

**STATE OF FLORIDA  
DEPARTMENT OF HEALTH**

**DEPARTMENT OF HEALTH,**

**PETITIONER,**

**v.**

**JEAN-MARIE G. EUGENE, M.D.,**

**RESPONDENT.**

**CASE NO. 2000-00054**

**ADMINISTRATIVE COMPLAINT**

COMES NOW the Petitioner, Department of Health, hereinafter referred to as "Petitioner," and files this *Administrative Complaint before the Board of Medicine* against Jean-Marie G. Eugene, M.D., hereinafter referred to as "Respondent," and alleges:

1. Effective July 1, 1997, Petitioner is the state agency charged with regulating the practice of medicine pursuant to Section 20.43, Florida Statutes; Chapter 456, Florida Statutes, and Chapter 458, Florida Statutes. Pursuant to the provisions of Section 20.43(3), Florida Statutes, the Petitioner has contracted with the Agency for Health Care Administration to provide consumer complaint, investigative, and prosecutorial services required by the Division of Medical Quality Assurance, councils, or boards, as appropriate.

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 0043064. Respondent's last known address is 1881 W. Oakland Park Boulevard, Fort Lauderdale, Florida 33311.

3. On or about May 14, 1997, Respondent signed a confirmation of verbal order form for Patient M.C. to receive Metaproterenol and Ipratropium.

4. Metaproterenol and Ipratropium are considered legend drugs under Chapter 499, Florida Statutes.

5. Respondent did not conduct a physical examination of Patient M.C. on that date.

6. On or about May 11, 1998, Respondent signed a confirmation of verbal order form for Patient M.C. to receive Acetylcysteine and Ipratropium.

7. Acetylcysteine, Ipratropium, and Metaproterenol are considered a legend drugs under Chapter 499, Florida Statutes.

8. Respondent did not conduct a physical examination of Patient M.C. on that date.

9. On or about August 1, 1997, Respondent signed a confirmation of verbal order form for Patient O.P. to receive Acetylcysteine and Ipratropium.

10. Respondent did not conduct a physical examination of Patient O.P. on that date.

11. On or about June 1, 1998, Respondent signed a confirmation of verbal order form for Patient O.P. to receive Acetylcysteine and Ipratropium.

12. Respondent did not conduct a physical examination of Patient O.P. on that date.

**COUNT ONE - Standard of Care**

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

14. Respondent failed 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, in that he prescribed Metaproterenol, Ipratropium, and/or Acetylcysteine to Patients M.C. and O.P. on more than one occasion without conducting a physical examination of the patients.

15. Based on the foregoing, Respondent has violated Section 458.331(1)(t), Florida Statutes, by failing 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.

**COUNT TWO – Inadequate Medical Records**

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 failed to keep written medical records justifying the course of treatment of Patients M.C. and O.G., in that the Respondent failed to document a physical examination for Patients M.C. and/or Patient O.P. before signing a confirmation of a verbal order for Metaproterenol, Ipratropium, and/or Acetylcysteine.

18. Based on the foregoing, Respondent violated Section 458.331(1)(m), Florida Statutes, by failing to keep legible, as defined by department rule in consultation with the board, medical records that identify the licensed physician or the physician

extender and supervising physician by name and professional title who is or are responsible for rendering, ordering, supervising, or billing for each diagnostic or treatment procedure and that justify 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 – Improper Prescribing**

19. Petitioner realleges and incorporates paragraphs one (1) through twelve (12), fourteen (14), and seventeen (17), as if fully set forth herein this Count Three.

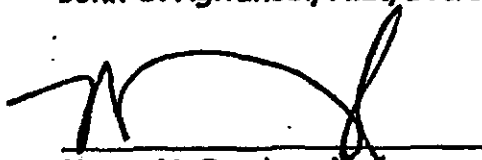
20. Respondent prescribed, dispensed, administered, mixed, or otherwise prepared a legend drug, including any controlled substance, other than in the course of the physician's professional practice, in that Respondent prescribed Metaproterenol, Ipratropium, and/or Acetylcysteine to Patients M.C. and O.P. on more than one occasion without conducting a physical examination of the patients.

21. Based on the foregoing, Respondent violated Section 458.331(1)(q), Florida Statutes, by prescribing, dispensing, administering, mixing, or otherwise preparing a legend drug, including any controlled substance, other than in the course of the physician's professional practice. For the purposes of this paragraph, it shall be legally presumed that prescribing, dispensing, administering, mixing, or otherwise preparing a legend drug, including all controlled substances, inappropriately or in excessive or inappropriate quantities is not in the best interest of the patient and not in the course of the physician's professional practice, without regard to his intent.

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, the assessment of costs related to the investigation and prosecution of this case as provided for in Section 456.072(4), Florida Statutes, and/or any other relief that the Board deems appropriate.

SIGNED this 11th day of December, 2001.

John O. Agwunobi, M.D., Secretary



Nancy M. Snurkowski  
Chief Attorney, Practitioner Regulation

**COUNSEL FOR DEPARTMENT:**

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Florida Bar # 0040967  
KMK  
PCP: December 7, 2001  
PCP Members: Georges El-Bahri, M.D.  
Gaston Acosta-Rua, M.D.  
Monique Long

**FILED**  
DEPARTMENT OF HEALTH  
DEPUTY CLERK  
CLERK Vicki R. Kena  
DATE 12/12/01

STATE OF FLORIDA  
DEPARTMENT OF HEALTH  
BOARD OF MEDICINE

DEPARTMENT OF HEALTH,

Petitioner,

DOH CASE NO. 2000-00854

JEAN-MARIE EUGENE, M.D.

Respondent.

CONSENT AGREEMENT

Jean-Marie Eugene, M.D., referred to as the "Respondent," and the Department of Health, 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.

Effective July 1, 1997, Petitioner is the state agency charged with regulating the practice of medicine pursuant to Section 20.43, Florida Statutes; Chapter 455, Florida Statutes, and Chapter 458, Florida Statutes. Pursuant to the provisions of Section 20.43(3), Florida Statutes, the Petitioner has contracted with the Agency for Health Care Administration to provide consumer complaint, investigative, and prosecutorial services required by the Division of Medical Quality Assurance, councils, or boards, as appropriate.

**STIPULATED FACTS**

1. At all times material hereto, Respondent was a licensed physician in the State of Florida having been issued license number ME 0043064.
2. Respondent was charged by Administrative Complaint filed by the Agency and properly served upon Respondent with a violation 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 his capacity as a licensed physician, he is subject to the provisions of Chapters 456 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 a violation of Chapter 458, Florida Statutes, as alleged in the Administrative Complaint.
3. The parties admit that the Stipulated Disposition in this case is fair, appropriate, and acceptable.

**STIPULATED DISPOSITION**

1. **FUTURE CONDUCT.** Respondent shall not in the future violate Chapters 456, 458 and 89.1, Florida Statutes, or the rules promulgated pursuant thereto. Prior to

signing this agreement, Respondent shall read Chapters 456, 458, 893 and the Rules of the Board of Medicine, at Section 64B8, Florida Administrative Code.

2. **COMMUNITY SERVICE.** Respondent shall complete fifty (50) hours of community service within six (6) months at a clinic in south Florida in lieu of a \$2,500 fine.

3. **COST OF INVESTIGATION AND PROSECUTION.** Respondent shall pay costs of investigation and prosecution in the amount of ~~\$2,969.87~~. Respondent shall pay the costs of investigation and prosecution to the Board of Medicine within six (6) months of its imposition by Final Order of the Board.

4. **CONTINUING MEDICAL EDUCATION.** Within six months of the date of the filing of a Final Order in this cause, Respondent shall complete a course in FMA record keeping course.

5. **LETTER OF CONCERN.** Respondent shall receive a letter of concern from the Board of Medicine.

6. **MEDICAL QUALITY ASSURANCE.** Respondent shall submit to a Quality Assurance assessment to be submitted to the Board.

**STANDARD PROVISIONS**

1. 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.



2. Respondent is required to appear before the Board at the meeting of the Board where this Agreement is considered.

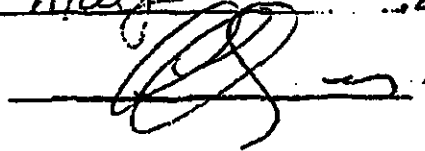
3. Respondent and the Agency fully understand that this agreement and subsequent Final Order incorporating same will in no way preclude additional proceedings against Respondent for acts or omissions not specifically set forth in the Administrative Complaint attached as Exhibit "A" herein.

4. 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.

5. Upon the Board's adoption of this Agreement, Respondent waives the right to seek any attorney's fees or costs from the Agency in connection with this matter.

6. This agreement is executed by 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 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 24 day of May, 2002.

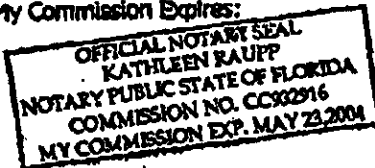


Jean-Marie Eugene, M.D.

Before me, personally appeared JEAN/MARIE-EUGENE whose identity is known to me by \_\_\_\_\_ (type of identification) and who, under oath, acknowledges that his/her signature appears above.

Sworn to and subscribed before me this 8<sup>th</sup> day of May, 2002.

*Kathleen Raupp*  
NOTARY PUBLIC  
My Commission Expires:



APPROVED this 1st day of July, 2002.

John O. Agwunobi, M.D., Secretary

*[Signature]*  
By: Nancy M. Smurkowski,  
Chief Attorney - Practitioner Regulation

CB

STATE OF FLORIDA  
BOARD OF MEDICINE

Final Order No. DOH-02-1300-S-MOA  
FILED DATE - 8/27/02  
Department of Health  
By: Vicki R. Kern  
Deputy Agency Clerk

DEPARTMENT OF HEALTH,

Petitioner,

vs.

CASE NO.: 2000-00054  
LICENSE NO.: ME00043064

JEAN-MARIE G. EUGENE, M.D.,

Respondent.

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FINAL ORDER

THIS CAUSE came before the Board of Medicine (Board) pursuant to Sections 120.569 and 120.57(4), Florida Statutes, on August 2, 2002, in Orlando, Florida, for consideration of a Consent Agreement (attached hereto as Exhibit A) entered into between the parties in the above-styled cause. Upon consideration of the Consent Agreement, the documents submitted in support thereof, the arguments of the parties, and being otherwise advised in the premises,

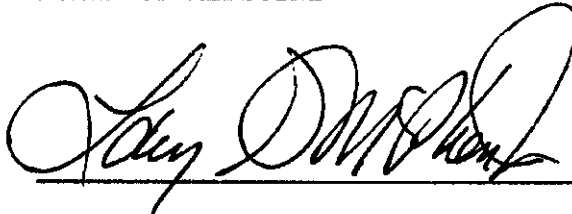
IT IS HEREBY ORDERED AND ADJUDGED that the Consent Agreement as submitted be and is hereby approved and adopted in toto and incorporated by reference herein with the following clarification: the time frame for completion of the quality assurance review as required in Paragraph 6 of the Stipulated Disposition shall be within 6 months from the date this Final Order is filed. Accordingly, the parties shall adhere to and abide by all the terms and conditions of the

Consent Agreement as clarified above.

This Final Order shall take effect upon being filed with the Clerk of the Department of Health.

DONE AND ORDERED this 22 day of AUGUST, 2002.

BOARD OF MEDICINE



LARRY G. MCPHERSON, JR., EXECUTIVE DIRECTOR  
For  
GUSTAVO LEON, M.D.  
CHAIR-ELECT

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Final Order has been provided by U.S. Mail to Jean-Marie G. Eugene, M.D., 1881 W. Oakland Park Boulevard, Ft. Lauderdale, Florida 33311; to Justin G. Gaines, Esquire, 3917 North Andrews Avenue, Ft. Lauderdale, Florida 33309; and by interoffice delivery to Nancy M. Snurkowski, Chief - Practitioner Regulation, and Lisa Pease, Senior Attorney - Appeals, Department of Health, 4052 Bald Cypress Way, Bin #C-65, Tallahassee, Florida 33299-3265, on or before 5:00 p.m., this 27<sup>th</sup> day of August, 2002.

