

BEFORE THE
NORTH CAROLINA MEDICAL BOARD

In re:)	
)	
Alain Batawi, M.D.,)	NOTICE OF CHARGES
)	AND ALLEGATIONS;
Respondent.)	NOTICE OF HEARING

The North Carolina Medical Board (hereinafter Board) has preferred and does hereby prefer the following charges and allegations:

1. The Board is a body duly organized under the laws of North Carolina and is the proper party to bring this proceeding under the authority granted it in Article 1 of Chapter 90 of the North Carolina General Statutes.

2. Dr. Batawi is a medical doctor licensed by the Board on or about January 22, 2000, license number 2000-00011.

3. Dr. Batawi, a cardiologist, has not actively practiced clinical medicine since 1999 due to worsening multiple sclerosis.

First Charge

4. Paragraphs one through three are re-alleged and incorporated herein by reference.

5. Between December 2008 and September 2009, Dr. Batawi issued 35 prescriptions, totaling 1300 tablets, for Hydrocodone, a Schedule II controlled substance, to Patient A, a relative who

lives out-of-state. In September 2009 alone, Dr. Batawi issued 10 separate prescriptions, totalling 370 Hydrocodone tablets, to Patient A. Dr. Batawi failed to keep a patient chart documenting the prescriptions, patient history, physical examination, appropriate studies, working diagnosis, and treatment plan.

6. Between 2007 and 2009 Dr. Batawi issued 13 prescriptions, totalling 325 tablets, for Oxycodone, a Schedule II controlled substance, to Patient A. Between November 11, 2007 and December 28, 2007, Dr. Batawi issued five prescriptions, totaling 150 Oxycodone tablets, to Patient A. In September 2009, during the same time he prescribed Hydrocodone to Patient A as described above, Dr. Batawi issued three prescriptions totalling 90 Oxycodone tablets to Patient A. Dr. Batawi failed to keep a patient chart documenting the prescriptions, patient history, physical examination, appropriate studies, working diagnosis, and treatment plan.

7. In December 2007, Dr. Batawi prescribed Alprazolam, a Schedule IV controlled substance, to Patient A. Alprazolam, a benzodiazepine, is used to treat anxiety disorders and panic attacks. Alprazolam can be habit-forming and patients who use this drug to cure anxiety attacks can experience withdrawal symptoms when they decide to go off the drug. Dr. Batawi failed to keep a patient chart documenting the prescriptions, patient

history, physical examination, appropriate studies, working diagnosis, and treatment plan.

8. Dr. Batawi's treatment of Patient A and his failure to properly document his treatment of Patient A, as described above, constitute unprofessional conduct, including, but not limited to, departure from, or the failure to conform to, the standards of acceptable and prevailing medical practice, or the ethics of the medical profession, irrespective of whether or not a patient is injured thereby, within the meaning of N.C. Gen. Stat. § 90-14(a)(6) and grounds exist for the Board to suspend, revoke, or limit Dr. Batawi's medical license issued by the Board or to deny any application he might make in the future.

Second Charge

9. Paragraphs one through eight are re-alleged and incorporated herein by reference.

10. In December 2008, Dr. Batawi prescribed Hydrocodone, a Schedule II controlled substance, to Patient B, a close family member. Dr. Batawi failed to keep a patient chart documenting the prescription, Patient B's history, physical examination, appropriate studies, working diagnosis, and treatment plan.

11. Dr. Batawi's treatment of Patient B and his failure to properly document his treatment of Patient B, as described above, constitute unprofessional conduct, including, but not

limited to, departure from, or the failure to conform to, the standards of acceptable and prevailing medical practice, or the ethics of the medical profession, irrespective of whether or not a patient is injured thereby, within the meaning of N.C. Gen. Stat. § 90-14(a)(6) and grounds exist for the Board to suspend, revoke, or limit Dr. Batawi's medical license issued by the Board or to deny any application he might make in the future.

Third Charge

12. Paragraphs one through eleven are re-alleged and incorporated herein by reference.

13. In December 2009, Dr. Batawi wrote prescriptions for Vyvanse[™], a Schedule II controlled substance, in the name of Patient B knowing that Patient B did not require Vyvanse[™] to treat a medical condition and with the intention of diverting the medication.

14. Dr. Batawi subsequently diverted the Vyvanse for personal use.

15. N.C. Gen. Stat. §90-108(a)(10) states, "[i]t shall be unlawful for any person . . . [t]o acquire or obtain possession of a controlled substance by misrepresentation, fraud, forgery, deception, or subterfuge".

16. Dr. Batawi's diversion of Vyvanse, as described above, constitutes the violation of a law involving the practice of

medicine within the meaning of N.C. Gen. Stat. § 90-14(a)(7), which is grounds for the Board to annul, suspend, revoke, condition, or limit Dr. Batawi's license or to deny any application for a license to practice medicine that he may make in the future.

Fourth Charge

17. Paragraphs one through sixteen are re-alleged and incorporated herein by reference.

18. Dr. Batawi applied for a license to practice medicine in North Carolina in October 1999. He was asked on the application, "Other than substance abuse, have you been told you are impaired as a result of your medical, surgical or psychiatric condition within the past five (5) years?" Dr. Batawi answered "no".

19. During an interview with a Board investigator in January 2010, Dr. Batawi told the investigator that he had not practiced medicine since 1999 due to worsening multiple sclerosis.

20. Dr. Batawi's failure to truthfully answer the question regarding medical conditions on his initial application constitutes making false statements or representations to the Board or willfully concealing of material information from the Board in connection with an annual registration within the

meaning of N.C. Gen. Stat. § 90-14(a)(3), which is grounds for the Board to annul, suspend, revoke, condition, or limit Dr. Batawi's license or to deny any application for a license to practice medicine that he may make in the future.

Fifth Charge

21. Paragraphs one through twenty are re-alleged and incorporated herein by reference.

22. Since 1999, Dr. Batawi has annually renewed his license to practice medicine in North Carolina. Since 2006, as part of the renewal process, Dr. Batawi has been asked whether he had any medical condition that could limit or impair his ability to practice medicine.

23. Dr. Batawi responded in the negative and failed to inform the Board he was unable to practice medicine because of his worsening multiple sclerosis.

24. Dr. Batawi's failure to truthfully answer questions regarding his medical condition on his annual renewal forms constitutes making false statements or representations to the Board or willfully concealing of material information from the Board in connection with an annual registration within the meaning of N.C. Gen. Stat. § 90-14(a)(3), which is grounds for the Board to annul, suspend, revoke, condition, or limit Dr.

Batawi's license or to deny any application for a license to practice medicine that he may make in the future.

NOTICE TO DR. BATAWI

Pursuant to N.C. Gen. Stat. § 90-14.2, it is hereby ordered that a hearing on the foregoing Notice of Charges and Allegations will be held before the Board, or a panel thereof, at 8:00 a.m., Thursday, February 17, 2011, or as soon thereafter as the Board may hear it, at the offices of the Board at 1203 Front Street, Raleigh, North Carolina, to continue until completed. The hearing will be held pursuant to N.C. Gen. Stat. § 150B-40, 41, and 42, and N.C. Gen. Stat. § 90-14.2, 14.4, 14.5, and 14.6. You may appear personally and through counsel, may cross-examine witnesses and present evidence in your own behalf.

You may, if you desire, file written answers to the charges and complaints preferred against you within 30 days after the service of this notice.

The identities of Patient A and B are being withheld from public disclosure pursuant to N.C. Gen. Stat. § 90-8. However, this information will be provided to you or your attorney upon request.

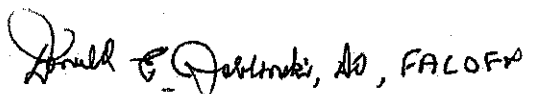
Pursuant to N.C. Gen. Stat. § 150B-40(c)(5), it is further ordered that the parties shall arrange a prehearing conference

at which they shall prepare and sign a stipulation on prehearing conference. The prehearing stipulation shall be submitted to the undersigned no later than seven days prior to the hearing date.

The right to be present during the hearing of this case, including any such right conferred or implied by N.C. Gen. Stat. § 150B-40(d), shall be deemed waived by a party or his counsel by voluntary absence from the Board's office at a time when it is known that proceedings, including deliberations, are being conducted, or are about to be conducted. In such event, the proceedings, including additional proceedings after the Board has retired to deliberate, may go forward without waiting for the arrival or return of counsel or a party.

This the 28th day of September, 2010.

NORTH CAROLINA MEDICAL BOARD

By: 
Donald Jablonski, D.O.
President