

CS

STATE OF FLORIDA
BOARD OF MEDICINE

Final Order No. DOH-02-0663- 5 -MQA
FILED DATE - 5/6/02
Department of Health
By: Vicki R. Kenan
Deputy Agency Clerk

DEPARTMENT OF HEALTH,

Petitioner,

vs.

CASE NOS.: 2001-12152
2000-12753
LICENSE NO.: ME0067612

BABU SUBRAMANIAM, M.D.,

Respondent.

_____ /

FINAL ORDER

THIS CAUSE came before the Board of Medicine (Board) pursuant to Sections 120.569 and 120.57(4), Florida Statutes, on April 5, 2002, in Ft. Lauderdale, 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. Accordingly, the parties shall adhere to and abide by all the terms and conditions of the Consent Agreement.

This Final Order shall take effect upon being filed with the

Clerk of the Department of Health.

DONE AND ORDERED this 1 day of MAY, 2002.

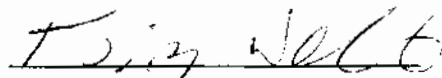
BOARD OF MEDICINE



LARRY G. MCPHERSON, JR., BOARD DIRECTOR
For
ZACHARIAH P. ZACHARIAH, M.D.
CHAIRMAN

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 Babu Subramaniam, M.D., P.O. Box 1573, Lynn Haven, Florida 32444; to William R. Huseman, Esquire, 6320 St. Augustine Road, Building 12, Jacksonville, Florida 32217; and by interoffice delivery to Nancy M. Snurkowski, Chief - Practitioner Regulation, and Lisa Pease, Senior Attorney - Appeals, Agency for Health Care Administration, 2727 Mahan Drive, Tallahassee, Florida 32308-5403, on or before 5:00 p.m., this 6th day of May, 2002.



STATE OF FLORIDA
DEPARTMENT OF HEALTH
BOARD OF MEDICINE

DEPARTMENT OF HEALTH,

Petitioner,

v.

DOH CASE NUMBERS. 2000-12753
2000-12152

BABU SUBRAMANIAM, M.D.,

Respondent.

_____ /

CONSENT AGREEMENT

Babu Subramaniam, M.D. referred to as the "Respondent," and the Department of Health referred to as "Department," by and through the Agency for Health Care Administration 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 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.

STIPULATED FACTS

1. At all times material hereto, the Respondent was a licensed physician in the State of Florida having been issued license number ME 67612.
2. The Respondent was charged by an Administrative Complaint filed by the Department and properly served upon the 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. The Respondent admits that, in her 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. The 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.
3. Respondent admits that the Stipulated Disposition in this case is fair, appropriate and acceptable to Respondent.

STIPULATED DISPOSITION

1. FUTURE CONDUCT. The Respondent shall not in the future violate Chapters 456, 458 and 893, Florida Statutes, or the rules promulgated pursuant thereto. Prior to signing this agreement, the Respondent shall read Chapters 456, 458, 893 and the Rules of the Board of Medicine, at Section 64B8, Florida Administrative Code.

2. ADMINISTRATIVE FINE. The Board shall impose an administrative fine in the amount of two thousand dollars (\$2,000.00) against the Respondent. The fine shall be paid by the Respondent to the Board of Medicine within six (6) months of its imposition by Final Order of the Board. **THE RESPONDENT ACKNOWLEDGES THAT THE TIMELY PAYMENT OF THE FINES IS HIS 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 SIX (6) MONTHS OF THE FILING OF THIS FINAL ORDER, THE RESPONDENT AGREES TO CEASE PRACTICE UNTIL SUCH WRITTEN CONFIRMATION IS RECEIVED BY THE RESPONDENT FROM THE BOARD. (SEE EXHIBIT B OF THIS CONSENT AGREEMENT FOR BOARD ADDRESS AND STANDARD TERMS).**

3. REIMBURSEMENT OF COSTS. In addition to the amount of any fine noted above, the Respondent agrees to reimburse the Department for any administrative costs incurred in the investigation, prosecution, and preparation of these cases, including costs assessed by the Division of Administrative Hearings, if applicable, and by the Board of Medicine office. The agreed upon Agency costs to be reimbursed in these cases is one thousand nine hundred forty seven dollars and twenty-nine cents (\$1,947.29). The costs shall be paid by the Respondent to the Board of Medicine within six (6) months of its imposition by Final Order of the Board. **THE RESPONDENT ACKNOWLEDGES THAT THE TIMELY PAYMENT OF THE COSTS IS HIS LEGAL OBLIGATION AND RESPONSIBILITY AND RESPONDENT AGREES TO CEASE PRACTICING IF THE COSTS ARE NOT PAID AS AGREED TO IN THIS CONSENT AGREEMENT, SPECIFICALLY: IF THE RESPONDENT HAS NOT RECEIVED WRITTEN CONFIRMATION THAT THE FULL AMOUNT OF THE COSTS NOTED ABOVE HAS BEEN RECEIVED BY THE BOARD OFFICE WITHIN SIX (6) MONTHS OF THE FILING OF THIS FINAL ORDER, THE RESPONDENT AGREES TO CEASE PRACTICE UNTIL SUCH WRITTEN CONFIRMATION IS RECEIVED BY THE RESPONDENT FROM THE BOARD. (SEE EXHIBIT B, OF THIS CONSENT AGREEMENT FOR BOARD ADDRESS AND STANDARD TERMS.)**

4. REIMBURSEMENT REQUIREMENT. Respondent, within thirty (30) days of the filing of the Final Order in this matter, shall reimburse those patients who paid for medical records and did not receive their medical records. If Respondent is unable to contact the patient(s) to satisfy this requirement, she shall notify the Board of Medicine. Respondent shall submit a signed affidavit to the Board of Medicine that said requirement has been completed. Respondent shall also submit a signed affidavit to the Board certifying that he has provided the full records to the patients identified in the attached administrative complaint and will provide records to those patients that request them in the future in compliance with the rule governing medical records.

5. FMA LAWS AND RULES COURSE. Respondent within one (1) year of the Final Order shall take the Florida Medical Association (FMA) Laws and Rules Course.

6. REQUIREMENT. At the time this consent Agreement is presented to the Board of Medicine the Respondent shall demonstrate the following:

- a. That both patients have obtained their medical records.
- b. Steps on how patients are notified and how they can obtain their medical records.
- c. Proof that Respondent's address is current with the Board of Medicine.

STANDARD PROVISIONS

This Consent Agreement shall be governed by the attached "Standard Terms Applicable to Consent Agreements", Exhibit B, which is incorporated as if fully set forth herein.

1. It is expressly understood that this Agreement is subject to the approval of the Board and the Department. 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 Department fully understand that this joint 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.

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, the parties hereby agree that each party will bear his 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 Department in connection with this matter.

6. 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.

Exhibit B

STANDARD TERMS APPLICABLE TO CONSENT AGREEMENTS

The following are the standard terms applicable to all Consent Agreements.

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 as set forth in paragraph E, below. The Board office does not have the authority to change 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.**

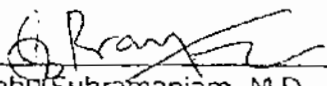
C. ADDRESSES. The Respondent must keep current residence and practice addresses on file with the Board. The Respondent shall notify the Board within ten (10) days of any changes of said addresses. Furthermore, if the Respondent's license is on probation, the Respondent shall notify the Board within ten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

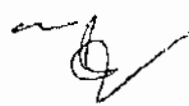
E. BOARD ADDRESS FOR PAYMENT OF FINES. All fines shall be sent to: Department of Health HMQAMS/Client Services, P.O. Box 6320, Tallahassee, FL 32314-6320, Attn: Board of Medicine Compliance Officer.

F. BOARD ADDRESS FOR REPORTS. All reports, correspondence and inquiries shall be sent to the following address: Department of Health HMQAMS/Client Services/Bin C01, 4052 Bald Cypress Way, Tallahassee, FL 32399-3251, Attn: Board of Medicine Compliance Officer.

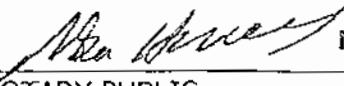
SIGNED this 26th day of February, 2002 


Babu Subramaniam, M.D.

Before me, personally appeared Babu Subramaniam, MD, whose identity is known to me by Hawaii Driver License (type of identification) and who, under oath, acknowledges that his/her signature appears above.

Sworn to and subscribed before me this 26th day of February, 2002 


LS

 NORA HAJINELIAN
NOTARY PUBLIC

My Commission Expires: May 2, 2004

APPROVED this 28th day of February, 2002

John Agwunobi, M.D., MBA, Secretary
Department of Health


By: Nancy M. Smurkowski
Chief Attorney-Practitioner Regulation

STATE OF FLORIDA
DEPARTMENT OF HEALTH

DEPARTMENT OF HEALTH,)
)
 PETITIONER,)
)
 v.)
)
 BABU SUBRAMANIAM, M.D.,)
)
 RESPONDENT.)
_____)

CASE NUMBERS 2000-12152
& 2000-12753

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 Babu Subramaniam, 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 67612.

Respondent's last known address is Post Office Box 9415, Daytona Beach, Florida 32120.

3. Respondent is Board Certified in Neurology.
4. In or around October 2000, Respondent terminated his medical practice and made himself unavailable to patients in Daytona Beach, Florida.

5. Section 456.058, Florida Statutes, states:

Each board created under the provisions of chapter 457, chapter 458, chapter 459, chapter 460, chapter 461, chapter 463, chapter 464, chapter 465, chapter 466, part I of chapter 484, chapter 486, chapter 490, or chapter 491, and the department under the provisions of chapter 462, shall provide by rule for the disposition, under that chapter, of the medical records or records of psychological nature of practitioners which are in existence at the time the practitioner dies, terminates practice, or relocates and is no longer available to patients and which records pertain to the practitioner's patients. The rule shall provide that the records be retained for at least 2 years after the practitioner's death, termination of practice, or relocation. In case of death of the practitioner, the rules shall provide for the disposition of such records by the estate of the practitioner.

6. Rule 64B8-10.002(4), Florida Administrative Code, states:

When a licensed physician terminates practice or relocates and is no longer available to patients, patients should be notified of such termination, sale, or relocation and unavailability by the physician's causing to be published, in the newspaper of greatest circulation in each county in which the physician practices or practiced and in a local newspaper that serves the immediate practice area, a notice which shall contain the date of termination, sale or relocation and an address at which the records may be obtained from the physician terminating or selling the practice or relocating or from another licensed physician or osteopathic physician. A copy of this notice shall also be submitted to the Board of Medicine within one (1) month from the date of the termination, sale, or relocation of the practice. In addition, the licensed physician shall place in a conspicuous location in or on the façade of the physician's office, a sign, announcing the termination, sale, or relocation of the practice. The sign shall be placed at least thirty days prior to the termination, sale or relocation of practice and shall remain until the date of termination, sale, or relocation. Both the notice and the sign shall advise the licensed

physician's patients of their opportunity to transfer or receive their records.

6. Respondent failed to cause an advertisement to be published in the Daytona Beach, Volusia County area notifying patients of the termination, sale, and/or relocation of his practice and his unavailability to the patients.

7. Respondent failed to post a sign, in a conspicuous location in or on the facade of his practice, announcing the termination of his medical practice at least thirty (30) days prior to termination and/or relocation of his practice and failed to advise patients of an opportunity to have their records transferred or copied.

8. Respondent failed to submit a copy of any notice to the Board of Medicine within one (1) month from the date of termination of his medical practice.

Case Number 2000-12152

10. In or around October 2000, Patient G.G.'s mother, G.G. ("Mother G.G."), attempted to contact Respondent via telephone at Respondent's office and received a recorded message indicating that the telephone number had been disconnected.

11. On or about October 13, 2000, Mother G.G. attempted to send Respondent a request for Patient G.G.'s medical records via certified mail at "311 North Clyde Morris Boulevard, Daytona Beach, Florida 32114."

12. On or about November 3, 2000, Mother G.G.'s request was returned with notification that Respondent's new address was "Post Office Box 9415, Daytona Beach, Florida 32120-9415."

13. On or about November 12, 2000, Mother G.G. attempted to send Respondent a second request for Patient G.G.'s medical records via certified mail at "Post Office Box 9415, Daytona Beach, Florida 32120-9415."

14. On or about November 28, 2000, Mother G.G.'s second request was returned with notification that the box was closed and the Post Office was unable to forward the letter.

15. Respondent has failed to provide Mother G.G. and/or Patient G.G. with a copy of Patient G.G.'s medical records.

Case Number 2000-12152

16. In or around October 2000, Patient J.S. attempted to contact Respondent via telephone at Respondent's office and received a recorded message indicating that the telephone number had been disconnected.

17. On or about October 13, 2000, Patient J.S. attempted to send Respondent a request for the medical records of himself, his son (Patient D.S.) and his daughter (Patient A.S.), via certified mail at "311 North Clyde Morris Boulevard, Daytona Beach, Florida 32114."

18. On or about October 16, 2000, Patient J.S.'s request was returned with notification that the box was closed and the Post Office was unable to forward the letter.

19. Respondent has failed to provide Patient J.S. with a copy of his family's medical records.

COUNT ONE

20. Petitioner realleges and incorporates paragraphs one (1) through nineteen (19), as if fully set forth herein this Count One.

21. Respondent violated Rule 64B8-10.002(4), Florida Administrative Code, by terminating his medical practice and failing to publish appropriate notices to his patients containing the date of termination, sale or relocation and address at which records may be obtained, failing to submit a copy of such notice to the Board of Medicine within one month from the date of termination, and failing to post the appropriate sign announcing such termination.

22. Based upon the foregoing, Respondent violated Section 458.331(1)(x), Florida Statutes, by violating any provision of Chapter 458, Florida Statutes, 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 lawful issued subpoena of the department.

COUNT TWO

23. Petitioner realleges and incorporates paragraphs one (1) through nineteen (19), and paragraph twenty-one (21) as if fully set forth herein this Count Two.

24. Respondent failed to perform the legal obligations bestowed upon him as a licensed physician in Section 456.058, Florida Statutes, by terminating his medical practice and failing to publish the appropriate notice to her patients containing the date of termination, sale or relocation and address at which records may be obtained, failing

to submit a copy of such notice to the Board of Medicine within one month from the date of termination, and failing to post the appropriate sign announcing such termination.

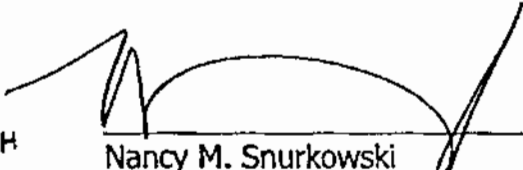
25. Based upon the foregoing, Respondent violated Section 458.331(g), Florida Statutes, by failing to perform any statutory or legal obligation placed upon a licensed physician.

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, other than costs associated with an attorney's time, as provided for in Section 456.072(4), Florida Statutes, and/or any other relief that the Board deems appropriate.

SIGNED this 14th day of May, 2001.

Robert G. Brooks, M.D., Secretary

FILED
DEPARTMENT OF HEALTH
DEPUTY CLERK
CLERK Vicki R. Kenn
DATE 5/15/01


Nancy M. Snurkowski
Chief Attorney, Practitioner Regulation
Agency for Health Care Administration

COUNSEL FOR DEPARTMENT:

Eric Scott
Senior Attorney
Agency for Health Care Administration
P. O. Box 14229
Tallahassee, Florida 32317-4229
Florida Bar #911496
NMS/ess/rtn
PCP: May 11, 2001
PCP Members: Ashkar, Glotfelty, Rodriguez