

STATE OF FLORIDA
DEPARTMENT OF HEALTH

DEC 27 2005

DEPARTMENT OF HEALTH,

Petitioner,

v.

DOH Case No. 2004-26047

JAMES MOORE, M.D.,

Respondent.

ADMINISTRATIVE COMPLAINT

COMES NOW, Petitioner, Department of Health, by and through its undersigned counsel, and files this Administrative Complaint before the Board of Medicine against Respondent, James Moore, M.D., and in support thereof alleges:

1. Petitioner is the state department charged with regulating the practice of medicine pursuant to Section 20.43, Florida Statutes; Chapter 456, Florida Statutes; and Chapter 458, Florida Statutes.
2. At all times material to this Complaint, Respondent was a licensed physician within the state of Florida, having been issued license number ME 49696.
3. Respondent's address of record is 3016 South Peninsula Drive, Daytona Beach Shores, Florida 32118.

4. On or about May 11, 2004, Patient C.M. presented to Halifax Hospital's emergency room accompanied by a Daytona Beach law enforcement officer. The law enforcement officer initiated an involuntary examination of Patient C.M. after finding her walking on a public road in a disoriented fashion.

5. Patient C.M. was interviewed by emergency room personnel. Her self-reported medical history included asthma, coronary artery disease, psychiatric and schizoaffective disorders.

6. Patient C.M. filled out a personal health history form on May 11, 2004, which stated she was allergic to Geodon and listed the reaction as "cardiac problems."

7. Patient C.M. also presented a document that she carried with her to hospital personnel listing her current medications, allergies and adverse reactions. This list indicated that she experienced cardiac complications from Geodon.

8. Geodon (ziprasidone) is an antipsychotic agent indicated for the treatment of schizophrenia. Geodon has a capacity to prolong the QT/QTc interval and is contraindicated in patients with a known history of QT prolongation, recent acute myocardial infarction, or uncompensated heart failure.

9. Patient C.M. was admitted to the psychiatric unit at Halifax Hospital pursuant to the Baker Act on May 11, 2004. She had been admitted to this facility in January and March of 2004 under similar circumstances.

10. Respondent examined Patient C.M. on May 11, 2004, and made a provisional diagnosis which included cardiomyopathy, schizophrenia by history, and rule out borderline personality disorder.

11. On May 12, 2004, Patient C.M. became agitated and angry on the psychiatric ward and was considered a danger to herself and/or others. A nurse administered an intramuscular injection of Ativan, 2 m.g. at approximately 3:30 p.m.

12. A nurse subsequently left a message for Respondent reporting that the Ativan had caused no noticeable improvement in Patient C.M.'s behavior.

13. Respondent came to the psychiatric unit shortly thereafter and entered an order for an intramuscular injection of 20 mg of Geodon every twelve hours as needed for agitation.

14. A nurse administered the injection of Geodon at approximately 6:00 p.m.

15. Patient C.M. then informed the nurse that she was allergic to Geodon. Respondent was notified and immediately ordered an EKG.

16. The EKG was unremarkable, showing no cardiac arrhythmia or other complications. Patient C.M. was observed throughout the night and remained stable.

17. Patient C.M. was discharged on May 13, 2004.

18. Respondent did not include any information regarding the administration of Geodon to Patient C.M., the steps taken after administration to observe the patient, or her lack of reaction in the hospital discharge summary.

19. Section 458.331(1)(t), Florida Statutes, (2003), provides that gross or repeated malpractice or 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 constitutes grounds for disciplinary action by the Board of Medicine.

20. 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 one or more of the following ways:

(a) By entering an order for administration of Geodon when Patient C.M. had a history of cardiomyopathy and/or coronary artery disease;

(b) By entering an order for administration of Geodon when Patient C.M. had stated she had an allergy to this medication;

(c) By not including any information regarding the administration of Geodon to Patient C.M., the steps taken after administration to observe her, and/or her lack of reaction to Geodon in the discharge summary.

21. Based on the foregoing, Respondent has violated Section 458.331(1)(t), Florida Statutes (2003), 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.

WHEREFORE, the Petitioner respectfully requests that the Board of Medicine enter an order imposing one or more of the following penalties: permanent revocation or suspension of Respondent's license, restriction of practice, imposition of an administrative fine, issuance of a reprimand, placement of the Respondent on probation, corrective action, refund of

fees billed or collected, remedial education and/or any other relief that the Board deems appropriate.

SIGNED this 27th day of December 2005.

M. Rony Francois, M.D., M.S.P.H., Ph.D.
Secretary, Department of Health

FILED
DEPARTMENT OF HEALTH
DEPUTY CLERK
CLERK *Shirley McKinnon*
DATE 12-27-05

J. Bolivar 0570788
For Maura M. Bolivar
Assistant General Counsel
DOH Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65
Tallahassee, FL 32399-3265
Florida Bar No. 0295840
(850) 245-4640
(850) 245-4681 FAX

MMB:jes

PCP:

PCP Members:

NOTICE OF RIGHTS

Respondent has the right to request a hearing to be conducted in accordance with Section 120.569 and 120.57, Florida Statutes, to be represented by counsel or other qualified representative, to present evidence and argument, to call and cross-examine witnesses and to have subpoena and subpoena duces tecum issued on his or her behalf if a hearing is requested.

NOTICE REGARDING ASSESSMENT OF COSTS

Respondent is placed on notice that Petitioner has incurred costs related to the investigation and prosecution of this matter. Pursuant to Section 456.072(4), Florida Statutes, the Board shall assess costs related to the investigation and prosecution of a disciplinary matter, which may include attorney hours and costs, on the Respondent in addition to any other discipline imposed.

**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

DEPARTMENT OF HEALTH,

Petitioner,

v.

DOH Case No. 2004-26047

JAMES MOORE, M.D.,

Respondent.

CONSENT AGREEMENT

James Moore, 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.

Petitioner is a state agency charged with regulating the practice of medicine pursuant to Section 20.43, Florida Statutes, and Chapter 456, Florida Statutes, and Chapter 458, Florida Statutes.

STIPULATED FACTS

1. At all times material hereto, Respondent was a licensed physician in the State of Florida having been issued license number ME 49696.
2. The Department charged Respondent with an Administrative Complaint that was filed and properly served upon Respondent with violations of Chapter 458, Florida Statutes, and the rules adopted 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 for purposes of these proceedings only.

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 alleged in the Administrative Complaint, if proven, would constitute violations of Chapter 458, Florida Statutes, as alleged in the Administrative Complaint.

3. Respondent agrees that the Stipulated Disposition in this case is fair, appropriate and acceptable to Respondent.

STIPULATED DISPOSITION

1. **Letter Of Concern** - Respondent shall receive a Letter of Concern from the Board of Medicine.

2. **Fine** - The Board of Medicine shall impose an administrative fine of five thousand dollars (\$5,000.00) against the license of Respondent, to be paid by Respondent to the Department of Health, HMQAMS/Client Services, Post Office Box 6320, Tallahassee, Florida 32314-6320, Attention: Board of Medicine Compliance Officer, within thirty-days (30) from the date of filing of the Final Order accepting this Agreement. All fines shall be paid by check or money order. The Board office does not have the authority to change the terms of payment of any fine imposed by the Board.

RESPONDENT ACKNOWLEDGES THAT THE TIMELY PAYMENT OF THE FINE IS HIS LEGAL OBLIGATION AND RESPONSIBILITY AND RESPONDENT AGREES TO CEASE PRACTICING IF THE FINE IS NOT PAID AS AGREED TO IN THIS CONSENT AGREEMENT, SPECIFICALLY: IF WITHIN 45 DAYS OF THE DATE OF FILING OF THE FINAL ORDER, RESPONDENT HAS NOT RECEIVED WRITTEN CONFIRMATION THAT THE FULL AMOUNT OF THE FINE HAS BEEN RECEIVED BY THE BOARD OFFICE, RESPONDENT AGREES TO CEASE PRACTICE UNTIL SUCH WRITTEN CONFIRMATION IS RECEIVED BY RESPONDENT FROM THE BOARD.

4. Reimbursement Of Costs - Pursuant to Section 456.072, Florida Statutes, Respondent agrees to pay the Department for any administrative costs incurred in the investigation and preparation of this case. Such costs exclude the costs of obtaining supervision or monitoring of the practice, the cost of quality assurance reviews, and the Board's administrative cost directly associated with Respondent's probation, if any. The agreed upon amount of Department costs to be paid in this case is \$1,605.45. Respondent will pay costs to the Department of Health, HMQAMS/Client Services, P.O. Box 6320, Tallahassee, Florida 32314-6320, Attention: Board of Medicine Compliance Officer within thirty-days (30) from the date of filing of the Final Order in this cause. Any post-Board costs, such as the costs associated with probation, are not included in this agreement.

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 WITHIN 45 DAYS OF THE DATE OF FILING OF THE FINAL ORDER, RESPONDENT HAS NOT RECEIVED WRITTEN CONFIRMATION THAT THE FULL AMOUNT OF THE COSTS NOTED ABOVE HAS BEEN RECEIVED BY THE BOARD OFFICE, RESPONDENT AGREES TO CEASE PRACTICE UNTIL SUCH WRITTEN CONFIRMATION IS RECEIVED BY RESPONDENT FROM THE BOARD.

5. Records Course - Respondent shall complete the course, "Quality Medical Record Keeping for Health Care Professionals," sponsored by the Florida Medical Association, or a Board-approved equivalent, within one year of the date of filing of the Final Order.

6. Community Service - Respondent shall perform fifty (50) hours of community service, within one year of the date of filing of the Final Order. Community Service shall be defined as the delivery of medical services directly to patients, or the delivery of other volunteer services in the community, without fee or cost to the patient or the entity, for the good of the people of the State of Florida. Community service shall be performed outside the physician's regular practice setting. Respondent shall submit a written plan for performance and completion of the community service to the Probation Committee for approval prior to performance of said community service. Affidavits detailing the completion of

community service requirements shall be filed with the Board as required by the Probation Committee.

STANDARD PROVISIONS

7. **Appearance**: Respondent is required to appear before the Board at the meeting of the Board where this Agreement is considered.

8. **No force or effect until final order** - 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 the Board enters a Final Order incorporating the terms of this Agreement.

9. **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.

10. **Future Conduct** - In the future, Respondent shall not violate Chapter 456, 458 or 893, Florida Statutes, or the rules promulgated pursuant thereto, or any other state or federal law, rule, or regulation relating to the practice or the ability to practice medicine. Prior to signing this agreement, the Respondent shall read Chapters 456, 458 and 893 and the Rules of the Board of Medicine, at Chapter 64B8, Florida Administrative Code.

11. **Violation of terms considered** - It is expressly understood that a violation of the terms of this Agreement shall be considered a violation of a Final

Order of the Board, for which disciplinary action may be initiated pursuant to Chapters 456 and 458, Florida Statutes.

12. **Purpose of Agreement** - Respondent, for the purpose of avoiding further administrative action with respect to this cause, executes this Agreement. 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. Respondent agrees to support this Agreement at the time it is presented to the Board and shall offer no evidence, testimony or argument that disputes or contravenes any stipulated fact or conclusion of law. 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.

13. **No preclusion of additional proceedings** - Respondent and the Department fully understand that this Agreement and subsequent Final Order incorporating same will in no way preclude additional proceedings by the Board and/or the Department against Respondent for acts or omissions not specifically set forth in the Administrative Complaint attached as Exhibit A.

14. **Waiver of attorney's fees and costs** - Upon the Board's adoption of this Agreement, the parties hereby agree that with the exception of costs noted above, the parties will bear their 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 and the Board in connection with this matter.

15. Waiver of further procedural steps - 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.

SIGNED this 30 day of Nov, 2005.

J Moore
James Moore, M.D.

Before me, personally appeared Dr James Moore, whose identity is known to me by Personally Known (type of identification) and who, under oath, acknowledges that his/her signature appears above.

Sworn to and subscribed before me this 30th day of November, 2005.



Theresa Fleck
MY COMMISSION # DD125413 EXPIRES
August 18, 2016
BONDED THROUGH FARMERS RANCE, INC

Theresa Fleck
NOTARY PUBLIC

My Commission Expires:
8-18-06

APPROVED this 13 day of December, 2005.

M. Rony François, M.D., M.S.P.H., Ph.D.
Secretary, Department of Health

Maura M. Bolívar

By: Maura M. Bolívar
Assistant General Counsel
Department of Health

AAA

STATE OF FLORIDA
BOARD OF MEDICINE

By: Shirley McKeown
Deputy Agency Clerk

DEPARTMENT OF HEALTH,

Petitioner,

vs.

DOH CASE NO.: 2004-26047
LICENSE NO.: ME0049696

JAMES MOORE, 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 February 3, 2006, in Fort Lauderdale, Florida, for the purpose of considering a Consent Agreement (attached hereto as Exhibit A) entered into between the parties in this cause. Upon consideration of the Consent Agreement, the documents submitted in support thereof, the arguments of the parties, and being otherwise fully advised in the premises,

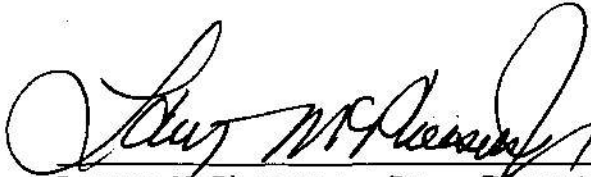
IT IS HEREBY ORDERED AND ADJUDGED that the Consent Agreement as submitted be and is hereby approved and adopted in toto and incorporated herein by reference. Accordingly, the parties shall adhere to and abide by all the terms and conditions of the Consent Agreement.

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

DONE AND ORDERED this 14 day of FEBRUARY,

2006.

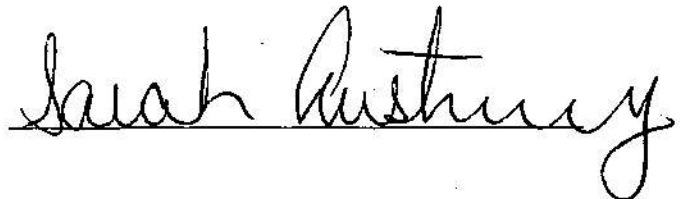
BOARD OF MEDICINE



Larry McPherson, Jr., Executive Director
for MAMMEN P. ZACHARIAH, M.D., Chair

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 JAMES MOORE, M.D., 3016 South Peninsula Drive, Daytona Beach Shores, Florida 32118; to Susan Curtis, Esquire, Rissman, Weisberg, et al., 201 East Pine Street, 15th Floor, P.O. Box 4940, Orlando, Florida 32802-4940; and by interoffice delivery to Denise O'Brien and Dana Baird, Department of Health, 4052 Bald Cypress Way, Bin #C-65, Tallahassee, Florida 32399-3253 this 15 day of February, 2006.



Deputy Agency Clerk