

STATE OF FLORIDA  
AGENCY FOR HEALTH CARE ADMINISTRATION  
BOARD OF MEDICINE

AGENCY FOR HEALTH CARE  
ADMINISTRATION,

PETITIONER,

vs.

CASE NO. 94-13935

MIREYA A. FRANCIS-CARVAJAL, M.D.

RESPONDENT.

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ADMINISTRATIVE COMPLAINT

COMES NOW the Petitioner, Agency for Health Care Administration, hereinafter referred to as "Petitioner," and files this Administrative Complaint before the Board of Medicine against Mireya A. Francis-Carvajal, 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 20.165, Florida Statutes; Section 20.42, 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 0056706. Respondent's last known address is 8257 Seneca Turnpike, Clinton, New York 13323.

3. The State Medical Board of Ohio is the licensing agency in that state authorized to grant or deny licenses to practice medicine in the State of Ohio.

4. On or about December 10, 1992, Respondent filed an application with the State Medical Board of Ohio for a certificate to practice medicine.

5. On or about March 9, 1994, the State Medical Board of Ohio entered an Order denying Respondent's application for a certificate to practice medicine in Ohio. The denial of licensure was based upon Respondent having committed fraud, misrepresentation, or deception in applying for a license to practice medicine and publishing a false, fraudulent, deceptive, or misleading statement.

6. Respondent failed to notify the Florida Board of Medicine, in writing within 30 days, of the denial of licensure to practice medicine by the State of Ohio.

COUNT ONE

7. Petitioner realleges and incorporates paragraphs one (1) through six (6) as if fully set forth herein this Count One.

8. Respondent was denied a license to practice medicine by the State Medical Board of Ohio.

9. Based on the preceding allegations, Respondent has violated Section 458.331(1)(b), Florida Statutes, by having a license or the authority to practice medicine revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of any jurisdiction, including its agencies or subdivisions. The licensing authority's acceptance of a physician's relinquishment of a license, stipulation, consent order, or other settlement, offered in response to or in

anticipation of the filing of administrative charges against the physician's license, shall be construed as action against the physician's license.

COUNT TWO

10. Petitioner realleges and incorporates paragraphs one (1) through six (6) and paragraph eight (8) as if fully set forth herein this Count Two.

11. Respondent failed to notify the Florida Board of Medicine, in writing within 30 days, of the denial of licensure to practice medicine by the State Medical Board of Ohio.

12. Based on the preceding allegations, Respondent has violated Section 458.331(1)(kk), Florida Statutes, by failing to report to the board, in writing, within 30 days if action as defined in paragraph (b) has been taken against one's license to practice medicine in another state, territory, or country.

WHEREFORE, the Petitioner respectfully requests the Board of Medicine enter an Order imposing one or more of the following penalties: permanent 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 13 day of March, 1995.

Douglas M. Cook, Director

  
Larry G. McPherson, Jr.  
Chief Medical Attorney

**FILED**

AGENCY FOR  
HEALTH CARE ADMINISTRATION  
DEPUTY CLERK

CLERK *Brandon L. Moore*

DATE 3-14-95

**COUNSEL FOR THE AGENCY:**

Larry G. McPherson, Jr.  
Chief Medical Attorney  
Agency for Health Care Administration  
1940 North Monroe Street  
Tallahassee, Florida 32399-0750  
Florida Bar #788643  
WFW/ceb  
PCP: 3.8.95  
Katims, Diblan, Fenwick

STATE OF FLORIDA  
AGENCY FOR HEALTH CARE ADMINISTRATION

AGENCY FOR HEALTH  
CARE ADMINISTRATION,

Petitioner,

v.

AHCA CASE NO. 94-13935

MIREYA A. FRANCIS-CARVAJAL, M.D.,

Respondent.

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CONSENT AGREEMENT

MIREYA A. FRANCIS-CARVAJAL, M.D., referred to as the "Respondent," and the Agency for Health Care Administration, referred to as "Agency," 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 0056706.

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 her capacity as a licensed physician, she 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. Prior to signing this agreement, the Respondent has read Chapters 455, 458 and 893 and the Rules of the Board of Medicine, at Section 59R, et seq., Florida Administrative Code.

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

3. FINE. The Board shall impose an administrative fine in the amount of two thousand dollars (\$2,000) against the Respondent. The fine shall be paid by the Respondent to the Executive Director of the Board within ONE HUNDRED EIGHTY (180) days of its imposition by Final Order of the Board. **THE RESPONDENT ACKNOWLEDGES THAT THE TIMELY PAYMENT OF THE FINE IS HER LEGAL OBLIGATION AND RESPONSIBILITY AND THE RESPONDENT AGREES TO CEASE PRACTICING IF THE FINE IS NOT PAID AS AGREED TO IN THIS CONSENT AGREEMENT.**

SPECIFICALLY: IF THE RESPONDENT HAS NOT RECEIVED WRITTEN CONFIRMATION THAT THE FULL AMOUNT OF THE FINE HAS BEEN RECEIVED BY THE BOARD OFFICE WITHIN SIXTY (60) DAYS OF THE FILING OF THIS FINAL ORDER, THE RESPONDENT AGREES TO CEASE PRACTICE UNTIL SUCH WRITTEN CONFIRMATION IS RECEIVED BY RESPONDENT FROM THE BOARD. (SEE EXHIBIT B OF THIS CONSENT AGREEMENT FOR BOARD ADDRESS AND STANDARD TERMS).

4. AFFIDAVIT. Prior to signing this agreement, the Respondent has read Chapters 455, 458 and 893 and the Rules of the Board of Medicine, at Section 59R, et seq., Florida Administrative Code. Respondent shall submit an affidavit attesting that she has reviewed these statutes and rules prior to the Board's consideration of this Agreement.

5. STANDARD PROVISIONS. This Agreement is governed by "Standard Terms Applicable to Consent Agreements", Exhibit B, which is incorporated as if fully set forth herein.

6. Respondent shall appear before the Board at the meeting of the Board where this Agreement is considered. Respondent shall demonstrate to the Board's satisfaction the events which resulted in the allegations in this case. Respondent shall further be prepared to disclose to the Board the states in which she applied for licensure since August 1993.

7. It is expressly understood that this Agreement is subject to the approval of the Board and the Agency. 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.

8. 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 Agency Staff. The Respondent shall be prepared to explain the circumstances involved in this matter and what measures have been taken to prevent a recurrence.

9. 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.

10. Respondent and the Agency 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 Agency against the Respondent for acts or omissions not specifically set forth in the Administrative Complaint attached as Exhibit A herein.

11. 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.

12. Upon the Board's adoption of this Agreement, the parties hereby agree that each party will bear her 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 Agency in connection with this matter.

13. 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 16 day of May, 1995.

Mireya A. Francis, M.D.  
Mireya A. Francis-Carvajal, M.D.

Before me, personally appeared Mireya A. Francis, whose identity is known to me by N.Y. State ID Card (type of identification) and who, under oath, acknowledges that his/her signature appears above.

Sworn to and subscribed before me this 16<sup>th</sup> day of May, 1995.

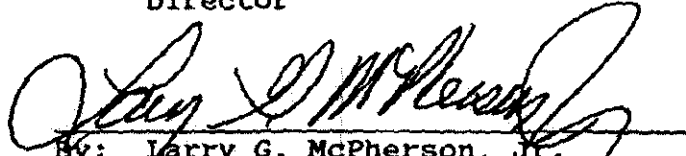
Maureen F. Champoux  
NOTARY PUBLIC

My Commission Expires:

MAUREEN F. CHAMPOUX  
Notary Public in the State of New York  
Qualified in Harbinger County  
My Commission Expires May 31, 1996

APPROVED this 30 day of May, 1995.

Douglas Cook  
Director



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

**STANDARD TERMS APPLICABLE TO CONSENT AGREEMENTS**

The following are the standard terms applicable to all Consent Agreements, including supervision and monitoring provisions applicable to licensees on probation.

A. PAYMENT OF FINES. Unless otherwise directed by the Consent Agreement, all fines shall be paid by check or money order and sent to the Board address set forth in paragraph E, below. The Board office does not have the authority to change the terms of payment of any fine imposed by the Board.

B. COMMUNITY SERVICE AND CONTINUING EDUCATION UNITS. Unless otherwise directed by the Consent Agreement, all community service requirements, continuing education units/courses must be completed, and documentation of such completion submitted to the Board of Medicine at the address set forth below in paragraph E, **WITHIN ONE YEAR OF THE DATE OF THE FINAL ORDER.**

C. ADDRESSES. Respondent must keep current residence and practice addresses on file with the Board. Respondent shall notify the Board within ten (10) days of any changes of said addresses. Furthermore, if the Respondent's license is on probation, the Respondent shall notify the Board within ten (10) days in the event that Respondent leaves the active practice of medicine in Florida.

D. COSTS. Pursuant to Section 458.331(2), Florida Statutes, the 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, obtaining supervision or monitoring of the practice, the cost of quality assurance reviews, and the Board's administrative costs directly associated with Respondent's probation.

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

F. PROBATION TERM. If probation is imposed by the Final Order of the Board, the following provisions are applicable.

1. 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/hospital. 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.

## 2. REQUIRED SUPERVISION.

a. If the terms of the Consent Agreement include indirect monitoring of the licensee's practice (MONITORING) or direct monitoring of the licensee's practice (SUPERVISING), the Respondent shall not engage in the practice medicine without an approved monitor/supervisor, as specified by the Consent Agreement, unless otherwise ordered by the Board.

b. The monitor/supervisor must be a licensee under Chapter 458, Florida Statutes, in good standing and without restriction or limitation on his/her license. In addition, the Board or Committee may reject any proposed monitor/supervisor on the basis that he/she has previously been subject to any disciplinary action against his/her 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 and be practicing within a reasonable distance of the Respondent's practice, a distance of no more than twenty (20) miles unless otherwise specifically provided for in the Consent Agreement. The

Board or Committee may also reject any proposed monitor/supervisor for good cause shown.

c. 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. Respondent shall have the monitor/supervisor with him/her at his/her 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 (14) days before the Respondent's first scheduled probation appearance. 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/her monitor/supervisor as

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

d. CHANGE IN MONITOR/SUPERVISOR. In the event that Respondent's monitor/supervisor is unable or unwilling to fulfill his/her responsibilities as a monitor/supervisor as described above, 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/her 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.

### 3. CONTINUITY OF PRACTICE.

a. TOLLING PROVISIONS. In the event the Respondent leaves the State of Florida for a period of thirty (30) days or more, or otherwise does not engage in the active practice of medicine in the State of Florida, 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:

(1). The time period of probation shall be tolled.

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

(3). The provisions regarding preparation of investigative reports detailing compliance with this Consent Agreement shall be tolled.

(4). Any provisions regarding community service shall be tolled.

b. ACTIVE PRACTICE. In the event 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/her ability to practice medicine with skill and safety to patients prior to resuming the practice of medicine in the State of Florida.



STATE OF FLORIDA  
AGENCY FOR HEALTH CARE ADMINISTRATION  
BOARD OF MEDICINE

AGENCY FOR HEALTH CARE  
ADMINISTRATION, BOARD OF  
MEDICINE,

Petitioner,

v.

CASE NUMBER: 94-13935  
LICENSE NUMBER: ME 0056706

MIREYA FRANCIS CARVAJAL, M.D.,

Respondent.

Final Order No. AHCA-95-01262 Date 7-11-95

FILED

Agency for Health Care Administration  
AGENCY CLERK

R.S. Power, Agency Clerk

By: Brandon R. Power  
Deputy Agency Clerk

FINAL ORDER

THIS MATTER came before the Board of Medicine (Board) pursuant to Section 120.57(3), Florida Statutes, on August 5, 1995 in Palm Beach Gardens, 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.

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

DONE AND ORDERED this 30 day August, 1995.

BOARD OF MEDICINE

Mary Kathryn Garrett M.D.  
MARY KATHRYN GARRETT, M.D.  
VICE-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 Mireya Francis Carvajal, M.D., 8257 Senca Turnpike, Clinton, New York 13323, Jack Seddon, Executive Director, Federation of Physicians and Dentists, 106 West Jefferson Street, Tallahassee, Florida 32301 and by interoffice delivery to Larry G. McPherson, Jr., Chief Medical Attorney, Agency for Health Care Administration, Northwood Centre, 1940 North Monroe Street, Tallahassee, Florida 32399-0792, at or before 5:00 P.M., this \_\_\_\_\_ day of \_\_\_\_\_, 1995.

\_\_\_\_\_  
MARM M. HARRIS, Ed.D.  
Executive Director