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Final Order No. DOH-07-2179-⁵-MQA
FILED DATE - OCT 18 2007
Department of Health
By: *Rachel R*
Deputy Agency Clerk

STATE OF FLORIDA
BOARD OF MEDICINE

DEPARTMENT OF HEALTH,

Petitioner,

vs.

DOH CASE NO.: 2006-02404
LICENSE NO.: ME0012374

SERGIO M. MARTI, 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 October 6, 2007, in Orlando, Florida, for the purpose of considering a Settlement Agreement (attached hereto as Exhibit A) entered into between the parties in this cause. Upon consideration of the Settlement 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 Settlement Agreement as submitted be and is hereby approved and adopted in toto and incorporated herein by reference with the following clarification:


The costs set forth in Paragraph 3 of the Stipulated Disposition shall be set at \$6,000.00.

Accordingly, the parties shall adhere to and abide by all the terms and conditions of the Settlement 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 16 day of OCTOBER, 2007.

BOARD OF MEDICINE


Larry McPherson, Jr., Executive Director
for H. FRANK FARMER, JR., 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 SERGIO M. MARTI, M.D., 1330 Coral Way, Suite 408, Miami, Florida 33145-2933; to Steven H. Brotman, Esquire, 13899 Biscayne Boulevard, Suite 151, Miami Beach, Florida 33181; and by interoffice delivery to Ephraim Livingston, Department of Health, 4052 Bald Cypress Way, Bin #C-65, Tallahassee, Florida 32399-3253 this 18 day of OCTOBER, 2007.



**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

DEPARTMENT OF HEALTH,

Petitioner,

v.

DOH Case No. 2006-02404

SERGIO M. MARTI, M.D.,

Respondent,

SETTLEMENT AGREEMENT

Sergio M. Marti, 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 the 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 12374.

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 fifteen thousand dollars (\$15,000.00) 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/HER LEGAL OBLIGATION AND RESPONSIBILITY AND RESPONDENT AGREES TO CEASE PRACTICING IF THE FINE IS NOT PAID AS AGREED TO IN THIS SETTLEMENT 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.

3. **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 prosecution 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 shall not exceed six thousand dollars (\$6,000.00). 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/HER LEGAL OBLIGATION AND RESPONSIBILITY AND RESPONDENT AGREES TO CEASE PRACTICING IF THE COSTS ARE NOT PAID AS AGREED TO IN THIS SETTLEMENT 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.

4. **Drug Course** - Respondent shall complete the course, "Prescribing Controlled Drugs: Critical Issues and Common Pitfalls of Misprescribing," sponsored by the University of South Florida, or a Board-approved equivalent, within one year of the date of filing of the Final Order.

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.

7. **Probation Language** - Effective on the date of the filing of the Final Order incorporating the terms of this Agreement, Respondent's license to practice medicine shall be placed on probation for a period of two (2) years. The purpose of probation is not to prevent Respondent from practicing medicine. Rather, probation is a supervised educational experience designed by the Board to make Respondent aware of certain obligations to Respondent's patients and the profession and to ensure Respondent's continued compliance with the high standards of the profession through interaction with another physician in the appropriate field of expertise. To this end, during the period of probation, Respondent shall comply with the following obligations and requirements:

(A) **Restrictions During Probation** - During the period of probation, Respondent's license shall be restricted as follows:

i. **Indirect Supervision** - Respondent shall practice only under the indirect supervision of a Board-approved physician, hereinafter referred to as the "monitor", whose responsibilities are set by the Board. Indirect supervision does not require that the monitor practice on the same premises as 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 Respondent's specialty area unless otherwise provided by the Board. In this regard, Respondent shall allow the monitor access to Respondent's medical records, calendar, patient logs or other documents necessary for the monitor to supervise Respondent as detailed below.

ii. **Required Supervision:**

a) Respondent shall not practice medicine without an approved monitor/supervisor, as specified by the 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 license. In addition, the Board may reject any proposed monitor/supervisor on the basis that he has previously been subject to any disciplinary action against his 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 and be practicing within a reasonable distance of Respondent's practice, a distance of twenty (20) miles unless otherwise specifically provided for in the Settlement Agreement. The Board may also reject any proposed monitor/supervisor for good cause shown.

iii. **Mechanism For Approval Of Monitor/Supervisor:**

a) **Temporary Approval** - The Board confers authority on the Chairman of the 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 the 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.**

b) **Formal Approval** - Respondent shall have the monitor/supervisor with Respondent at Respondent's first probation appearance before the Probation Committee. Prior to the consideration of the monitor/supervisor by the Probation Committee, 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 vita and a description of current practice from the proposed monitor/supervisor to the Board office no later than fourteen (14) days before 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 Probation Committee. It shall be Respondent's responsibility to ensure the appearance of the monitor/supervisor as directed. Failure of the monitor/supervisor to appear as directed shall constitute a violation of the terms of this Settlement Agreement and shall subject Respondent to disciplinary action.

iv. **Change In Monitor/Supervisor** - In the event that Respondent's monitor/supervisor is unable or unwilling to fulfill the responsibilities of a monitor/supervisor as described above, Respondent shall immediately advise the Probation Committee of this fact. Respondent shall immediately submit to the Chairman of the 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 temporary monitor/supervisor to appear before the Probation Committee at its next regularly scheduled meeting for consideration of the monitor/supervisor by the Probation 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 at which the issue of the Probation Committee's approval of Respondent's new monitor/supervisor shall be addressed.

v. **Responsibilities Of The Monitor/Supervisor** - The Monitor shall:

a) Review fifty (50) percent of Respondent's active patient records at least once every month for the purpose of ascertaining whether Respondent's practice remains within the prevailing standard of care. The monitor shall go to Respondent's office once every month and shall review Respondent's calendar or patient log and shall select the records to be reviewed.

b) Review all of Respondent's patient records for patients treated with atypical antipsychotics. In this regard, Respondent shall maintain a log documenting all such patients.

c) Consult with Respondent on all cases involving the prescription of atypical antipsychotics. For the purposes of this Stipulation, the scope of consultation shall be as follows:

1) Receive and review copies of all atypical antipsychotic prescriptions in order to determine the appropriateness of Respondent's prescribing of controlled substances;

2) Any other records review requirements; and

3) Maintain contact with Respondent on a frequency of at least once per month. In the event that the monitor is not timely contacted by Respondent, then the monitor shall immediately report this fact in writing to the Probation Committee.

d) Submit reports on a quarterly basis, in affidavit form, which shall include:

- 1) A brief statement of why Respondent is on probation;
- 2) A description of Respondent's practice (type and composition);
- 3) A statement addressing Respondent's compliance with the terms of probation;
- 4) A brief description of the monitor's relationship with Respondent;
- 5) A statement advising the Probation Committee of any problems which have arisen; and
- 6) A summary of the dates the monitor went to Respondent's office, the number of records reviewed, and the overall quality of the records reviewed, and the dates Respondent contacted the monitor pursuant to subsection c), 3), above.

e) Report immediately to the Board any violations by Respondent of Chapters 456 or 458, Florida Statutes, and the rules promulgated thereto.

f) Respondent's monitor shall appear before the Probation Committee at the first meeting of said committee following commencement of the probation, and at such other times as directed by the Committee. It shall be Respondent's responsibility to ensure the appearance of Respondent's monitor to appear as requested or directed. If the approved monitor fails to appear as requested or directed by the Probation Committee, **Respondent shall immediately cease practicing medicine until such time as the approved monitor or alternate monitor appears before the Probation Committee.**

vi. **Reports From Respondent** - Respondent shall submit quarterly reports, in affidavit form, the contents of which may be further specified by the Board, but which shall include:

- a) A brief statement of why Respondent is on probation;
- b) A description of practice location;
- c) A description of current practice (type and composition);
- d) A brief statement of compliance with probationary terms;
- e) A description of the relationship with monitoring physician;

- f) A statement advising the Board of any problems which have arisen; and
- g) A statement addressing compliance with any restrictions or requirements imposed.

vii. **Continuity Of Practice:**

a) **Tolling Provisions** - In the event Respondent leaves the State of Florida for a period of thirty days or more or otherwise does not engage in the active practice of medicine in the State of Florida, then 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 Settlement Agreement shall be tolled; and
- 4) Any provisions regarding community service shall be tolled.

b) **Active Practice** - In the event that Respondent leaves the active practice of medicine for a period of one year or more, the Board

may require Respondent to appear before the Board and demonstrate his ability to practice medicine with skill and safety to patients prior to resuming the practice of medicine in this State.

viii. **Appearance before the Probation Committee -**

Respondent shall appear before the Probation Committee of the Board of Medicine at the first Committee meeting after probation commences, at the last meeting of the Committee preceding scheduled termination of the probation, and at such other times as requested by the Committee. Respondent shall be noticed by the Board staff of the date, time and place of the Committee meeting at which Respondent's appearance is required. **Failure of Respondent to appear as requested or directed or failure of Respondent to comply with any of the terms of this agreement shall be considered a violation of the terms of this Agreement, and shall subject Respondent to disciplinary action.**

ix. **Supervision of Physician Assistants and/or**

Anesthesiologist Assistants - Respondent is required to notify, in writing, any physician assistant and/or anesthesiologist assistant which the Probationer supervises, of his or her probationary status. A copy of said written notification(s) shall be submitted to the Board's Compliance Officer within 10 days of entry of the Final Order.

STANDARD PROVISIONS

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

13. **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.

14. **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.

15. **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.

16. **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.

17. **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.

18. **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.

19. **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.

20. **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.

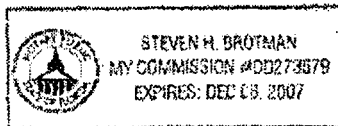
SIGNED this 29 day of August, 2007.

Sergio Marti

Sergio M. Marti, M.D.

Before me, personally appeared Sergio Marti, whose identity is known to me by FDL (type of identification) and who, under oath, acknowledges that his/her signature appears above.

Sworn to and subscribed before me this 29 day of August, 2007



[Signature]
NOTARY PUBLIC

My Commission Expires:

APPROVED this 29th day of August, 2007.

Ana M. Viamonte Ros, M.D., M.P.H.
Secretary, Department of Health

[Signature]
By: Warren James Pearson
Assistant General Counsel
Department of Health

WJP:jbb

STATE OF FLORIDA
DEPARTMENT OF HEALTH

DEPARTMENT OF HEALTH,

PETITIONER,

v.

SERGIO M. MARTI, M.D.,

CASE NO. 2006-02404

RESPONDENT.

5.30.07

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 Sergio M. Marti, 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 12374.

3. Respondent's last known address is 1330 Coral Way, Suite 408, Miami, FL 33145-2933.

MEDICATION RELEVANT TO THESE PROCEEDINGS

4. Abilify is a legend drug as defined in Section 465.003(8), Florida Statutes contains and contains aripiprazole which is used to treat the symptoms of schizophrenia (a mental illness that causes disturbed or unusual thinking, loss of interest in life, and strong or inappropriate emotions). It is also used to treat episodes of mania (frenzied, abnormally excited, or irritated mood) or mixed episodes (symptoms of mania and depression that happen together) in patients with bipolar disorder. Aripiprazole is in a class of medications called atypical antipsychotics. It works by changing the activity of certain natural substances in the brain.

5. Alprazolam is a Schedule IV controlled substance listed in Chapter 893, Florida Statutes. Alprazolam is a benzodiazepine anxiolytic (anti-anxiety drug) and muscle relaxant. The abuse of alprazolam can lead to physical and psychological dependence.

6. Buspirone is a legend drug as defined in Section 465.003(8), Florida Statutes and is used to treat anxiety disorders or in the short-term treatment of symptoms of anxiety.

7. Cogentin is a legend drug as defined in Section 465.003(8), Florida Statutes and contains benztropine mesylate which is used to treat the symptoms of Parkinson's disease and tremors caused by other medical problems or drugs.

8. Haldol is a legend drug as defined in Section 465.003(8), Florida Statutes and contains haloperidol which is used to treat psychotic disorders and symptoms such as hallucinations, delusions, and hostility and to control muscular tics of the face, neck, hands, and shoulders.

9. Indocin is a legend drug as defined in Section 465.003(8), Florida Statutes and contains indomethacin which is used to relieve

moderate to severe pain, tenderness, swelling, and stiffness caused by osteoarthritis, rheumatoid arthritis, and ankylosing spondylitis (arthritis that mainly affects the spine). Indomethacin is also used to treat pain in the shoulder caused by bursitis and tendinitis. Indomethacin is in a class of medications called nonsteroidal anti-inflammatory medications (NSAIDs).

10. Lexapro is a legend drug as defined in Section 465.003(8), Florida Statutes and contains escitalopram which is used to treat depression and generalized anxiety disorder (excessive worrying that is difficult to control). Escitalopram is in a class of antidepressants called selective serotonin reuptake inhibitors (SSRIs). It works by increasing the amount of serotonin, a natural substance in the brain that helps maintain mental balance.

11. Lorazepam is a Schedule IV controlled substance listed in Chapter 893, Florida Statutes. Lorazepam is used to treat anxiety and is in the class of medications known as benzodiazepine. The abuse of lorazepam can lead to physical and psychological dependence.

12. Lortrisone is a legend drug as defined in Section 465.003(8), Florida Statutes and is used to treat the itching, redness, dryness, crusting, scaling, inflammation, and discomfort of various skin conditions.

13. Mellaril is a legend drug as defined in Section 465.003(8), Florida Statutes and contains thioridazine which is used to treat schizophrenia and symptoms such as hallucinations, delusions, and hostility.

14. Paxil is a legend drug as defined in Section 465.003(8), Florida Statutes and contains paroxetine which is used to treat depression, panic disorder (sudden, unexpected attacks of extreme fear and worry about these attacks), and social anxiety disorder (extreme fear of interacting with others or performing in front of others that interferes with normal life). Paroxetine is in a class of medications called selective serotonin reuptake inhibitors (SSRIs). It works by increasing the amount of serotonin, a natural substance in the brain that helps maintain mental balance.

15. Restoril contains temazepam which is a Schedule IV controlled substance listed in Chapter 893, Florida Statutes. Temazepam is a

sedative-hypnotic medicationa used to induce and/or maintain sleep. The abuse of temazepam can lead to physical and psychological dependence.

16. Risperdal contains risperidone which is a legend drug as defined in Section 465.003(8), Florida Statutes and is used to treat the symptoms of schizophrenia (a mental illness that causes disturbed or unusual thinking, loss of interest in life, and strong or inappropriate emotions). It is also used to treat episodes of mania (frenzied, abnormally excited, or irritated mood) or mixed episodes (symptoms of mania and depression that happen together) in patients with bipolar disorder. Risperidone is in a class of medications called atypical antipsychotics.

17. Seroquel is a legend drug as defined in Section 465.003(8), Florida Statutes and contains quetiapine which is used to treat the symptoms of schizophrenia (a mental illness that causes disturbed or unusual thinking, loss of interest in life, and strong or inappropriate emotions). It is also used to treat episodes of mania (frenzied, abnormally excited or irritated mood) or depression in patients with bipolar disorder. Quetiapine is in a class of medications called atypical antipsychotics.

18. Trental is a legend drug as defined in Section 465.003(8), Florida Statutes and contains pentoxifylline which is used to improve blood flow in patients with circulation problems to reduce aching, cramping, and tiredness in the hands and feet.

19. Thorazine is a legend drug as defined in Section 465.003(8), Florida Statutes and contains chlorpromazine which is used to treat psychotic disorders and symptoms such as hallucinations, delusions, and hostility.

20. Viagra is a legend drug as defined in Section 465.003(8), Florida Statutes and contains Sildenafil which is used to treat erectile dysfunction in men.

21. Vistaril is a legend drug as defined in Section 465.003(8), Florida Statutes and contains hydroxyzine which is used to relieve the itching caused by allergies and to control the nausea and vomiting caused by various conditions, including motion sickness. It is also used for anxiety and to treat the symptoms of alcohol withdrawal.

22. Xanax contains Alprazolam which is a Schedule IV controlled substance listed in Chapter 893, Florida Statutes. Alprazolam is a

benzodiazepine anxiolytic (anti-anxiety drug) and muscle relaxant. The abuse of alprazolam can lead to physical and psychological dependence.

23. Zoloft is a legend drug as defined in Section 465.003(8), Florida Statutes and contains sertraline which is used to treat depression, obsessive-compulsive disorder, panic attacks, posttraumatic stress disorder, and social anxiety disorder. It is also used to relieve the symptoms of premenstrual dysphoric disorder, including mood swings, irritability, bloating, and breast tenderness. Sertraline is in a class of antidepressants called selective serotonin reuptake inhibitors (SSRIs). It works by increasing the amounts of serotonin, a natural substance in the brain that helps maintain mental balance.

24. Zyprexa is a legend drug as defined in Section 465.003(8), Florida Statutes and contains olanzapine which is used to treat the symptoms of schizophrenia and bipolar disorder. Olanzapine is in a class of medications called atypical antipsychotics. It works by changing the activity of certain natural substances in the brain. If Olanzapine is taken with certain other drugs, such as benzodiazepines, the effects of either can be increased, decreased, or altered.

25. Substances designated as legend drugs are required by federal or state law to be dispensed only upon presentation of a prescription written by a licensed health care professional authorized to prescribe prescription medications.

Patient S.P.

26. Patient S.P. presented to Respondent and was diagnosed with Major Depression, Recurrent with Psychotic Features. Patient S.P. had a history of diabetes.

27. During the time that Respondent was treating patient S.P., Respondent prescribed numerous controlled substances and other legend drugs for the patient, including, but not limited to Paxil, Thorazine, Restoril, Seroquel, Risperdal, Zyprexa and Haloperidol. During the period of the end of 1997 through the spring of 1999, Respondent was treated solely with Haloperidol.

28. Respondent failed to maintain proper monitoring of the patient's body weight and laboratory examinations in light of patient S.P.'s

history of diabetes and as Zyprexa and Risperidone is known to induce weight gain and worsen the metabolic status of patients.

29. Respondent failed to maintain medical records justifying the combination of medications prescribed to patient S.P.

30. Respondent failed to appropriately monitor patient S.P. for the presence of side effects and complications as a result of the combination of antipsychotic medications.

31. Respondent failed to maintain medical records justifying the treatment of Major Depression, Recurrent with Psychotic Features with Haloperidol as the exclusive medication.

Patient M.A.

32. Patient M.A. presented to Respondent and was diagnosed with schizoaffective disorder versus a major depressive disorder with psychotic features. Patient M.A. had a history of head trauma and bronchial asthma.

33. During the time that Respondent was treating patient M.A., Respondent prescribed numerous controlled substances and other legend drugs for the patient, including, but not limited to Haldol, Xanax, Risperidone, Buspirone, Zyprexa, and Vistaril.

34. Respondent failed to maintain medical records justifying the combination of medications prescribed to patient M.A.

Patient B.M.

35. Patient B.M. presented to Respondent and was diagnosed with Major Depression, Recurrent with Psychotic Features. Patient B.M. was also diagnosed with arthritis, hypertension and obesity.

36. During the time that Respondent was treating patient B.M., Respondent prescribed numerous controlled substances and other legend drugs for the patient, including, but not limited to Paxil, Vistaril, Risperidone, Indocin, Zyprexa, Trental and Seroquel.

37. Respondent failed to maintain medical records justifying the combination of medications prescribed to patient B.M.

38. Respondent failed to properly assess patient B.M.'s hypertensive illness and monitor the patient's treatment.

39. Respondent failed to maintain medical records demonstrating that he measured patient B.M.'s blood pressure at two or more examinations. Blood pressure measurements should be taken at least twice

on two separate occasions in patients exhibiting and/or suspected of hypertension.

40. The combination of Risperidone, Zyprexa and Seroquel include clinically significant hypotension as a complication. Respondent did not maintain medical records indicating he was appropriately monitoring patient B.M. for hypotension.

Patient A.V.

41. Patient A.V. presented to Respondent and was diagnosed with Major Depression with Psychotic Features. Patient S.P. had a history of chest pain, high blood pressure, arthritis and diabetes.

42. During the time that Respondent was treating patient A.V., Respondent prescribed numerous controlled substances and other legend drugs for the patient, including, but not limited to Zyprexa, Celexa, Trental, Motrin, Viagra and Lorrisone.

43. Respondent failed to maintain proper monitoring of the patient's body weight and laboratory examinations in light of patient's history of diabetes and high blood pressure and as Zyprexa and Risperidone is known to induce weight gain and worsen the metabolic status of patients.

44. Respondent failed to maintain medical records justifying the combination of medications prescribed to patient A.V.

45. Respondent failed to appropriately monitor patient A.V.'s hypertension and did not recommend appropriate followup treatment for the patient's complaints of chest pain and blood pressure that was "out of control."

Patient M.D.

46. Patient A.V. presented to Respondent and was diagnosed with Major Depression with Psychotic Features. Patient M.D. had a history of diabetes, migraines and breast cancer.

47. During the time that Respondent was treating patient M.D., Respondent prescribed numerous controlled substances and other legend drugs for the patient, including, but not limited to Zyprexa, Risperidone and Xanax.

48. Respondent failed to maintain proper monitoring of the patient's body weight and laboratory examinations in light of patient M.D.'s history of diabetes and as Zyprexa and Risperidone is known to induce weight gain and worsen the metabolic status of patients.

49. Respondent failed to maintain medical records justifying the combination of medications prescribed to patient M.D.

Patient M.A.

50. Patient M.A. presented to Respondent with inappropriate, "confused" and exhibited blunted affect.

51. Respondent failed to maintain adequate medical records for patient M.A., including the history, physical examination or initial psychiatric examination.

52. During the time that Respondent was treating patient M.A., Respondent prescribed numerous controlled substances and other legend drugs for the patient, including, but not limited to Zyprexa, Risperidone, Xanax and Buspar.

53. Respondent failed to maintain medical records justifying the combination of medications prescribed to patient M.A.

COUNT ONE

54. Petitioner realleges and incorporates paragraphs one (1) through fifty-three (53), as if fully set forth herein this Count One.

55. Respondent failed to keep adequate medical records that justify the course of treatment of the patients S.P., M.A., B.M., A.V., M.D., and/or M.A., including but not limited to, patient histories; examination results; test results, records of drugs prescribed, dispensed, or administered; and reports of consultations and hospitalizations.

56. Respondent failed to maintain medical records justifying the treatment of patient S.P.'s Major Depression, Recurrent with Psychotic Features with Haloperidol as the exclusive medication.

57. Respondent also failed to maintain adequate medical records for patient M.A., in that he failed to include the history, physical examination or initial psychiatric examination.

58. Based on the foregoing, Respondent violated Section 458.331(1)(m), Florida Statutes (2002)(2003)(2004), 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

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results; test results; records of drugs prescribed, dispensed, or administered; and reports of consultations and hospitalizations of patients S.P., M.A., B.M., A.V., M.D., and M.A.

COUNT TWO

59. Petitioner realleges and incorporates paragraphs one (1) through fifty-three (53), as if fully set forth herein this Count Two.

60. 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 legend drugs inappropriately and excessively, without sufficient justification in the medical records, to patients S.P., M.A., B.M., A.V., M.D. and M.A.

61. Based on the foregoing, Respondent violated Section 458.331(1)(q), Florida Statutes (2002)(2003)(2004), 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.

COUNT THREE

62. Petitioner realleges and incorporates paragraphs one (1) through fifty-three (53), as if fully set forth herein this Count Three.

63. 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 in one or more of the following ways, Respondent:

a) failed to maintain medical records justifying the combination of medications prescribed to patients S.P., M.A., B.M., A.V., M.D. and M.A.

b) and/or failed to maintain proper monitoring of patients S.P., B.M., A.V. and M.D.'s body weight and laboratory examinations in light of their medical histories, including but not limited to diabetes and as Zyprexa and Risperidone is known to induce weight gain and worsen the metabolic status of patients.

c) and/or failed to maintain medical records justifying the treatment of patient S.P.'s Major Depression, Recurrent with Psychotic Features with Haloperidol as the exclusive medication.

d) and/or failed to properly assess patient B.M.'s hypertensive illness and monitor the patient's treatment.

e) and/or failed to maintain medical records demonstrating that he measured patient B.M.'s blood pressure at two or more examinations. Blood pressure measurements should be taken at least twice on two separate occasions in patients, such as patient B.M., who exhibit and/or are suspected of hypertension.

f) and/or failed to maintain medical records indicating he was appropriately monitoring patient B.M. for hypotension in light of his prescribing a combination of Risperidone, Zyprexa and Seroquel which include clinically significant hypotension as a complication.

g) and/or failed to appropriately monitor patient A.V.'s hypertension and did not recommend appropriate followup treatment for the patient's complaints of chest pain and blood pressure that was "out of control."

64. Based on the foregoing, Respondent has violated Section 458.331(1)(t), Florida Statutes (2002)(2003)(2004), 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 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 29th day of May, 2007.

Ana M Viamonte Ros, M.D., M.B.A.
Secretary, Department of Health

FILED
DEPARTMENT OF HEALTH
CLERK
CLERK Racner
DATE 5-30-07


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PCP:

05-20-07

PCP Members:

El-Bahri, Davies + Long

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.