

STATE OF FLORIDA  
DEPARTMENT OF HEALTH

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**FILED**  
DEPARTMENT OF HEALTH  
DEPUTY CLERK  
CLERK *Vicki R. Kenon*  
DATE 12/12/02

BOARD: Medicine

CASE NUMBER: 1994-13721  
1994-13737  
1994-13739  
1994-13745

COMPLAINT MADE BY: Cynthia Schultz  
Office of State Attorney  
10<sup>th</sup> Judicial Circuit

COMPLAINT MADE AGAINST: Brian W. Cobb, M.D.  
317 Lake Ned Road  
Winter Haven, Florida 33884

DATE OF COMPLAINT: August 17, 1994

INVESTIGATED BY: James E. Maring (Deceased)  
Tampa BIS

REVIEWED BY: Richard J. Shoop

RECOMMENDATION: Dismiss (4099)

NOTICE OF DISMISSAL/CLOSING ORDER  
ON RECONSIDERATION

COMPLAINT: The alleged violations are of Sections 458.331(1)(m)(x), Florida Statutes – failure to keep medical records, which justify the course of treatment of the patient; and failing to comply with a lawfully issued subpoena of the department.

FACTS: This case involves an Amended Administrative Complaint that was filed in **May 1998** alleging that Dr. Cobb failed to justify the course of

treatment for Patient R.C. and Patient J.C. and failed to comply with a lawfully issued subpoena by not producing the medical records for Patient J.T. and Patient R.M.

### **Patient R.C.**

Dr. Cobb treated Patient R.C. from April of 1993 to June of 1994. Dr. Cobb was treating Patient R.C. for psychiatric and medical problems. It is alleged that Dr. Cobb failed to document the justification for administering Versed to Patient R.C. during a rectal examination, or why it was necessary to perform a rectal examination on Patient R.C. It is also alleged that Dr. Cobb failed to document the justification for administering sodium pentothal to Patient R.C. during psychiatric therapy sessions or obtain signed parental consent for the administration of sodium pentothal to Patient R.C.

The medical records do not indicate that Dr. Cobb performed a rectal examination on Patient R.C. or that Versed was given to Patient R.C. during a rectal examination. The medical records also do not indicate that Dr. Cobb ever gave sodium pentothal to Patient R.C. at any time. In addition, there is no outside evidence to show that these events occurred.

### **Patient J.C.**

Dr. Cobb treated Patient J.C. from November of 1993 to May of 1994. Dr. Cobb was treating Patient J.C. for psychiatric problems. It was alleged that Dr. Cobb failed to document the justification for administering Versed to Patient J.C. during a rectal examination. In addition, it was alleged that Dr. Cobb failed to document the reason or reasons why it was necessary to perform a rectal examination on Patient J.C.

Agency expert Dr. Jerald H. Ratner noted that it is highly unusual for Versed to be administered during a rectal examination and that the medical records did not justify the utilization of it. However, Agency expert Dr. Richard C. Dubno disagreed, stating that "[t]he Versed was provided as analgesia for intestinal endoscopy in the presence of a nurse appropriately." Dr. Dubno also believed that the medical records adequately documented the course of treatment of the patient.

Dr. Cobb performed the examination at the request of the Polk County Sheriff's Department, pursuant to allegations of a sexual attack on Patient J.C. Both the Patient and his mother stated that Dr. Cobb had administered Versed to Patient J.C. for conscious sedation during the rectal examination, after obtaining consent from them, and they strongly denied any wrongdoing on the part of Dr. Cobb.

Based on these facts, there is insufficient evidence to support an allegation of a records violation in regards to Dr. Cobb's care and treatment of Patient J.C.

### **Patient J.T. and Patient R.M.**

The Agency subpoenaed the medical records for Patient J.T. and Patient R.M. from Dr. Cobb. Dr. Cobb's attorney, Jack Edmund, responded to the Agency's subpoena by stating that Dr. Cobb had delivered these records to Mr. Edmund's law office and that, after an extensive search, he could not find them. In light of the fact that there were several investigations proceeding simultaneously against Dr. Cobb, it is understandable that the records could have gotten lost somewhere among the various agencies that were involved in investigating these cases. There is insufficient evidence to support an allegation that Dr. Cobb intentionally disobeyed the subpoenas.

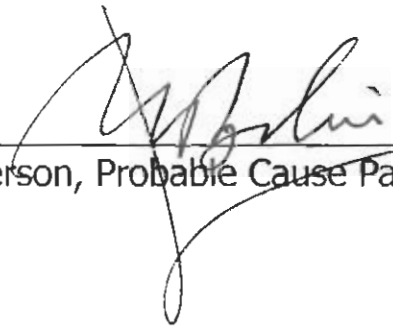
Dr. Cobb did a year's residency in psychiatric medicine and a year's residency in anesthesiology at the University of South Florida School of Medicine and was appropriately qualified to treat these patients for psychiatric problems. The Board of Medicine has never disciplined Dr. Cobb.

The allegations contained in the Amended Administrative Complaint must be proven by clear and convincing evidence at hearing. There is no sufficient evidence upon which any of these allegations can be supported.

LAW: Based on the foregoing facts and findings, the Department requests that the Probable Cause Panel close this case without requiring further prosecution of the matter.

It is, therefore, ORDERED that this matter is hereby DISMISSED.

DONE and ORDERED this \_\_\_\_ day of \_\_\_\_\_, 2002.

  
\_\_\_\_\_  
Chairperson, Probable Cause Panel

November 2002 - NORTH