

STATE OF FLORIDA  
DEPARTMENT OF PROFESSIONAL REGULATION

BOARD: MEDICINE  
CASE NUMBER: 0067920  
COMPLAINT MADE BY: Department of Professional  
Regulation  
DATE COMPLAINT RECEIVED: February 20, 1986  
COMPLAINT AGAINST: Walter Afield, M.D.  
4308 West Cypress Street  
Tampa, Florida 33607  
REVIEWED BY: Joseph Harrison  
Senior Attorney  
STAFF RECOMMENDATION: DISMISS (PL-99)


CLOSING ORDER

THE COMPLAINT: Complainant alleges that the Subject of the investigation performed unnecessary tests and conducted unnecessary and unwarranted treatments for various illnesses and injuries.

THE FACTS: Investigation failed to substantiate the allegations with clear and convincing evidence. During the discovery and pre-trial preparation process, DPR attorneys and investigators have concluded that in a number of instances the tests were ordered by doctors other than the Subject; that the treatment modalities under scrutiny, though controversial, were not universally inappropriate; that the legal obstacles, including unavailability of DPR investigative witnesses, make this case a highly improbable one for achieving DPR objectives by the clear and convincing evidence standard; and, therefore, this case has been returned for reconsideration and recommended dismissal.

THE LAW: Based on the foregoing, there was sufficient evidence to support a finding of probable cause that a violation of Chapter 458, Florida Statutes, or the rules promulgated thereunder has occurred. However, subsequent evidence suggests that the case be closed without further prosecution.

It is, therefore, ORDERED that this matter should be and the same is hereby CLOSED.

  
Chairman, Probable Cause  
Panel, Board of Medicine

7-21-89

File

STATE OF FLORIDA  
DIVISION OF ADMINISTRATIVE HEARINGS

DEPARTMENT OF PROFESSIONAL  
REGULATION,

Petitioner,

DOAH CASE NO. 88-4406

DPR CASE NO. 0067920

v.

WALTER AFIELD, M.D.,

Respondent.

NOTICE OF VOLUNTARY DISMISSAL

COMES NOW the Department of Professional Regulation, the  
Petitioner, and submits this notice of voluntary dismissal,  
thereby dismissing the above-styled case which is pending before  
the Division of Administrative Hearings. This dismissal is  
sought because the Probable Cause Panel of the Board of Medicine  
elected to close the case on reconsideration at its July 22, 1989  
meeting.

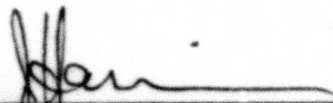
Respectfully submitted,



Joseph Harrison  
Senior Attorney  
Dept. of Professional Regulation  
1940 N. Monroe Street  
Tallahassee, Florida 32399-0972  
(904) 488-0062

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing Notice has been forwarded by U.S. Mail this 25<sup>th</sup> day of JULY, 1989 to Paul B. Johnson, Johnson & Johnson, Ashley Tower, 100 South Ashley Dr., Suite 1450, Tampa, Florida 33602.



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Joseph Harrison  
Senior Attorney

JH/dm  
1134

STATE OF FLORIDA  
DEPARTMENT OF PROFESSIONAL REGULATION  
BOARD OF MEDICINE

DEPARTMENT OF PROFESSIONAL  
REGULATION,

Petitioner,

vs.

WALTER AFIELD, M.D.,

Respondent.

CASE NO. 0067920

ADMINISTRATIVE COMPLAINT

COMES NOW, the Petitioner, Department of Professional Regulation, hereinafter referred to as "Petitioner", and files this Administrative Complaint against Walter Afield, M.D., hereinafter referred to as "Respondent", and alleges:

1. Petitioner, Department of Professional Regulation, is the state agency charged with regulating the practice of medicine pursuant to Section 20.30, Florida Statutes; Chapter 455, Florida Statutes; and Chapter 458, Florida Statutes.

2. Respondent is, and has been at all times material hereto, a licensed physician in the State of Florida, having been issued license number ME 0009434. Respondent's last known address is 4308 West Cypress Street, Tampa, Florida 33607.

FACTS RELATING TO PATIENT NUMBER ONE

3. From on or about December 14, 1984, until on or about November 25, 1985, Respondent was the treating physician for patient H.G. (patient #1), for a variety of conditions including, but not limited to status post concussion, cephalagia, myofacial sprain, and depression.

4. Respondent failed to perform an adequate pain evaluation on patient H.G.

5. Respondent charged patient H.G. an excessive fee for the pain evaluation.

6. Respondent inappropriately prescribed Hyperbaric Oxygen Therapy for patient H.G.

7. Respondent performed psychological tests on patient H.G., which were not necessary or warranted.

8. Respondent misinterpreted the aforementioned psychological test on patient H.G.

COUNT ONE

9. Petitioner realleges and incorporates paragraphs one (1) through eight (8), above, as if fully set forth herein this Count One.

10. Respondent failed to adequately examine, evaluate and treat patient H.G.

11. Based on the foregoing, Respondent has violated Section 458.331(1)(t), Florida Statutes, by gross or repeated malpractice or the failure to practice medicine with that level of care, skill and treatment which is recognized by a reasonably prudent similar physician as being acceptable under similar conditions and circumstances.

COUNT TWO

12. Petitioner realleges and incorporates paragraphs one (1) through eight (8), above, as if fully set forth herein this Count Two.

13. In his treatment of patient H.G., Respondent failed to keep written medical records, justifying the course of treatment.

14. Based on the foregoing, Respondent violated Section 458.331(1)(n), Florida Statutes (1983), now Section 458.331(1)(m), Florida Statutes (1986 Supp.), by failing to keep written medical records, justifying the course of treatment of the patient including, but not limited to, patient histories, examination results, and test results.

COUNT THREE

15. Petitioner realleges and incorporates paragraphs one through eight (8), ten (10), and thirteen (13), above, as if fully set forth herein this Count Three.

16. Respondent prescribed psychological tests and Hyperbaric Oxygen treatment for patient H.G. which was not clinically indicated.

17. Respondent charged patient H.G. an excessive fee for a pain evaluation.

18. Respondent exercised influence on patient H.G. in order to exploit patient H.G. for financial gain.

19. Based on the foregoing, Respondent violated Section 458.331(1)(o), Florida Statutes (1983), now Section 458.331(1)(n), Florida Statutes (1986 Supp.), by exercising influence on the patient in such a manner as to exploit the patient for financial gain of the licensee or of a third party, which shall include, but not be limited to, the promoting or selling of services, goods, appliances or drugs.

**FACTS RELATING TO PATIENT NUMBER TWO**

20. From on or about February 29, 1984, until on or about July 28, 1986, Respondent was the treating physician for patient L.J. (patient #2), for a variety of conditions including, but not limited to post concussive syndrome, migraine headaches, chronic myofacial sprain and depression.

21. Respondent failed to perform an adequate pain evaluation on patient L.J.

22. Respondent charged patient L.J. an excessive fee for the pain evaluation.

23. Respondent performed unnecessary psychological tests on patient L.J.

24. Respondent misinterpreted the aforementioned psychological tests.

25. Respondent performed unnecessary nerve conduction studies on patient L.J.

26. Respondent inappropriately diagnosed patient L.J.'s injuries as being permanent without supporting clinical data.

**COUNT FOUR**

27. Petitioner realleges and incorporates paragraphs one (1), two (2), and twenty (20) through twenty-six (26), above, as if fully set forth herein this Count Four.

28. Respondent failed to adequately examine, evaluate and treat patient L.J.

29. Based on the foregoing, Respondent has violated Section 458.331(1)(t), Florida Statutes, by gross or repeated malpractice or the failure to practice medicine with that level

of care, skill and treatment which is recognized by a reasonably prudent similar physician as being acceptable under similar conditions and circumstances.

#### COUNT FIVE

30. Petitioner realleges and incorporates paragraphs one (1), two (2), twenty (20), through twenty-six (26), and twenty-eight (28), above, as if fully set forth herein this Count Five.

31. In his treatment of patient L.J., Respondent failed to keep written medical records justifying the course of treatment.

32. Based on the foregoing, Respondent violated Section 458.331(1)(n), Florida Statutes (1983), now Section 458.331(1)(m), Florida Statutes (1986 Supp.), by failing to keep written medical records, justifying the course of treatment of the patient including, but not limited to, patient histories, examination results, and test results.

#### COUNT SIX

33. Petitioner realleges and incorporates paragraphs one (1), two (2), twenty (20) through twenty-six (26), twenty-eight (28), and thirty-one (31), above, as if fully set forth herein this Count Six.

34. Respondent prescribed unnecessary psychological tests and Hyperbaric Oxygen treatments on patient L.J.

35. Respondent charged patient L.J. an excessive fee for a pain evaluation.

36. Respondent exercised influence on patient L.J. in order to exploit patient L.J. for financial gain.



37. Based on the foregoing, Respondent violated Section 458.331(1)(o), Florida Statutes (1983); now Section 458.331(1)(n), Florida Statutes (1986 Supp.), by exercising influence on the patient in such a manner as to exploit the patient for financial gain of the licensee or of a third party, which shall include, but not be limited to, the promoting or selling of services, goods, appliances or drugs.

**FACTS RELATING TO PATIENT NUMBER THREE**

38. From on or about July 12, 1985, until on or about October 10, 1985, Respondent was the treating physician for patient J.C. (patient #3), for a variety of conditions including, but not limited to, post concussive reactions, transient global ischemia, depressive reaction and tinnitus.

39. Respondent failed to perform an adequate pain evaluation on patient J.C.

40. Respondent charged patient J.C. an excessive fee for the pain evaluation.

41. Respondent inappropriately attributed patient J.C.'s injuries to a previous auto accident although Respondent lacked clinical data to support such a conclusion.

**COUNT SEVEN**

42. Petitioner realleges and incorporates paragraphs one (1), two (2), and thirty-eight (38) through forty-one (41), above, as if fully set forth herein this Count Seven.

43. Respondent failed to adequately examine, evaluate and treat patient J.C.

44. Based on the foregoing, Respondent has violated Section 458.331(1)(t), Florida Statutes, by gross or repeated malpractice or the failure to practice medicine with that level of care, skill and treatment which is recognized by a reasonably prudent similar physician as being acceptable under similar conditions and circumstances.

**COUNT EIGHT**

45. Petitioner realleges and incorporates paragraphs one (1), two (2), thirty-eight (38) through forty-one (41), and forty-three (43), above, as if fully set forth herein this Count Eight.

46. In his treatment of patient J.C., Respondent failed to keep written medical records justifying the course of treatment.

47. Based on the foregoing, Respondent has violated Section 458.331(1)(n), Florida Statutes (1985), now Section 458.331(1)(m), Florida Statutes (1986 Supp.), by failing to keep written medical records, justifying the course of treatment of the patient including, but not limited to, patient histories, examination results, and test results.

**COUNT NINE**

48. Petitioner realleges and incorporates paragraphs one (1), two (2), thirty-eight (38) through forty-one (41), forty-three (43), and forty-six (46), above, as if fully set forth herein this Count Nine.

49. Respondent charged patient J.C. an excessive fee to perform a pain evaluation.

50. Respondent exercised influence on patient J.C. in order to exploit patient J.C. for financial gain.

51. Based on the foregoing, Respondent violated Section 458.331(1)(o), Florida Statutes (1985), now Section 458.331(1)(n), Florida Statutes (1986 Supp.), by exercising influence on the patient in such a manner as to exploit the patient for financial gain of the licensee or of a third party, which shall include, but not be limited to, the promoting or selling of services, goods, appliances or drugs.

**FACTS RELATING TO PATIENT NUMBER FOUR**

52. From on or about July 9, 1985, until on or about December 23, 1986, Respondent was the treating physician for patient E.I. (patient #4), for a variety of conditions including, but not limited to, post concussive reaction, organic brain damage and depression.

53. Respondent performed an inadequate pain evaluation on patient E.I.

54. Respondent charged patient E.I. an excessive fee for the pain evaluation.

55. Respondent inappropriately concluded that patient E.I.'s condition was related to an auto accident and was permanent although Respondent lacked the clinical data to support such a decision.

56. Respondent inappropriately performed nerve conduction studies on patient E.I.

57. Respondent inappropriately performed an electro-myogram on patient E.I.

58. Respondent performed unnecessary psychological tests on patient E.I.

59. Respondent misinterpreted the results of the psychological tests.

60. Respondent inappropriately performed nuclear magnetic resonance imaging on patient E.I.

**COUNT TEN**

61. Petitioner realleges and incorporates paragraphs one (1), two (2), and fifty-two (52) through sixty (60), above, as if fully set forth herein this Count Ten.

62. Respondent failed to adequately examine, evaluate and treat patient E.I.

63. Based on the foregoing, Respondent has violated Section 458.331(1)(t), Florida Statutes, by gross or repeated malpractice or the failure to practice medicine with that level of care, skill and treatment which is recognized by a reasonably prudent similar physician as being acceptable under similar conditions and circumstances.

**COUNT ELEVEN**

64. Petitioner realleges and incorporates paragraphs one (1), two (2), fifty-two (52) through sixty (60), and sixty-two (62), above, as if fully set forth herein this Count Eleven.

65. In his treatment of patient E.I., Respondent failed to keep written medical records justifying the course of treatment.

66. Based on the foregoing, Respondent has violated Section 458.331(1)(n), Florida Statutes (1985), now Section

458.331(1)(m), Florida Statutes (1986 Supp.), by failing to keep written medical records, justifying the course of treatment of the patient including, but not limited to, patient histories, examination results, and test results.

#### COUNT TWELVE

67. Petitioner realleges and incorporates paragraphs one (1), two (2), fifty-two (52) through sixty (60), sixty-two (62), and sixty-five (65), above, as if fully set forth herein this Count Twelve.

68. Respondent performed unnecessary tests and treatment on patient E.I. ↴

69. Respondent charged patient E.I. an excessive fee for a pain evaluation.

70. Respondent exercised influence on patient E.I. in order to exploit patient E.I. for financial gain.

71. Based on the foregoing, Respondent violated Section 458.331(1)(o), Florida Statutes (1985), now Section 458.331(1)(n), Florida Statutes (1986 Supp.), by exercising influence on the patient in such a manner as to exploit the patient for financial gain of the licensee or of a third party, which shall include, but not be limited to, the promoting or selling of services, goods, appliances or drugs.

#### FACTS RELATING TO PATIENT NUMBER FIVE

72. From on or about August 29, 1985, until on or about November 1, 1985, Respondent was the treating physician for patient J.P. (patient #5) for a variety of conditions including, but not limited to post concussion syndrome, radiculopathy, cephalgia and depression.

73. Respondent performed an inadequate pain evaluation on patient J.P.

74. Respondent charged patient J.P. an excessive fee for the pain evaluation.

75. Respondent performed unnecessary psychological tests on patient J.P.

76. Respondent misinterpreted the results of the aforementioned psychological tests.

77. Respondent performed unnecessary nerve conduction studies on patient J.P.

78. Respondent performed unnecessary doppler flow studies of patient J.P.'s arterial blood flow.

79. Respondent inappropriately concluded that patient J.P.'s injuries were permanent although Respondent lacked the clinical data to support such a conclusion.

**COUNT THIRTEEN**

80. Petitioner realleges and incorporates paragraphs one (1), two (2), and seventy-two (72) through seventy-nine (79), above, as if fully set forth herein this Count Thirteen.

81. Respondent failed to adequately examine, evaluate and treat patient J.P.

82. Based on the foregoing, Respondent has violated Section 458.351(1)(t), Florida Statutes, by gross or repeated malpractice or the failure to practice medicine with that level of care, skill and treatment which is recognized by a reasonably prudent similar physician as being acceptable under similar conditions and circumstances.

**COUNT FOURTEEN**

83. Petitioner realleges and incorporates paragraphs one (1), two (2), seventy-two (72) through seventy-nine (79), and eighty-one (81), above, as if fully set forth herein this Count Fourteen.

84. In his treatment of patient J.P., Respondent failed to keep written medical records justifying the course of treatment.

85. Based on the foregoing, Respondent violated Section 458.331(1)(n), Florida Statutes (1983), now Section 458.331(1)(m), Florida Statutes (1986 Supp.), by failing to keep written medical records, justifying the course of treatment of the patient including, but not limited to, patient histories, examination results, and test results.

**COUNT FIFTEEN**

86. Petitioner realleges and incorporates paragraphs one (1), two (2), seventy-two (72) through seventy-nine (79), eighty-one (81), and eighty-four (84), above, as if fully set forth herein this Count Fifteen.

87. Respondent performed unnecessary tests and treatment on patient J.P.

88. Respondent charged patient J.P. an excessive fee for a pain evaluation.

89. Respondent exercised influence on patient J.P. in order to exploit patient J.P. for financial gain.

90. Based on the foregoing, Respondent violated Section 458.331(1)(o), Florida Statutes (1983), now Section

458.331(1)(n), Florida Statutes (1986 Supp.), by exercising influence on the patient in such a manner as to exploit the patient for financial gain of the licensee or of a third party, which shall include, but not be limited to, the promoting or selling of services, goods, appliances or drugs.

**FACTS RELATING TO PATIENT NUMBER SIX**

91. From on or about November 6, 1984, until on or about September 5, 1985, Respondent was the treating physician for patient D.K. (patient #6) for a variety of conditions including, but not limited to post concussive reaction, cephalgia, acute myofascial sprain and depression.

92. Respondent performed an inadequate pain evaluation on patient D.K.

93. Respondent charged patient D.K. an excessive fee for the pain evaluation.

94. Respondent inappropriately prescribed Hyperbaric Oxygen Therapy for patient D.K.

95. Respondent performed unnecessary psychological tests on patient D.K.

96. Respondent misinterpreted the results of the aforementioned psychological tests.

**COUNT SIXTEEN**

97. Petitioner realleges and incorporates paragraphs one (1), two (2), and ninety-one (91) through ninety-six (96), above, as if fully set forth herein this Count Sixteen.

98. Respondent failed to adequately examine, evaluate and treat patient D.K.



99. Based on the foregoing, Respondent has violated Section 458.331(1)(t), Florida Statutes, by gross or repeated malpractice or the failure to practice medicine with that level of care, skill and treatment which is recognized by a reasonably prudent similar physician as being acceptable under similar conditions and circumstances.

**COUNT SEVENTEEN**

100. Petitioner realleges and incorporates paragraphs one (1), two (2), ninety-one (91) through ninety-six (96), and ninety-eight (98), above, as if fully set forth herein this Count Seventeen.

101. In his treatment of D.K., Respondent failed to keep written medical records justifying the course of treatment.

102. Based on the foregoing, Respondent violated Section 458.331(1)(n), Florida Statutes (1983), now Section 458.331(1)(m), Florida Statutes (1986 Supp.), by failing to keep written medical records, justifying the course of treatment of the patient including, but not limited to, patient histories, examination results, and test results.

**COUNT EIGHTEEN**

103. Petitioner realleges and incorporates paragraphs one (1), two (2), ninety-one (91) through ninety-six (96), ninety-eight (98), and one hundred one (101), above, as if fully set forth herein this Count Eighteen.

104. Respondent performed unnecessary tests and treatment on patient D.K.

105. Respondent charged patient D.K. an excessive fee for a pain evaluation. -

106. Respondent exercised influence on patient D.K. in order to exploit patient D.K. for financial gain.

107. Based on the foregoing, Respondent violated Section 458.331(1)(o), Florida Statutes (1983), now Section 458.331(1)(n), Florida Statutes (1986 Supp.), by exercising influence on the patient in such a manner as to exploit the patient for financial gain of the licensee or of a third party, which shall include, but not be limited to, the promoting or selling of services, goods, appliances or drugs.

**FACTS RELATING TO PATIENT NUMBER SEVEN**

108. From on or about October 9, 1984, until on or about October 18, 1984, Respondent was the treating physician for patient H.D.G. (patient #7).

109. Respondent inappropriately prescribed Hyperbaric Oxygen Therapy for patient H.D.G.

**COUNT NINETEEN**

110. Petitioner realleges and incorporates paragraphs one (1), two (2), one hundred eight (108) and one hundred nine (109), above, as if fully set forth herein this Count Nineteen.

111. Respondent failed to adequately examine, evaluate and treat patient H.D.G.

112. Based on the foregoing, Respondent has violated Section 458.331(1)(t), Florida Statutes, by gross or repeated malpractice or the failure to practice medicine with that level

of care, skill and treatment which is recognized by a reasonably prudent similar physician as being acceptable under similar conditions and circumstances.

**COUNT TWENTY**

113. Petitioner realleges and incorporates paragraphs one (1), two (2), one hundred eight (108), one hundred nine (109), and one hundred eleven (111), above, as if fully set forth herein this Count Twenty.

114. In his treatment of patient H.D.G., Respondent failed to keep written medical records justifying the course of treatment.

115. Based on the foregoing, Respondent violated Section 458.331(1)(n), Florida Statutes (1983), now Section 458.331(1)(m), Florida Statutes (1986 Supp.), by failing to keep written medical records, justifying the course of treatment of the patient including, but not limited to, patient histories, examination results, and test results.

**COUNT TWENTY-ONE**

116. Petitioner realleges and incorporates paragraphs one (1), two (2), one hundred eight (108), one hundred nine (109), one hundred eleven (111), and one hundred fourteen (114), above, as if fully set forth herein this Count Twenty-One.

117. Respondent prescribed unnecessary Hyperbaric Oxygen Therapy for patient H.D.G.


118. Respondent exercised influence on patient H.D.G. in order to exploit patient H.D.G. for financial gain.

119. Based on the foregoing, Respondent violated Section 458.331(1)(o), Florida Statutes (1983), - now Section 458.331(1)(n), Florida Statutes (1986 Supp.), by exercising influence on the patient in such a manner as to exploit the patient for financial gain of the licensee or of a third party, which shall include, but not be limited to, the promoting or selling of services, goods, appliances or drugs.

WHEREFORE, Petitioner respectfully requests the Board of Medicine to enter an Order imposing one or more of the following penalties: revocation of suspension of the Respondent's license, restriction of the Respondent's practice, imposition of an administrative fine, issuance of a reprimand, placement of the Respondent on probation, and/or any other relief that the Board deems appropriate.

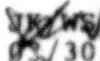
SIGNED this 20<sup>th</sup> day of May, 1988.

TOM GALLAGHER  
Secretary

  
By: Bruce D. Lamb  
Chief Attorney  
Medical Section

COUNSEL FOR DEPARTMENT:

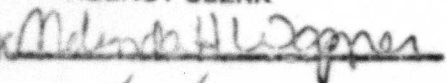
Jonathan King  
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(904)488-0062

 dpb  
05/30/88

PCP: Moya, Hantman & Ashkar  
5/17/88

FILED

Department of Professional Regulation  
AGENCY CLERK

CLERK   
DATE 5/20/88

**STATE OF FLORIDA**  
DEPARTMENT OF PROFESSIONAL REGULATION



MAR 20 1988  
DPR  
INVESTIGATIVE SERVICES

**INVESTIGATIVE REPORT**

<i>Office</i> Region IV - Tampa	<i>Date of Complaint</i> 02-20-86	<i>Case No.</i> 0067920
<i>Subject</i> Walter AFIELD, MD 4308 W. Cypress St. Tampa, FL 33607		<i>Complainant</i> DEPARTMENT OF PROFESSIONAL REGULATION
<i>License No. Profession</i> ME 0009434 - Medical Board		<i>Date of Report</i> 03-18-86/lc
<i>Period of Investigation</i> 02-20-86 to 03-05-86 - Intermittently		<i>Type Report:</i> Prelim. ( ) Final (X) Suppl. ( )
<i>Violation (List Statute Rule No. &amp; Violation Description)</i> FS 458.331(1)(t)-Failure to meet peer standards.		
<i>Synopsis</i> This investigation is predicated on information developed from other investigations involving physicians. Documents were obtained relating certain concerns regarding patient diagnosis and treatment. Records obtained from insurance companies were obtained, and reviewed by a Department consultant. In essence, the use of hyperbaric oxygen for certain treatment modalities is suspect. Examination procedures appear to be incomplete and lacking in certain information. Complete records need to be reviewed and are requested thru the probable cause panel.		
<i>Result of Case</i> None known		
<i>Investigator</i> Greg GIFT	<i>Date</i> 03-17-86	<i>Reviewed by</i> A. J. [Signature] Inv. Supv. (2)
<i>Division</i> HDOPRS-OIS 20142 [Signature]		