

FILED

Department of Professional Regulation
AGENCY CLERK

DEPARTMENT OF PROFESSIONAL REGULATION
BOARD OF MEDICINE

Wilson
CLERK _____
DATE 12-10-91

DEPARTMENT OF PROFESSIONAL
REGULATION,

Petitioner,

v.

DPR CASE NUMBER: 90-07157
LICENSE NUMBER: ME 0030885

JOHN MICHAEL TATUM, M.D.,

Respondent.

FINAL ORDER

THIS MATTER came before the Board of Medicine (Board) pursuant to Section 120.57(3), Florida Statutes, on December 6, 1991, in Miami, Florida, for consideration of a Stipulation (attached hereto as Exhibit A) entered into between the parties in the above-styled case. Upon consideration of the Stipulation, the documents submitted in support thereof, the arguments of the parties, and being otherwise advised in the premises, the Board rejected the Stipulation 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 Stipulation as submitted be and is hereby approved and adopted in toto and incorporated by reference with the following additions:

1. Paragraph 4.d. of the Stipulated Disposition is amended to change the period of suspension from one year to three months and to delete the second sentence which stays the suspension. Thus the Respondent's license to practice medicine shall be actually suspended for three months. This provision shall take effect on January 1, 1992.

2. Paragraph 5 of the Stipulated Disposition is amended to add the following probationary term:


During the next two years, Respondent shall perform 100 hours of community service per year in the Orlando metropolitan area. Community service shall consist of medical service without fee or cost to the patient for the good of the people of the State of Florida. Respondent shall submit a written plan for performance and completion of the community service to the Probationer's Committee for approval prior to performance of said community service. Affidavits detailing the community service performed shall be filed with the Board.

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

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

DONE AND ORDERED this 7th day December, 1991.

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 John Michael Tatum, M.D., 100 East Sybelia Avenue, #301, Maitland, Florida 32751-4758 and Launa K. Rutherford, Esquire, Post Office box 538065, Orlando, Florida 32853-8065 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 10th day of December, 1991.



DOROTHY J. FAIRCLOTH
Executive Director

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

DEPARTMENT OF PROFESSIONAL
REGULATION,

Petitioner,

v.

DPR CASE NO. 90-07157

JOHN MICHAEL TATUM, M.D.,

Respondent.

_____ /

STIPULATION

John Michael Tatum, M.D., the Respondent, and the Department of Professional Regulation, referred to as Department, stipulate and agree to the following joint Stipulation and to the entry of a Final Order of the Board of Medicine, referred to as Board, incorporating this Stipulation and the agreement 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 0030885.
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 and incorporated by reference as Exhibit A.
3. Respondent neither admits nor denies the allegations of fact contained in the Administrative Complaint attached hereto as Exhibit A.

STIPULATED CONCLUSIONS OF LAW

1. Respondent, in his capacity as a licensed physician, admits that in such capacity 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, constitute violations of Chapter 458, Florida Statutes, as alleged in the Administrative Complaint.

STIPULATED DISPOSITION

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

2. The Board shall impose an administrative fine in the amount of \$5000.00 against the Respondent. The fine shall be paid by the Respondent to the Executive Director of the Board within thirty (30) days of the imposition by Final Order of the Board.

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

4. Effective the date of filing of the Final Order incorporating the terms of this Stipulation, Respondent's license to practice medicine shall be suspended for a period of one (1) year. However, the suspension shall be stayed for such period of time as the Respondent shall comply with the other provisions of this stipulation.

5. Effective on the date of the filing of the Final Order incorporating the terms of this Stipulation, Respondent's license to practice medicine shall be placed on probation for a period of three (3) years. The terms and conditions of probation shall include:

a. Respondent shall comply with all state and federal statutes, rules and regulations pertaining to the practice of medicine, including Chapters 455, 458, and 893, Florida Statutes, and Rules 21 M, Florida Administrative Code.

b. Respondent shall appear before the Board or its designated probationer's committee at the first meeting after said probation commences, at the last meeting of the Board's designated probationer's committee preceding termination of the probation and at such other times as requested by the Board's probationer's committee. Respondent shall be noticed by the Board staff of the date, time and place of the Board's Probationer's 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 Stipulation, and shall subject the Respondent to disciplinary action.

c. 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 and shall remain in a tolled status until Respondent returns to active practice in the State of Florida. 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.

d. In the event that Respondent leaves the active practice of medicine in this state for a period of thirty days or more, the following provisions of his probation shall be tolled:

i. The time period of probation shall be tolled.

ii. The provisions regarding supervision whether direct or indirect by another physician, included in paragraphs f-k below.

iii. The provisions regarding preparation of investigative reports detailing compliance with this stipulation shall be tolled. See paragraph l below.

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

f. Respondent shall not practice except under the indirect supervision of a physician fully licensed under Chapter 458, Florida Statutes, approved by the Board's Probationer's Committee or the Board. If Respondent wants to request approval of his monitoring physician from the Board, he may do so at the time this Stipulation is presented to the Board. If approval is sought from the Board, however, Respondent shall have his monitoring physician present at the Board meeting whereat this Stipulation is considered. If the monitoring physician is not approved at the same meeting whereat the Stipulation is addressed, then the approval of the monitoring physician shall only be addressed by the Probationer's Committee thereafter. To effectuate approval by the Board, Respondent shall also submit a curriculum vitae to the Board at least fourteen days before this matter is considered by the Board. Respondent shall also provide the proposed monitoring physician, in advance, a copy of this Stipulation and the Administrative Complaint issued in this proceeding. If Respondent decides to have the

approval of his monitoring physician done by the Probationer's Committee, Respondent shall have the monitoring physician with him at his first probation appearance before the Board's Probationer's Committee. Prior to approval of the monitoring physician by the committee, the Respondent shall provide to the monitoring physician a copy of the Administrative Complaint and Final Order filed in this case. A failure of the Respondent or the monitoring physician to appear at the scheduled probation committee meeting shall constitute a violation of the Board's Final Order. Prior to the approval of the monitoring physician by the committee, Respondent shall submit to the committee a current curriculum vitae and description of the current practice from the proposed monitoring physician. Said materials shall be received in the Board office no later than fourteen days before Respondent's first scheduled probation appearance. The attached provisions regarding monitoring physicians are incorporated herein as part of the terms and conditions of this Stipulation. The responsibilities of the monitoring physician shall include:

i. Respondent's monitoring physician shall appear before the probationer's 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 monitoring physician as requested or directed. Failure of the monitoring physician to appear as requested or directed shall constitute a violation of the terms of this Stipulation and shall subject the physician to disciplinary action.

ii. Respondent's monitoring physician shall submit reports on a quarterly basis, in affidavit form, which shall include:

a. Brief statement of why physician is on probation.

- b. Description of probationer's practice.
 - c. Brief statement of probationer's compliance with terms of probation.
 - d. Brief description of probationer's relationship with monitoring physician.
 - e. Detail any problems which may have arisen with probationer. Respondent shall be responsible for ensuring that the monitoring physician submits the required reports.
- iii. Be available for consultation with Respondent whenever necessary, at a frequency of at least once per week.
 - iv. Review twenty-five percent of Respondent's patient records on a random basis at least once every month, for the purpose of ascertaining the appropriateness and adequacy of diagnosis and treatment. In order to comply with this responsibility of random review, the monitoring physician shall go to Respondent's office once every month. At that time, the monitoring physician shall be responsible for making the random selection of the records to be reviewed by the monitoring physician.
 - v. Review all of Respondent's patient records for patients treated for multiple personality disorders and all patient records for female patients.
 - vi. Report to the Board any violations by the probationer of Chapters 455 and 458, Florida Statutes, and the rules promulgated pursuant thereto.
 - vii. Maintain contact with Respondent on a frequency of at least once per week. In the event that the monitor is not contacted by Respondent on a frequency of at least once per week, then the monitoring physician shall immediately report this fact to the Board, in writing.

g. The Board shall confer authority on the Chairman of the Board's Probationer's Committee to temporarily approve Respondent's monitoring physician. In order to obtain this temporary approval, Respondent shall submit to the Chairman of the Probationer's Committee the name and curriculum vitae of the proposed monitoring physician. This information shall be furnished to the Chairman of the Probationer's Committee at the time that this Stipulation is approved by the Board. Said approval shall only remain in effect until the next meeting of the Probationer's Committee. If the proposed monitoring physician is not approved, Respondent shall immediately cease practice. Absent said approval, Respondent shall not practice medicine until a monitoring physician is approved by the Board's Probationer's Committee.

h. In view of the need for ongoing and continuous monitoring, Respondent shall also submit the curriculum vitae of an alternate monitoring physician who shall be approved by the Board's Probationer's Committee. Such physician shall be licensed pursuant to Chapter 458, Florida Statutes, and shall have the same duties and responsibilities as specified for Respondent's monitoring physician, during those periods of time when Respondent's monitoring physician is temporarily unable to provide supervision. Prior to practicing under the indirect supervision of the alternate monitoring physician, Respondent shall so advise the Board in writing. Respondent shall further advise the Board in writing of the period of time during which Respondent shall practice under the indirect supervision of the alternate monitoring physician. Respondent shall not practice unless he is under the supervision of either the approved monitoring physician or the approved alternate.

i. In the event that the Respondent's monitoring physician is unable or unwilling to fulfill his responsibilities as a monitoring physician, as prescribed above, then

the Respondent shall immediately advise the Board of this fact. Respondent shall further submit to the Chairman for the Board's Probationer's Committee the name of a temporary monitoring physician for approval. Respondent shall not practice pending approval of this temporary monitoring physician by the Chairman of the Probationer's Committee. Furthermore, Respondent shall make arrangements with his temporary monitoring physician to appear before the Probationer's Committee at its next regularly scheduled meeting, for approval of the monitoring physician by the Committee. Respondent shall only practice under the auspices of the temporary monitoring physician (approved by the Chairman) until the next regularly scheduled meeting of the Probationer's Committee whereat the issue of the Committee's approval of the Respondent's new monitoring physician shall be addressed.

j. Respondent shall submit quarterly reports, in affidavit form, the contents of which shall be specified by the Board. The reports shall include:

- i. Brief statement of why physician is on probation.
- ii. Description of practice location.
- iii. Describe current practice (type and composition).
- iv. Brief statement of compliance with probationary terms.
- v. Describe relationship with monitoring physician.
- vi. Advise Board of any problems.

k. Respondent shall attend twenty (20) hours of Category I Continuing Medical Education courses per year in the areas of risk management (10) and multiple personality treatment (10). Respondent shall submit a written plan to the Chairman of the Probationer's Committee for approval prior to the completion of said courses. The Board confers authority on the chairman of the Probationer's Committee to approve or

disapprove said continuing education courses. In addition, Respondent shall submit documentation of completion of these continuing medical education courses in his quarterly report. 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.

l. Respondent understands that during the course of the probation, semiannual reports shall be prepared by investigators with the Department detailing Respondent's compliance with the terms and conditions of this probation. Respondent waives confidentiality of these reports as to the Department only so that the Board may review these reports.

m. Respondent shall comply with all of the terms and conditions of the Stipulation.

n. Respondent shall see a psychiatrist approved by the Board at least monthly for evaluation and treatment. Respondent's treating psychiatrist shall submit reports to the Board on a quarterly basis detailing Respondent's current psychiatric condition, providing specific information about the diagnosis of Respondent's psychiatric condition, the results of any psychiatric testing, examination or evaluation, and any update of the patient's psychiatric history.

o. Respondent shall participate in and comply with the Florida Physician's Recovery Network. Respondent shall enter into an after care contract with the Physicians' Recovery Network and shall cause the Network to send to the Board a copy of the after care contract entered into. Respondent shall comply with all of the conditions of his after care contract with the Florida Medical Foundation's Physician's

Recovery Network. Respondent shall execute a release for the Physicians' Recovery Network to authorize the Network to release information to the Board of Medicine as needed to monitor progress in the Network's program.

p. Respondent shall cause the director of the Physicians' Recovery Network to report to the Board of Medicine any ^{and} problems that may occur with Respondent and any violations of Chapter 458, Florida Statutes. Respondent shall cause the director to make such a report within 60 days of the occurrence of any problems, or violations of Chapter 458, Florida Statutes.

q. Respondent shall pay all costs necessary to comply with the terms of the Final Order issued based on this Stipulation. Such costs include, but are not limited to, the cost of preparation of investigative reports detailing compliance with the terms of this Stipulation and the Board's administrative costs directly associated with Respondent's probation. See Section 458.331(2), Florida Statutes.

6. Respondent's license to practice medicine shall be hereinafter restricted in the following manner:

a. Respondent shall participate in and comply with the Physician's Recovery Network.

7. It is expressly understood that this Stipulation is subject to the approval of the Board and the Department. In this regarding the foregoing paragraphs (and only the foregoing paragraphs of the Stipulated Facts, Stipulated Conclusions of Law and Stipulated Disposition) shall have no force and effect unless a Final Order is entered incorporating the terms of this Stipulation, by the Board.

8. Respondent shall appear before the Board at the meeting whereat this Stipulation is considered. Respondent, in conjunction with the consideration of this

Stipulation by the Board, shall respond to questions under oath from the Board, Board Staff or Department Staff.

9. Should this Stipulation be rejected, no statement made in furtherance of this Stipulation 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.

10. Respondent and the Department fully understand that this joint Stipulation 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 admissions not specifically set forth in the Administrative Complaint attached as Exhibit "A" herein.


11. Upon the Board's adoption of this Stipulation, 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 joint Stipulation of facts, conclusions of law and imposition of discipline, and the Final Order of the Board incorporating said Stipulation.

12. Upon the Board's adoption of this Stipulation, the parties hereby agree that each party will bear his own attorney's fees and costs resulting from prosecution and/or defense of this proceeding. Respondent waives the right to seek any attorney's fees or costs from the Department in connection with this disciplinary proceeding.

13. This Stipulation 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 Stipulation.

Furthermore, should this joint Stipulation not be accepted by the Board, it is agreed that presentation to and consideration of this Stipulation 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 28th day of October, 1991.


John Michael Tatum, M. D.

Sworn to and subscribed
before me this 28 day
of October, 1991.

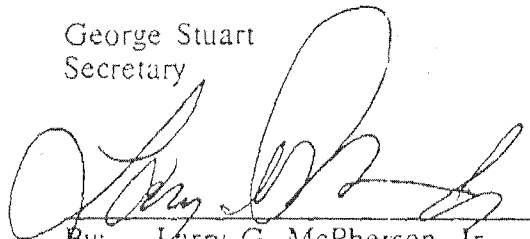

NOTARY PUBLIC

NOTARY PUBLIC, STATE OF FLORIDA.
MY COMMISSION EXPIRES: JAN. 23, 1993.
BONDED THROUGH NOTARY PUBLIC UNDERWRITERS.

My Commission Expires:

APPROVED this 1 day of November, 1991.

George Stuart
Secretary


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

PROVISIONS REGARDING MONITORING/SUPERVISING PHYSICIANS

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

I. DEFINITIONS:

Indirect supervision is supervision by a monitoring physician 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 same specialty area in which Respondent practices unless otherwise provided by the Board.

Direct supervision is supervision by a supervising physician. Direct supervision requires that the supervisor and Respondent work on the same premises. Specific responsibilities are set by the Board. The supervising physician shall be board-certified in the same specialty area in which Respondent practices, unless otherwise provided by the Board.

II. Provisions governing all supervised or monitored physicians:

a. The Respondent shall not practice without a supervisor/monitor unless otherwise ordered by the Board.

b. The supervisor/monitor 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 supervisor/monitor on the basis that he has previously been subject to any disciplinary action against his medical license in this or any other jurisdiction. The supervisor/monitor 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 supervisor/monitor for good cause shown.

STATE OF FLORIDA
DEPARTMENT OF PROFESSIONAL REGULATION
BOARD OF MEDICINE

DEPARTMENT OF PROFESSIONAL
REGULATION,

PETITIONER,

vs.

CASE NO. 90-007157

JOHN MICHAEL TATUM, 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 JOHN MICHAEL TATUM, 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 0030885. Respondent's last known address is 100 East Sybelia Avenue, #301, Maitland, Florida, 32751-4758.

3. From on or about April 1982, until on or about January 31, 1990, Respondent treated Patient #1's depression and multiple personality disorders in psychotherapy sessions in his office.

4. From on or about June 1989, until on or about March 7, 1990, Respondent engaged in a sexual relationship with Patient #1 in his office during therapy sessions.

5. On or about the following days, Respondent and Patient #1 engaged in intimate touching while partially undressed in Respondent's office during therapy sessions: November 1, 2, 6, 8, 9, 13, 14, 15, 20, 21, 22, 27, 1989.

6. On or about November 29, 1989, Respondent and Patient #1 engaged in intercourse in Respondent's office during a therapy session.

7. On or about November 30, 1989, Respondent and Patient #1 engaged in oral sex in Respondent's office during a therapy session.

8. On or about the following days, Respondent and Patient #1 engaged in intimate touching while partially undressed in Respondent's office and during therapy sessions: December 6, 11, 13, 15, 1989.

9. On or about December 16, 1989, Respondent and Patient #1 engaged in oral sex in Respondent's office during a therapy session.

10. On or about the following dates, Respondent and Patient #1 engaged in intimate touching in Respondent's office during therapy sessions: December 18, 19, 20, 21, 1989; January 2, 5, 8, 10, 11, 15, 17, 19, 22, 24, 25, 29, 31; February 2, 5, 6; and March 1, 1990.

11. On or about March 10, 1990, and on or about March 11, 1990, Respondent met with a psychiatrist, Dr. Sayer Brinner, and admitted that he held Patient #1 during psychotherapy sessions and that this escalated into sexual contact including oral sex.

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12. According to Section 458.329, Florida Statutes, sexual misconduct in the practice of medicine means violation of the physician-patient relationship through which the physician uses said relationship to induce or attempt to induce the patient to engage or to engage or attempt to engage in sexual activity outside the scope of the practice or the scope of generally accepted examination or treatment of the patient. Sexual misconduct in the practice of medicine is prohibited.

COUNT ONE

13. Petitioner realleges and incorporates paragraphs one (1) through twelve (12), as if fully set forth herein this Count One.

14. Respondent has violated a provision of Chapter 458 when he engaged in intimate touching, sexual intercourse, and oral sex with Patient #1 in Respondent's office during therapy sessions, contrary to Section 458.329, Florida Statutes.

15. Based on the foregoing, Respondent violated Section 458.331(1)(x), Florida Statutes, by violating any provision of this chapter, a rule of the board or department, or a lawful order of the board or department previously entered in a disciplinary hearing or failing to comply with a lawfully issued subpoena of the department.

COUNT TWO

16. Petitioner realleges and incorporates paragraphs one (1) through twelve (12) and fourteen (14), as if fully set forth herein this Count Two.

17. Respondent exercised influence within a patient-physician relationship for purposes of engaging a patient in sexual activity when Respondent engaged in intimate touching, sexual intercourse, and oral sex with Patient #1 in Respondent's office during therapy sessions.

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18. Based on the foregoing, Respondent violated Section 458.331(1)(j), Florida Statutes, by exercising influence within a patient-physician relationship for purposes of engaging a patient in sexual activity. A patient shall be presumed to be incapable of giving free, full, and informed consent to sexual activity with his physician.

WHEREFORE, the Petitioner respectfully requests the Board of Medicine enter an Order imposing one or more of the following p 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 6th day of March, 1991.

George Stewart
Secretary



Stephanie Daniel
Chief Medical Attorney

COUNSEL FOR DEPARTMENT:

Larry McPherson, Jr.
Senior Attorney
Department of Professional
Regulation
1940 North Monroe Street
Tallahassee, Florida 32399-0750

CJR/tc
PCP: February 22, 1991
Vitale, Ashkar and Skinner

FILED

Department of Professional Regulation
AGENCY CLERK



CLERK _____

DATE 3-6-91