

Final Order No. DOH-99-0328-F.O.-MQA Date 3-29-99

FILED

Department of Health
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STATE OF FLORIDA
DEPARTMENT OF HEALTH

BOARD:	Medicine
CASE NUMBER:	97-05134
COMPLAINT MADE BY:	G.K. (Husband)
DATE COMPLAINT RECEIVED:	February 28, 1997
COMPLAINT MADE AGAINST:	Teresa Biskup-Vereb, M.D. 5015 Manatee Avenue West Bradenton, Florida 34209
REVIEWED BY:	Carol A. Lanfri Senior Attorney
STAFF RECOMMENDATION:	Dismiss (PL-82)

CLOSING ORDER

THE COMPLAINT: The complaint alleges that the Subject violated Sections 458.331(1)(t), (m), and (q), Florida Statutes, by failing to practice medicine with that level of care, skill, and treatment, failing to keep written medical records and prescribing, dispensing, administering, mixing, or otherwise preparing a legend drug including controlled substances, other than in the professional course of the physician's professional practice.

THE FACTS: On or about June 19, 1996, through November 15, 1996, Patient D.K., a 43 year old female received psychiatric care from Respondent. Respondent treated Patient D.K. under diagnosis of major depressive, anxiety, and obsessive-compulsive disorder. During this treatment, Respondent prescribed the following medications: Effexor, Klonopin, Ambien and Paxil.

On or about November 13, 1996, Patient D.K. was Baker Acted to Manatee Memorial Hospital (MMH) with diagnosis of crack cocaine and alcohol abuse, as well as overdose of the medications prescribed by Respondent. It was determined that Patient D.K. had a long history of drug and alcohol abuse.

On October 24, 1997, the Agency obtained James R. Edgar, M.D., P.A. to review, and prepare a report on this case. Dr. Edgar reviewed the Investigative Report with medical records in reaching his opinion. Based on his review, he found that the Respondent violated the Medical Practice Act.

During the discovery phase of preparing this case for hearing, it was brought to Petitioner's attention that the Agency's expert did not have the Psychiatry Progress Note dated July 19, 1996 to review in preparing his report. Respondent's office staff inadvertently left out this portion of the medical records when copying for the Agency Investigator. Based on this information, Petitioner obtained the material in question and provided such to the Agency expert to review and prepare a supplemental report.

On February 22, 1999, the Agency expert forwarded his supplemental report on the additional material provided to him. The Agency expert now refutes his initial report and now opines that the Respondent did not violate the Medical Practice Act.

In light of this new information, it appears that the Respondent appropriately assessed and treated Patient D.K. Therefore, the agency does not have clear and convincing evidence that the Respondent violated the Medical Practice Act.

Of note, the Respondent is Board Certified in Psychiatry and has never been disciplined in the State of Florida.

The Department believes that the violations charged do not warrant prosecution, based on new information obtained.

THE LAW: There is sufficient evidence for the Panel to have found probable cause in the case. However, based on the above facts, the Department of Health, by and through the Agency for Health Care Administration, pursuant to the provisions of Section 20.43(3), Florida Statutes, has determined that there is insufficient evidence to support the prosecution of allegations contained in the Administrative Complaint. Therefore, pursuant to Section 455.621(2), Florida Statutes, this case is hereby DISMISSED.

It is therefore, ORDERED that this matter should be and the same is hereby DISMISSED.

DONE AND ORDERED this 26 day of March, 1999.

Robert G. Brooks, M.D.,
Secretary, Department of Health



By: Larry G. McPherson, Jr.
Chief Medical Attorney
Agency for Health Care Administration

PCP: March 26, 1999