

STATE OF FLORIDA  
DEPARTMENT OF PROFESSIONAL REGULATION  
BOARD OF MEDICINE

DEPARTMENT OF PROFESSIONAL  
REGULATION,

PETITIONER,

CASE NO. 89009458

VS.

WILSON G. SCANLON, M.D.

RESPONDENT.

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ADMINISTRATIVE COMPLAINT

COMES NOW the Petitioner, Department of Professional Regulation, hereinafter referred to as "Petitioner," and files this Administrative Complaint before the Board of Medicine against WILSON G. SCANLON, M.D., hereinafter referred to as "Respondent," and alleges:

1. Petitioner 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 0009918. Respondent's last known address is 1820 Barrs Street, Suite 374, Jacksonville, Florida 32204.

3. On or about February 20, 1988, Patient #1, a 65 year old woman, came to the attention of Respondent, a psychiatrist, upon

her admission to Saint Vincent's Medical Center in a disoriented, catatonic state.

4. The patient continued to receive medical care from the Respondent until on or about September 1989.

5. From on or about February 8, 1988 through February 18, 1988, information obtained on the admission forms of Saint Vincent's revealed that immediately prior to receiving care from Respondent, Patient #1 was an in-patient at Alachua General Hospital and had a long history of psychiatric difficulties, depression and chronic headache pain.

6. Respondent's medical records for Patient #1 include a transcribed telephone conversation conducted on February 24, 1988, between the Respondent and the treating physician at Alachua General which reveals that the latter had a discharge diagnosis of encephalopathy, origin unknown, possibly induced by drug use or withdrawal and an affective disorder, also documented in the summary and subsequent history notes taken upon Patient #1's admission to Saint Vincent's Medical Center.

7. At the time of admission to Saint Vincent's Medical Center, Respondent's records reflect statements made by the family concerning known medications taken by Patient #1: Triavil, Valium, Librium, sleeping pills and Darvocet N-100.

8. Respondent's own admitting notes reveal that Patient #1 was regularly taking Elavil, Valium, and Darvocet N-100.

9. On or about February 25, 1988, Respondent ordered a Magnetic Resonance Imaging (MRI) brain scan to be performed and it

indicated a small amounts of cortical infarcts, possibly related to the age of the patient, and was otherwise unremarkable.

10. During the hospital stay at Saint Vincent's, Respondent's treatment plan for Patient #1 consisted of psychotropic medications and eight electrical convulsive therapy treatments performed from on or about March 5, 1988 to on or about March 21, 1988.

11. On or about March 24, 1988, the patient was discharged from Saint Vincent's with a final diagnosis of pseudodementia and depression.

12. At the time of discharge, Respondent prescribed Triavil 4/50 with instructions to take one at bedtime, and Valium 2 mg. 4 times a day, as needed, for tension.

13. The patient continued to received medical care on a monthly basis from Respondent at his office until on or about August, 1989.

14. On or about April 11, 1988, patient records indicate that Respondent began to prescribe Darvocet N-100, 28 count, to treat the headache complaints of Patient #1. During this visit, progress notes indicate that the patient calculated that this amount would not last long.

15. Darvocet N-100 is a legend drug as defined by Section 465.003(7), Florida Statutes, and contains propoxyphene, a member of the dextropropoxyphene family, which is listed as a controlled substance in Schedule IV of Chapter 893, Florida Statutes.

16. On or about the May 2, 1988 visit, progress notes indicate that Respondent expressed concern regarding the

appropriateness of prescribing Darvocet N-100 in treating the patient's continued headache pain, as she eagerly requested a refill.

17. On or about June 22, 1988, the Respondent continued to prescribe Darvocet N-100 to treat the headache complaints of the patient and increased the prescribed amount to 100 tablets.

18. From on or about July 1988 to on or about April 1989, compilation of pharmacy records indicate that Respondent prescribed an additional eleven-hundred twenty-eight (1128) Darvocet N-100 tablets to Patient #1.

19. Patient #1 was admitted on or about August 1989, to Saint Johns River Hospital for drug rehabilitation.

COUNT ONE

20. Petitioner realleges and incorporates paragraphs one (1) through nineteen (19) as if fully set forth herein this Count One.

21. Respondent is guilty of 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 circumstance in that: Respondent continually prescribed addictive medication, specifically 1,128 Darvocet N-100 tablets to Patient #1, an individual with a history of drug misuse and depression over a twelve (12) month period without proper justification.

22. Based on the foregoing, Respondent violated Section 458.331(1)(t), Florida Statutes, in that he is guilty of 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

23. Petitioner realleges and incorporates paragraphs one (1) through nineteen (19) and twenty-one (21) as if fully set forth herein this Count Two.

24. Respondent failed to keep written medical records justifying the course of treatment of Patient #1 including, but not limited to the following: Respondent's medical records for Patient #1 do not justify the prescription of addictive medicine, especially Darvocet N-100, to a known individual with a history of depression and excessive drug dependency nor do the patient's records provide documentation of additional examination and test results that could justify this course of treatment.

25. Based on the foregoing, respondent violated Section 458.331 (1)(m), Florida Statutes, in that the Respondent failed 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

26. Petitioner realleges and incorporates paragraphs one (1) through nineteen (19), twenty-one (21), and twenty-four (24), as if fully set forth herein in this Count Three.

27. Respondent prescribed, dispensed, administered, mixed, or otherwise prepared a legend drug, including any controlled

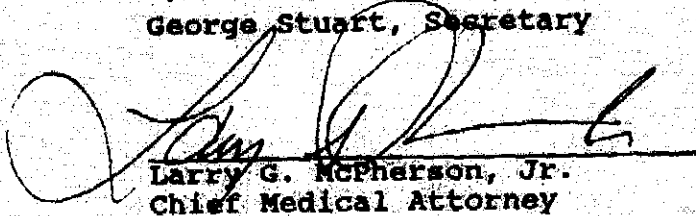
substance, other than in the course of the physician's professional practice in that: Respondent prescribed Darvocet N-100, an addictive drug, in inappropriate and excessive quantities to Patient #1, an individual with a history of drug withdrawal, hospitalizations and serious depression, which was not in the best interest of this patient.

28. Based on the foregoing, Respondent violated Section 458.331(1)(q), Florida Statutes, in that he is guilty of prescribing, dispensing, administering, mixing, or otherwise preparing a legend drug, including any controlled substance, other than in the course of the physician's professional practice.

WHEREFORE, the Petitioner respectfully requests the Board of Medicine enter an Order imposing one or more of the following penalties: revocation or 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 5 day of September, 1991.

George Stuart, Secretary

  
Larry G. McPherson, Jr.  
Chief Medical Attorney

COUNSEL FOR DEPARTMENT:

Larry G. McPherson, Jr.  
Chief Medical Attorney  
Department of Professional Regulation  
1940 North Monroe Street  
Tallahassee, Florida 32399-0750  
Florida Bar #788643  
CJR/gp/tc  
PCF: August 24, 1991  
Ashkar, Skinner and McEwen

FILED

Department of Professional Regulation  
AGENCY CLERK



CLERK

DATE

9-5-91

STATE OF FLORIDA  
DEPARTMENT OF PROFESSIONAL REGULATION

DEPARTMENT OF PROFESSIONAL  
REGULATION,

Petitioner,

v.

DOAH CASE NO.  
DPR CASE NO. 89-09458

WILSON G. SCANLON, M.D.,

Respondent.

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CONSENT AGREEMENT

Wilson G. Scanlon, M.D., referred to as the "Respondent", and the Department of Professional Regulation, referred to as "Department", stipulate and agree to the following Agreement and to the entry of a Final Order of the Board of Medicine, referred to as "Board", incorporating the Stipulated Facts and Stipulated Disposition in this matter.

STIPULATED FACTS

1. At all times material hereto, Respondent was a licensed physician in the State of Florida having been issued license number ME 0009918.
2. Respondent was charged by an Administrative Complaint filed by the Department and properly served upon Respondent with violations of Chapter 458, Florida Statutes, and the rules enacted pursuant thereto. A true and correct copy of the Administrative Complaint is attached hereto as Exhibit A.
3. Respondent neither admits nor denies the allegations of fact contained in the Administrative Complaint.



### STIPULATED CONCLUSIONS OF LAW

1. Respondent admits that, in his capacity as a licensed physician, he is subject to the provisions of Chapters 455 and 458, Florida Statutes, and the jurisdiction of the Department and the Board.

2. Respondent admits that the facts set forth in the Administrative Complaint, if proven, would constitute violations of Chapter 458, Florida Statutes, as alleged in the Administrative Complaint.

### STIPULATED DISPOSITION

1. FUTURE CONDUCT. Respondent shall not in the future violate Chapters 455, 458 and 893, Florida Statutes, or the rules promulgated pursuant thereto.

2. FINE. The Board shall impose an administrative fine in the amount of three thousand dollars (\$3,000) against the Respondent. The fine shall be paid by the Respondent to the Board of Medicine within six (6) months of its imposition by Final Order of the Board.

3. REPRIMAND. The Respondent shall receive a reprimand from the Board of Medicine.

4. PROBATION. Effective on the date of the filing of the Final Order incorporating the terms of this Agreement, Respondent's license to practice medicine shall be placed on probation for a period of one (1) year. The purpose of probation is not to prevent the Respondent from practicing medicine. Rather, probation is a supervised educational experience designed by the Board to make the Respondent aware of certain obligations to his patients and the

profession and to insure Respondent's continued compliance with the high standards of the profession through interaction with another physician in the appropriate field of expertise. To this end, during the period of probation, Respondent shall comply with the following obligations and requirements:

A. RESTRICTIONS DURING PROBATION. During the period of probation, Respondent's license shall be restricted as follows:

i. INDIRECT SUPERVISION. Respondent shall practice only under the indirect supervision of a Board-approved physician, hereinafter referred to as the "monitor". In this regard, Respondent shall allow the monitor access to Respondent's medical records, calendar, patient logs or other documents necessary for the monitor to supervise Respondent as detailed below.

ii. Respondent may prescribe Schedule II-IV controlled substances only in compliance with the restrictions set forth below:

a. Respondent shall utilize sequentially numbered triplicate prescriptions.

b. Respondent shall immediately provide one copy of each prescription to the monitor.

c. Respondent shall provide one copy of each prescription to the Department's investigator within one month after issuing said prescription.

B. OBLIGATIONS/REQUIREMENTS OF PROBATION. During the period of probation, Respondent shall comply with the following obligations and requirements:

i. Respondent shall appear before the Probation Committee of the Board of Medicine at the first Committee meeting after probation commences; at the last meeting of the Committee preceding scheduled termination of the probation; and at such other times as requested by the Committee. Respondent shall be noticed by the Board staff of the date, time and place of the Committee meeting whereat Respondent's appearance is required. Failure of Respondent to appear as requested or directed shall be considered a violation of the terms of this Agreement, and shall subject the Respondent to disciplinary action.

ii. Respondent shall complete the course, "Protecting Your Medical Practice, Clinical, Legal and Ethical Issues in Prescribing Abusable Drugs", sponsored by the Florida Medical Association and the University of South Florida, or a Board-approved equivalent, during the first year of probation.

iii. Respondent shall be responsible for ensuring that the monitor submits all required reports.

C. RESPONSIBILITIES OF THE MONITORING PHYSICIAN.

The Monitor shall:

i. Submit reports on a semiannual basis, in affidavit form, which shall include:

a) A brief statement of why Respondent is on probation.

b) A description of Respondent's practice (type and composition).

c) A statement addressing Respondent's compliance with the terms of probation.

d) A brief description of the monitor's relationship with the Respondent.

e) A statement advising the Board of any problems which have arisen.

f) A summary of the dates the monitor went to Respondent's office, the number of records reviewed, and the overall quality of the records reviewed.

vi. Maintain contact with the Respondent on a frequency of at least once per month. In the event that the monitor is not timely contacted by Respondent, then the monitor shall immediately report this fact to the Board, in writing.

vii. Respondent's monitor shall appear before the Probation Committee at the first meeting of said committee following commencement of the probation, and at such other times as directed by the Committee. It shall be Respondent's responsibility to ensure the appearance of his monitor to appear as requested or directed. If the approved monitor fails to appear as requested or directed by the Probation Committee, the Respondent shall immediately cease practicing medicine until such time as the approved monitor or alternate monitor appears before the Probation Committee.

D. REPORTS FROM RESPONDENT. The Respondent shall submit semiannual reports, in affidavit form, the contents of which may be further specified by the Board, but which shall include:

i. A brief statement of why Respondent is on probation.

ii. A description of practice location.

iii. A description of current practice (type and composition).

iv. A brief statement of compliance with probationary terms.

vi. A description of the relationship with monitoring physician.

vii. A statement advising the Board of any problems which have arisen.

viii. A statement addressing compliance with any restrictions or requirements imposed.

E. STANDARD PROVISIONS. Respondents probation shall be governed by the attached "provisions regarding monitoring/supervising physicians", Exhibit B, which is incorporated as if fully set forth herein.

6. It is expressly understood that this Agreement is subject to the approval of the Board and the Department. In this regard, the foregoing paragraphs (and only the foregoing paragraphs) shall have no force and effect unless a Final Order incorporating the terms of this Agreement is entered by the Board.

7. Respondent shall appear before the Board at the meeting of the Board where this Agreement is considered. Respondent, in conjunction with the consideration of this Agreement by the Board, shall respond to questions under oath from the Board, Board Staff or Department Staff.

8. Should this Agreement be rejected, no statement made in furtherance of this Agreement by the Respondent may be used as direct evidence against the Respondent in any proceeding; however,

such statements may be used by the Petitioner for impeachment purposes.

9. Respondent and the Department fully understand that this joint Agreement and subsequent Final Order incorporating same will in no way preclude additional proceedings by the Board and/or the Department against the Respondent for acts or omissions not specifically set forth in the Administrative Complaint attached as Exhibit "A" herein.

10. Upon the Board's adoption of this Agreement, Respondent expressly waives all further procedural steps, and expressly waives all rights to seek judicial review of or to otherwise challenge or contest the validity of the Agreement and the Final Order of the Board incorporating said Agreement.

11. Upon the Board's adoption of this Agreement, the parties hereby agree that each party will bear his or her attorney's fees and costs resulting from prosecution or defense of this matter. Respondent waives the right to seek any attorney's fees or costs from the Department in connection with this matter.

12. This Agreement is executed by the Respondent for the purpose of avoiding further administrative action with respect to this cause. In this regard, Respondent authorizes the Board to review and examine all investigative file materials concerning Respondent prior to or in conjunction with consideration of the Agreement. Furthermore, should this joint Agreement not be accepted by the Board, it is agreed that presentation to and consideration of this Agreement and other documents and matters by the Board shall not unfairly or illegally prejudice the Board or

any of its members from further participation, consideration or resolution of these proceedings.

SIGNED this 12<sup>th</sup> day of March, 1992.



ELIZABETH G. LONGINO  
MY COMMISSION # AA 719844 EXPIRES  
October 29, 1993

W. G. Scanlon

Wilson G. Scanlon, M.D.

Sworn to and subscribed  
before me this 12<sup>th</sup> day  
of March, 1992.

Elizabeth G. Longino  
NOTARY PUBLIC

The foregoing instrument was acknowledged before me and who has produced a Florida drivers license as identification and who did not take an oath.

My Commission Expires:

APPROVED this 30 day of April, 1992.

George Stuart  
Secretary

George Stuart

By: Larry G. McPherson, Jr.  
Chief Attorney  
Medical Section

201

## PROVISIONS REGARDING MONITORING/SUPERVISING PHYSICIANS

Provisions governing physicians ordered to work under supervision of monitoring or supervising physician.

### I. DEFINITIONS:

A. INDIRECT SUPERVISION is supervision by a monitoring physician (monitor) whose responsibilities are set by the Board. Indirect supervision does not require that the monitor practice on the same premises as the Respondent, however, the monitor shall practice within a reasonable geographic proximity to Respondent, which shall be within 20 miles unless otherwise provided by the Board and shall be readily available for consultation. The monitor shall be Board-certified in the Respondent's specialty area, unless otherwise provided by the Board.

B. DIRECT SUPERVISION is supervision by a supervising physician (supervisor) whose responsibilities are set by the Board. Direct supervision requires that the supervisor and Respondent work in the same office. The supervising physician shall be board-certified in the Respondent's specialty area, unless otherwise provided by the Board.

C. PROBATION COMMITTEE or "committee" are members of the Board of Medicine designated by the Chairman of the Board to serve as the Probation Committee.

### II. STANDARD TERMS.

#### A. REQUIRED SUPERVISION.

1. The Respondent shall not practice medicine without an approved monitor/supervisor, as specified by the Consent



Agreement, unless otherwise ordered by the Board.

2. The monitor/supervisor must be a licensee under Chapter 458, Florida Statutes, in good standing and without restriction or limitation on his license. In addition, the Board or Committee may reject any proposed monitor/supervisor on the basis that he has previously been subject to any disciplinary action against his medical license in this or any other jurisdiction, is currently under investigation, or is the subject of a pending disciplinary action. The monitor/supervisor must be actively engaged in the same or similar specialty area unless otherwise provided by the Board or Committee. The Board or Committee may also reject any proposed monitor/supervisor for good cause shown.

B. MECHANISM FOR APPROVAL OF MONITOR/SUPERVISOR:

1. TEMPORARY APPROVAL. The Board confers authority on the Chairman of the Board's Probation Committee to temporarily approve Respondent's monitor/supervisor. To obtain this temporary approval, Respondent shall submit to the Chairman of the Probation Committee the name and curriculum vitae of the proposed monitor/supervisor at the time this agreement is considered by the Board. Once a Final Order adopting this Agreement is filed, Respondent shall not practice medicine without an approved monitor/supervisor. Temporary approval shall only remain in effect until the next meeting of the Probation Committee.

2. FORMAL APPROVAL.

a. Respondent shall have the monitor/supervisor with him at his first probation appearance

before the Probation Committee. Prior to consideration of the monitor/supervisor by the Committee, the Respondent shall provide to the monitor/supervisor a copy of the Administrative Complaint and Final Order in this case. Respondent shall submit a current curriculum vitae and a description of current practice from the proposed monitor/supervisor to the Board office no later than fourteen days before the Respondent's first scheduled probation appearance.

b. Respondent's monitor/supervisor shall also appear before the Probation Committee at such other times as directed by the Committee. It shall be Respondent's responsibility to ensure that the appearance of his monitor/supervisor as directed. If the approved monitor fails to appear as requested or directed by the Probation Committee, the Respondent shall immediately cease practicing medicine until such time as the approved monitor or alternate monitor appears before the Probation Committee.

3. CHANGE IN MONITOR/SUPERVISOR. In the event that Respondent's monitor/supervisor is unable or unwilling to fulfill his responsibilities as a monitor/supervisor as described above, then the Respondent shall immediately advise the Board of this fact. Respondent shall immediately submit to the Chairman of the Board's Probation Committee, the name of a temporary monitor/supervisor for consideration. Respondent shall not practice pending approval of this temporary monitor/supervisor by the Chairman of the Probation Committee. Furthermore, Respondent shall make arrangements with his temporary monitor/supervisor to

appear before the Probation Committee at its next regularly scheduled meeting, for consideration of the monitor/supervisor by the Committee. Respondent shall only practice under the auspices of the temporary monitor/supervisor (approved by the Chairman) until the next regularly scheduled meeting of the Probation Committee whereat the issue of the Committee's approval of the Respondent's new monitor/supervisor shall be addressed.

C. CONTINUITY OF PRACTICE

1. TOLLING PROVISIONS. In the event the Respondent leaves the State of Florida for a period of thirty days or more or otherwise does not engage in the active practice of medicine in the State of Florida, then certain provisions of Respondent's probation (and only those provisions of the probation) shall be tolled as enumerated below and shall remain in a tolled status until Respondent returns to active practice in the State of Florida.

a. The time period of probation shall be tolled.

b. The provisions regarding supervision whether direct or indirect by another physician, and required reports from the monitor/supervisor shall be tolled.

c. The provisions regarding preparation of investigative reports detailing compliance with this Stipulation shall be tolled.

d. The provision regarding the course "Protecting Your Medical Practice, Clinical, Legal and Ethical Issues in Prescribing Abusable Drugs" shall be tolled.

2. ADDRESSES. Respondent must keep current residence and business addresses on file with the Board. Respondent shall notify the Board within ten (10) days of any

changes of said addresses. Furthermore, Respondent shall notify the Board within ten (10) days in the event that Respondent leaves the active practice of medicine in Florida.

3. ACTIVE PRACTICE. In the event that Respondent leaves the active practice of medicine for a period of one year or more, the Probation Committee may require Respondent to appear before the Probation Committee and demonstrate his ability to practice medicine with skill and safety to patients prior to resuming the practice of medicine in this State.

D. COSTS. Respondent shall pay all costs necessary to comply with the terms of this Consent Agreement. Such costs include, but are not limited to, the costs of preparation of Investigative Reports detailing compliance with the terms of the Consent Agreement, and the Board's administrative costs directly associated with Respondent's probation.

E. BOARD ADDRESS. Unless otherwise directed by the Board office, all reports, correspondence and inquiries shall be sent to: Board of Medicine, 1940 North Monroe Street, Tallahassee, Florida 32399-0792, Attn: Final Order Compliance Officer.

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23

Final Order No. DPR-92-00112-ME

**FILED**

Department of Professional Regulation  
AGENCY CLERK

MED-11 (1-15-92)

DEPARTMENT OF PROFESSIONAL REGULATION

BOARD OF MEDICINE

*J. Wilson*

CLERK

DATE

6-11-92

DEPARTMENT OF PROFESSIONAL  
REGULATION,

Petitioner,

vs.

DPR CASE NUMBER: 89009458  
LICENSE NUMBER: ME 0009918

WILSON G. SCANLON, M.D.,

Respondent.

FINAL ORDER

THIS MATTER came before the Board of Medicine (Board) pursuant to Section 120.57(3), Florida Statutes, on June 5, 1992, in Tampa, Florida, for consideration of a Consent Agreement (attached hereto as Exhibit A) entered into between the parties in the above-styled case. Upon consideration of the Consent Agreement, the documents submitted in support thereof, the arguments of the parties, and being otherwise advised in the premises, the Board rejected the Consent Agreement proposed and offered an amendment at the hearing, which amendment was accepted without objection by the parties.

IT IS HEREBY ORDERED AND ADJUDGED that the Consent Agreement as submitted by and is hereby approved and adopted in toto and incorporated by reference herein with the following:

1. Paragraph 2 of the Stipulated Disposition is amended to reduce the amount of the Administrative fine to \$1,000.

2. Paragraph 4 of the Stipulated Disposition is deleted and Respondent shall not be placed on Probation.

Accordingly, the parties shall adhere to and abide by all of the terms and conditions of the Consent Agreement as amended.

This Order takes effect upon filing with the Clerk of the Department of Professional Regulation.

DONE AND ORDERED this 6<sup>th</sup> day of June, 1992.

BOARD OF MEDICINE

ZACHARIAH P.  
CHAIRMAN

  
ZACHARIAH, M.D.