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FILED

Department of Professional Regulation
AGENCY CLERK

DEPARTMENT OF PROFESSIONAL REGULATION
BOARD OF MEDICINE

[Signature]

DEPARTMENT OF PROFESSIONAL
REGULATION,

CLERK _____

Petitioner,

DATE 2-12-92

v.

DPR CASE NUMBER: 90-02182
LICENSE NUMBER: ME 0014297

JOSE M. CALLEJA, M.D.,

Respondent.

_____ /

FINAL ORDER


THIS MATTER came before the Board of Medicine (Board) pursuant to Section 120.57(3), Florida Statutes, on February 8, 1992, in Ft. Lauderdale, 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,

IT IS HEREBY ORDERED AND ADJUDGED that the Consent Agreement as submitted be and is hereby approved and adopted in toto and incorporated by reference herein. Accordingly, the parties shall adhere to and abide by all of the terms and conditions of the Consent Agreement.

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

DONE AND ORDERED this 8th day February, 1992.

BOARD OF MEDICINE


ZACHARIAH P. ZACHARIAH, M.D.
CHAIRMAN

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been provided by certified U.S. Mail to Jose M. Calleja, M.D., North Ridge Medical Plaza, 5601 North Dixie Highway, Suite 404, Fort Lauderdale, Florida 33334-4147, and to Michael Widoff, Esquire, Barnett Bank Tower, Suite 501, 2929 E. Commercial Boulevard, Ft. Lauderdale, Florida 33308 and by interoffice delivery to Larry G. McPherson, Jr., Chief Medical Attorney, Department of Professional Regulation, Northwood Centre, 1940 North Monroe Street, Tallahassee, Florida 32399-0792, at or before 5:00 P.M., this _____ day of _____, 1992.

DOROTHY J. FAIRCLOTH
Executive Director

STATE OF FLORIDA
DEPARTMENT OF PROFESSIONAL REGULATION
BOARD OF MEDICINE

DEPARTMENT OF PROFESSIONAL
REGULATION,

Petitioner,

vs.

DPR CASE NO. 90-02182
DOAH CASE NO. 91-6530

JOSE M. CALLEJA, M.D.,

Respondent.

_____ /

CONSENT AGREEMENT

JOSE M. CALLEJA, 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 0014297.
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.

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 Amended 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 \$5,000.00 against the Respondent. The fine shall be paid by the Respondent to the "Board of Medicine" within sixty (30) days 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 two(2) years.

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.

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 semiannually; 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. During the probationary term, Respondent shall attend sixty (60) hours of Category I Continuing Medical Education at a rate of thirty (30) hours per year. These hours shall include ten (10) hours in the area of medical ethics, ten (10) hours in Risk Management, and ten (10) hours of record keeping, per year. In addition, Respondent shall submit documentation in the form of certified copies of the receipts, vouchers, certificates, or other papers, such as the physician's recognition awards issued by the American Medical Association, as may be necessary to document completion of these continuing medical education courses prior to the completion of the probationary term. All such documentation shall be sent to the Board of Medicine, Attn: Final Order Compliance Section regardless of whether some or any of such documentation was

previously provided during the course of any audit or discussion with counsel for the Department. These hours shall be in addition to those hours required for renewal of licensure. Unless otherwise approved by the Board or the Chairman of the Probationer's Committee, said continuing education courses shall consist of a formal live lecture format. In the event that Respondent fails to timely document compliance of the continuing medical education courses, Respondent's license to practice medicine shall be suspended until such time as documentation of compliance is received by the Board.

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

C. RESPONSIBILITIES OF THE MONITORING PHYSICIAN.

The Monitor shall:

i. Review twenty-five percent (25%) of Respondent's active patient records at least once a month, for the purpose of ascertaining that Respondent is practicing medicine with an acceptable level of care, skill, and treatment to patients and keeping written medical records justifying the course of treatment of patients. The monitor shall specifically review these records with particularity to ensure that the records are properly dated and referenced in accordance with community standards. The monitor shall go to Respondent's office once every month and shall review Respondent's calendar or patient log and shall select the records to be reviewed.

ii. Submit reports on a quarterly 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. This statement shall specifically address Respondent's medical record keeping with emphasis on the proper dating and referencing of those medical records.
- 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.

iii. 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.

iv. 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. Failure of the monitor to appear as requested or directed shall constitute a violation of the terms of this Stipulation and shall subject the Respondent to disciplinary action.

D. REPORTS FROM RESPONDENT. The Respondent shall submit quarterly 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.

5. In the event that probable cause be found to believe that Respondent has failed to comply with the terms of this Consent Agreement, Respondent's license to practice medicine in the state of Florida shall be suspended for a period of one(1) year.

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 is entered incorporating the terms of this Agreement, 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 own 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 10 day of JANUARY, 1992.

Jose M. Calleja M.D.
JOSE M. CALLEJA, M.D.

Sworn to and subscribed before me this 10 day of JAN., 1992.

[Signature]
NOTARY PUBLIC
5-8-94

My Commission Expires: 5-8-94

APPROVED this 10 day of January, 1992.

George Stuart
Secretary

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

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 specific 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. Failure of the monitor/supervisor to appear as directed shall constitute a violation of the terms of this Stipulation and shall subject the Respondent to disciplinary action.

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.

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 Section.

STATE OF FLORIDA
DEPARTMENT OF PROFESSIONAL REGULATION
BOARD OF MEDICINE

DEPARTMENT OF PROFESSIONAL
REGULATION,

PETITIONER,

vs.

CASE NO. 90-02182

JOSE M. CALLEJA, M.D.

RESPONDENT.

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 JOSE M. CALLEJA, 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 0014297. Respondent's last known address is North Ridge Medical Plaza, Suite 404, 5601 North Dixie Highway, Fort Lauderdale, Florida 33334-4147.

3. Respondent is a board certified psychiatrist.

4. On or about August 3, 1986, Patient #1, a 33 year old man, accompanied by his wife and sister, presented to Respondent at

Respondent's office. Patient #1 complained of anxiety regarding his business and the pending birth of his first child, of feeling overwhelmed and immobilized, and wishing that he were dead.

5. During this visit to Respondent, Patient #1's family told Respondent that Patient #1 had been saying that he wished he was dead and had thoughts of suicide and other morbid thoughts.

6. Respondent advised hospitalization.

7. On or about August 4, 1986, at 1700 hours, Patient #1 executed a Request for Voluntary Admission, was admitted with a diagnosis of anxiety reaction to Imperial Point Medical Center, and was placed on an unlocked ward.

8. On or about August 8, 1986, Respondent wrote and signed two orders which authorized Patient #1 to go on a community outing and to go out with a group.

9. On or about August 8, 1986, Patient #1 and three female patients accompanied by the Recreational Therapist went on a community outing to a shopping center, where Patient #1 entered a store and fatally stabbed himself in the heart with a pair of scissors.

10. A copy of Patient #1's original medical records were obtained by the Medical Examiner.

11. The original patient records maintained by the hospital were altered after the patient's death, specifically:

(a) Respondent's progress notes were changed as follows:

8/5/86 Added: "Realizes he magnifies his problems."

8/6/86 Added: "Has never tried. Calmer."

medicine.

COUNT TWO

15. Petitioner realleges and incorporates paragraphs one (1) through eleven (11) and thirteen (13) above, as if fully set forth herein this Count Two.

16. Respondent failed to keep written medical records justifying the course of treatment of the patient, including, but not limited to, patient histories; examination results; test results; records of drugs prescribed, dispensed, or administered; and reports of consultations and hospitalizations in that Respondent did not have a psychiatric history, a physical history, a Physician Plan on the Psychiatric Treatment Plan, a formal mental status exam, or a treatment plan in Patient #1's medical record at the time of the patient's death four days after the patient's admission to the hospital.

17. Based on the foregoing, Respondent has violated Section 458.331 (1)(m), Florida Statutes, by failing to keep written medical records justifying the course of treatment of the patient, including, but not limited to, patient histories; examination results; test results; records of drugs prescribed, dispensed, or administered; and reports of consultations and hospitalizations.

COUNT THREE

18. Petitioner realleges and incorporates paragraphs one (1) through eleven (11), thirteen (13), and sixteen (16) above, as if fully set forth herein this Count Three.

19. Respondent failed to practice medicine with that level

of care, skill, and treatment which a reasonably prudent similar physician recognizes as acceptable under similar conditions and circumstances in that after four days of hospitalization there was not a detailed psychiatric evaluation including a past psychiatric history, a mental status exam delineating the depths and involvement of the previous depressive episode, and a treatment plan to assess the potential for suicide. Respondent, after the fact, altered the medical record to attempt to justify his treatment of the patient. This alteration was done without any indication that these were late entries. This is clearly not within the standard of practice.

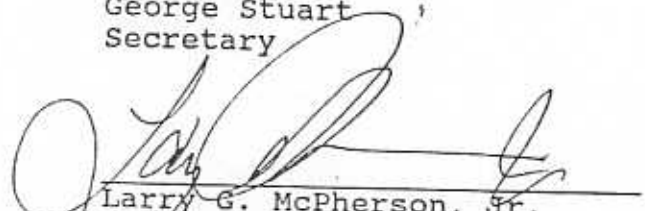
20. Based upon the foregoing, Respondent has violated Section 458.331 (1) (t), Florida Statutes, by gross or repeated malpractice or the failure to practice medicine with that level of care, skill, and treatment which is recognized by a reasonably prudent similar physician as being acceptable under similar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

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 26 day of August, 1991.


George Stuart
Secretary


Larry G. McPherson, Sr.
Chief Medical Attorney

COUNSEL FOR DEPARTMENT:
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LAPQ/BWM
PCP: August 14, 1991
Burt, Campbell, Basisht

FILED

Department of Professional Regulation
AGENCY CLERK


CLERK _____
DATE 8-27-91