marie Neugebauer, and Richard P. Huemer, M.D., Respondent, individually and by and through his counsel of record, Patrick A. Trudell and Terry M. Rosell, stipulate to the following:

I. PROCEDURAL STIPULATION

- 1.1 Richard P. Huemer, M.D. was a physician duly licensed to practice medicine and perform surgery in the State of Washington at all times relevant to this action.
- 1.2 On February 25, 1994, the Medical Disciplinary Board issued a Statement of Charges regarding the professional practice of Respondent in prescribing substances no longer approved by the Food and Drug Administration (FDA).
- 1.3 The Statement of Charges alleges that Respondent committed unprofessional conduct as defined by RCW 18.130.180(7).

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- 1.4 Respondent understands that the State is prepared to proceed to a hearing upon the merits of the Statement of Charges.
- 1.5 Respondent understands that he has the right to defend himself against the allegations in the Statement of Charges by presenting evidence in his behalf at said hearing.
- 1.6 Respondent understands that, should the State in fact prove at hearing the allegations in the Statement of Charges, the Board has the power and authority to impose sanctions per RCW 18.130.160.
- 1.7 Respondent and the Board agree to expedite the resolution of this matter by means of a Stipulation and Agreed Order.
- 1.8 Respondent waives the opportunity for a hearing on the Statement of Charges based on the entry of the following Agreed Order.
- 1.9 Respondent acknowledges that said Agreed Order is not binding unless and until it is accepted by the Medical Disciplinary Board.
- 1.10 Respondent acknowledges that should this Stipulation and Agreed Order be accepted it will be subject to the reporting requirements of RCW 18.130.110 and interstate/national reporting including, but not limited to, the National Practitioner Data Bank per 45 CFR 60.
- 1.11 WAIVER OF OBJECTION: Respondent is informed and understands that:
 - a. At the presentation of the Stipulation and Agreed Order the Board may ask the parties for information regarding the facts of this case. The parties have the right to be present, ask and answer questions and make

argument to the Board regarding the appropriateness of the Stipulation and Agreed Order.

- b. Respondent waives any objection to the participation on a hearing panel of all or some of the Board members who hear the Stipulation presentation in the event that the Stipulation is rejected and this matter proceeds to a hearing.

II. STIPULATED FACTS

The State and the Respondent stipulate that were this matter to proceed to hearing the parties would present evidence that:

- 2.1 Respondent provided medical services for Patient No. 1, identified in the Confidential Schedule attached to the Statement of Charges, between about August 15, 1990 through March 1, 1991. Her presenting symptoms were, among others, bladder problems, severe pre-menstrual syndrome, panic attacks and fatigue.
- 2.2 During the course of his medical treatment Respondent ordered about nine (9) injections of Adrenal Cortical Extract (ACE) for Patient No. 1. Patient No. 1 understood that she was receiving ACE injections for the treatment of panic attacks and hypoglycemia, although the doctor did not give the patient a diagnosis of hypoglycemia. The actual diagnosis for which ACE injections were administered were adrenal functional imbalance.
- 2.3 Respondent provided medical services to Patient No. 2, identified in the Confidential Schedule attached to the Statement of Charges, beginning in about March, 1991 and

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until about May, 1992. Her presenting symptom was extreme fatigue.

2.4 During the course of medical treatment, Respondent ordered approximately nineteen injections of Adrenal Cortical Extract for Patient No. 2. Medical records indicate that the ACE injections were used to treat fatigue, deactivate hypoglycemia and ^{SUS} expected ^(ADREN & N. GINA) hypoadrenalism. ^{PT}

2.5 Respondent provided medical services to Patient No. 3, identified in the Confidential Schedule attached to the Statement of Charges, beginning in about February, 1992 and until about September, 1992. Her presenting symptom was headaches.

2.6 During the course of medical treatment, Respondent ordered approximately twelve Adrenal Cortical Extract injections for Patient No. 3. Medical records indicate that ACE injections were ordered for Patient No. 3 for adrenal functional imbalance.

2.7 Beginning in 1977, the FDA in regulatory letters to drug manufacturers, and in opinion letters, stated that parenteral drugs for human use containing Adrenal Cortex Extract or Adrenal Cortex Injections are, in the opinion of the FDA, new drugs for which there have been no new drug applications approved.

2.8 Respondent has not filed an application for the introduction of a new drug for the use of adrenal cortex extract with the Director of the Department of Agriculture of the State of Washington.

III. STIPULATED CONCLUSIONS OF LAW

Based on the above Procedural and Factual Stipulations, the parties stipulate to the following Conclusions of Law:

- 3.1 The Board has jurisdiction over Respondent and over the subject matter of this proceeding. *e* *AMN* *E*
- 3.2 The above facts, if proved at a hearing, would constitute a violation of RCW 69.04.570, which governs the introduction of new drugs. The conduct also constitutes a violation of RCW 18.130.180(7), which defines unprofessional conduct as the violation of any state or federal statute regulating the medical profession. *e* *AMN* *E*
- 3.3 The above facts, if proved at a hearing, would constitute grounds for the imposition of a fine and for restriction of Respondent's license, under RCW 18.130.160 subsections (3) and (8).

IV. AGREED ORDER

Based on the above Stipulated Facts and Conclusions of Law, the Board hereby orders:

- 4.1 Respondent shall not prescribe, order, or administer any hormonal extract not approved by the FDA, including, but not limited to, Adrenal Cortical Extract and thymus extract.
- 4.2 COMPLIANCE:
- a. Respondent shall appear before the Board at the Board's request, should the practice review in subsection (b) below indicate any problems with compliance, and present proof that he is complying with the Order. He need not make regular annual compliance appearances.

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- b. In order to monitor compliance with the Order Respondent agrees that a representative of the Board may make announced or unannounced visits annually to Respondent's practice to:
 - (1) Inspect office and or medical records;
 - (2) Interview office staff or Respondent's supervisors;
 - (3) Review other aspects of Respondent's practice.
- c. All costs of compliance shall be borne by the Respondent.
- d. If Respondent violates the terms/conditions of the Board's Order in any respect the Board may:
 - (1) Summarily suspend Respondent's license to practice under RCW 18.130.050(7);
 - (2) Impose conditions as appropriate under RCW 18.130.160 to protect the public, following notice to the Respondent and the opportunity to be heard; and/or
 - (3) Issue charges of unprofessional conduct under RCW 18.130.180.

4.3 Pursuant to RCW 18.130.160(8) Respondent shall pay a \$120 fine within ninety (90) days of the effective date of this Order. The fine shall be payable to the State Treasurer and sent to the following address:

Executive Secretary
Medical Disciplinary Board
1300 SE Quince Street, M/S EY 25
Post Office Box 47866
Olympia, Washington 98504-7866

- 4.4 Respondent shall obey all federal, state and local laws, and all rules governing the practice of medicine in Washington.
- 4.5 The Board's jurisdiction over Respondent shall continue until Respondent files a written petition for termination of

the Board's jurisdiction and, if the Board so requests, appears personally before the Board. Termination of the Board's jurisdiction shall be by written order of the Board. Respondent may not apply for termination sooner than five years from the effective date of this order.

4.6 This Stipulation and Agreed Order will be subject to the reporting requirements of RCW 18.130.110 and the National Practitioner Data Bank, 45 CFR 60.

4.7 This Stipulation and Agreed Order is not binding on Respondent or the Board unless accepted by the Board.

4.8 This Stipulation and Agreed Order shall become effective ten (10) days from the date the Order is signed by the Board chair, or upon service of the Order on the Respondent, whichever date is sooner.

V. STIPULATION

I, Richard P. Huemer, M.D., hereby certify under penalty of perjury of the laws of the state of Washington that I have read this Stipulation and Agreement in its entirety, that my counsel of record has fully explained the legal significance and consequence thereof; that I fully understand and agree to all of the same, and that it shall be submitted to the Commission.

Dated this 29 day of September, 1994;

Tiburon, California
(city) (state)

Richard P. Huemer, M.D.
Richard Huemer, M.D.,
Respondent

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V. ORDER

The Medical Quality Assurance Commission accepts the stipulation as stated in the preceding paragraphs. Respondent is ORDERED to comply with the condition stated in paragraph IV above. IT IS FURTHER ORDERED that all parties shall be bound by the terms and conditions of section IV above.

DATED this 30th day of September, 1994.

WASHINGTON STATE MEDICAL
QUALITY ASSURANCE COMMISSION

By: Larry T. Brice, M.D.
LARRY T. BRICE, M.D., CHAIR

PRESENTED BY:

Ann Marie Neugebauer
Ann Marie Neugebauer
Department of Health Staff Attorney
WSBA #16395

APPROVED AS TO FORM
NOTICE OF PRESENTATION WAIVED:

Patrick A. Trudell
By: Patrick A. Trudell
Attorney for Respondent
WSBA #11363

RICHARD P. HUEMER
Richard P. Huemer, M.D.
Respondent
BY PATRICIA A. TRUDELL

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STATE OF WASHINGTON
MEDICAL DISCIPLINARY BOARD

In the Matter of Disciplinary)
Action Concerning) No. 02-06-A-1059MD
) 91-05-0023MD
) 92-09-0025MD
) 93-03-0007MD
)
RICHARD P. HUEMER, M.D.) STATEMENT OF CHARGES
)
Respondent.)
_____)

The Medical Disciplinary Board of the State of Washington, having determined upon investigation that there is reason to believe that a violation of RCW 18.130.180 has occurred states and alleges as follows:

I.

Respondent has been licensed to practice medicine by the state at all times relevant to this action.

II.

Respondent provided medical services for Patient 1 (Patients are identified in the Confidential Schedule attached to this document and by its reference incorporated herein) between about August 15, 1990 through March 1, 1991. Her presenting symptoms were, among others, bladder problems, severe pre-menstrual syndrome, panic attacks and fatigue.

III.

During the course of his medical treatment Respondent ordered about nine (9) injections

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of Adrenal Cortical Extract (ACE) for Patient 1. Patient 1 understood that she was receiving ACE injections for the treatment of panic attacks and hypoglycemia.

IV.

Respondent provided medical services to Patient II beginning in about March, 1991 and until about May, 1992. Her presenting symptom was extreme fatigue.

V.

During the course of medical treatment, Respondent ordered approximately nineteen injections of Adrenal Cortical Extract for Patient II. Medical records indicate that the ACE injections were possibly used to treat "adrenal cortical insufficiency."

VI.

Respondent provided medical services to Patient III beginning in about February, 1992 and until about September, 1992. Her presenting symptom was headaches.

VII.

During the course of his medical treatment, Respondent ordered approximately twelve Adrenal Cortical Extract injections for Patient III. Medical records do not indicate why ACE injections were ordered for Patient III.

VIII.

Parenteral drugs for human use containing Adrenal Cortex Extract or Adrenal Cortex Injections have been determined by the Food and Drug Administration (FDA) to be new drugs for which there have been no new drug applications approved.

IX.

Respondent has not filed an application for the introduction of a new drug for the use of adrenal cortex extract with the Director of the Department of Agriculture of the State of Washington.

X.

The conduct alleged in Paragraphs III, V, VII, VIII and IX if proved constitute a violation of RCW 69.04.570:

RCW 69.04.570 Introduction of new drug

No person shall introduce or deliver for introduction into intrastate commerce any new drug which is subject to section 505 of the federal act unless an application with respect to such drug has become effective thereunder. No person shall introduce or deliver for introduction into intrastate commerce any new drug which is not subject to section 505 of the federal act, unless (1) it has been found, by appropriate tests, that such drug is not unsafe for use under the conditions prescribed, recommended or suggested in the labeling thereof; and (2) an application has been filed under this section of this chapter with respect to such drug: Provided, that the requirement of clause (2) shall not apply to any drug introduced into intrastate commerce at any time prior to the enactment of the federal act: Provided further, that if the director finds that the requirement of clause (2) as applied to any drug or class of drugs, is not necessary for the protection of the public health, he shall promulgate regulations of exemption accordingly.

XI.

The conduct alleged in Paragraph X constitutes unprofessional conduct pursuant to RCW 18.130.180 (7).

RCW 18.130.180 (7) - Violation of any state or federal statute or administrative rule regulating the profession in question, including any statute or rule defining or establishing standards of patient care or professional conduct. It is further alleged that the conduct referred to in this Statement of Charges affects the public health, safety and welfare, and the Board directs that a notice be issued and served on the respondent as provided by law, giving Respondent the opportunity to defend against the allegations in this statement of charges. If Respondent fails to defend against these allegations, Respondent shall be subject to such discipline

as is appropriate under RCW 18.130.160. In determining what sanctions to impose, the Board may receive evidence of and consider the following: 1) prior disciplinary actions in this or any jurisdiction; 2) information developed by and/or actions relating to peer review activities; 3) prior malpractice actions, 4) other evidence of unprofessional conduct.

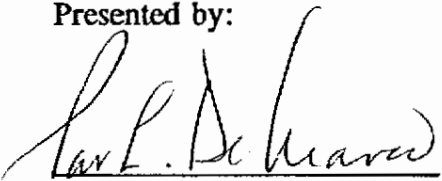
The Board reserves the right to amend this Statement of Charges, including the right to bring additional charges, in the event additional information is received supporting such amendment or addition.

DATED this 25 day of September 1994.

Secretary, Washington State
Medical Disciplinary Board

By: 
Kristin Hamilton,
Hearings Manager

Presented by:


Pat DeMarco, WSBA #16897
Assistant Attorney General
905 Plum Street
Olympia, WA 98504-0110

NOTICE

PURSUANT TO WASHINGTON ADMINISTRATIVE CODE 246-920-130 IT IS THE RESPONSIBILITY OF THE LICENSEE TO MAINTAIN A CURRENT MAILING ADDRESS ON FILE WITH THE BOARD. THE MAILING ADDRESS ON FILE WITH THE BOARD SHALL BE USED FOR MAILING OF ALL OFFICIAL MATTERS FROM THE BOARD TO THE LICENSEE. IF CHARGES AGAINST THE LICENSEE SENT CERTIFIED MAIL TO THE ADDRESS ON FILE WITH THE BOARD ARE RETURNED UNCLAIMED OR ARE NOT ABLE TO BE DELIVERED FOR ANY REASON THE BOARD IS MANDATED TO PROCEED AGAINST THE LICENSEE BY DEFAULT PURSUANT TO RCW 34.05.440.