

BEFORE THE BOARD OF MEDICINE

DEPARTMENT OF PROFESSIONAL
REGULATION,

Petitioner,

vs.

MARTIN DENKER, M.D.,

Respo..dent.

FILED

Department of Professional Regulation
AGENCY CLERK

CLERK Melinda M. Wagner

DATE August 10, 1987

DPR CASE NO. 0068565
LICENSE NO. ME 0019434

PL-75

FINAL ORDER

THIS MATTER came before the Board of Medicine (Board) pursuant to Section 120.57(3), Florida Statutes, on July 31, 1987, in Orlando, Florida, for consideration of a Stipulation (attached hereto as Exhibit A) entered into between the parties in the above-styled case. Upon consideration of the Stipulation, 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 Stipulation as submitted be and is hereby approved and adopted in toto and incorporated by reference herein. Pursuant to Paragraph 5 of the Stipulated Disposition, Respondent shall not be placed on probation. Accordingly, the parties shall adhere to and abide by all of the terms and conditions of the Stipulation.

This Order takes effect upon filing.

DONE AND ORDERED this 7 day of August, 1987.

BOARD OF MEDICINE

Robert Katims, M.D.

ROBERT B. KATIMS, M.D.
VICE CHAIRMAN

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Final Order has been provided by certified mail to Martin Denker, M.D., USF Medical Center, Box 14, Tampa, Florida 33612 and Grover C. Freeman, Esquire, Suite 410, 4600 W. Cypress Avenue, Tampa, Florida 33607 and by interoffice delivery to Ray Shope, Esquire, Department of Professional Regulation, 130 North Monroe Street, Tallahassee, Florida 32399-0750, at or before 5:00 P.M., this 10 day of August, 1987.


Dorothy J. Faircloth
Executive Director

STATE OF FLORIDA
DEPARTMENT OF PROFESSIONAL REGULATION

DEPARTMENT OF PROFESSIONAL
REGULATION, BOARD OF MEDICAL
EXAMINERS,

Petitioner,

vs.

DPR CASE NO. 0068565
DOAH CASE NO. 87-1138

MARTIN DENKER, M.D.,

Respondent.

STIPULATION

Martin Denker, M.D., hereinafter referred to as "Respondent," and the Department of Professional Regulation, hereinafter referred to as "Department," hereby stipulate and agree to the following Joint Stipulation and Final Order of the Board of Medical Examiners, hereinafter referred to as "Board", incorporating the Joint Stipulation and agreement in the above-styled matter.

STIPULATED FACTS

1. For all times pertinent herein, Respondent was a licensed physician in the State of Florida, having been issued license number ME 0019434.
2. 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.
3. The Petitioner voluntarily dismisses Count II of the Administrative Complaint. A true and correct copy of the Administrative Complaint is attached hereto and made a part hereof by reference as Exhibit A.
4. Respondent neither admits nor denies the allegation of fact contained in Count I of the Administrative Complaint attached hereto as Composite Exhibit A.

STIPULATED CONCLUSIONS OF LAW

1. Respondent, in his capacity as a licensed physician, admits that in such capacity he is subject to the provisions of

Chapter 455 and 458, Florida Statutes, and the jurisdiction of the Department and the Board.

2. Respondent admits that the facts set forth in the foregoing Stipulated Facts constitute violations of Chapter 458, Florida Statutes as alleged in the Administrative Complaint.

STIPULATED DISPOSITION

1. Respondent shall not in the future violate Chapters 455, 458, or 893, Florida Statutes, or the rules promulgated pursuant thereto or any other state or federal law.

2. Respondent shall receive a reprimand from the Board of Medical Examiners.

3. The Respondent shall prescribe no Schedule II controlled substances as defined in Chapter 893, Florida Statutes for one (1) year from the filing of the Final Order in this matter.

4. Within one (1) year from the date of the filing of the Final Order in this matter, the Respondent shall attend thirty (30) hours of Continuing Medical Education courses in the area of pharmacology or prescription drug abuse which hours shall be in addition to those presently required by law.

5. The Board may, in its discretion, place the Respondent on probation for up to one (1) year. The Respondent takes the position that the imposition of probation in this case would serve no useful purpose. The parties agree that the terms of this Stipulation are binding upon the Respondent and enforceable absent the imposition of probation.

6. The Respondent shall pay a fine in the amount of \$1,000.00 (One Thousand Dollars); which fine shall be paid by the Respondent to the Executive Director of the Board.

7. Respondent shall be present at the time of Board's consideration of this Stipulation and shall, under oath, answer any questions posed by Board Members, counsel for the Board and counsel for Petitioner.

8. It is expressly understood that this Stipulation is subject to approval of the Board and the Department and has no force and effect unless an order adopting it is entered by the

Board.

9. This stipulation 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 this Stipulation.

10. Furthermore, should this joint Stipulation not be accepted by the Board, it is agreed that presentation to and consideration of this Stipulation 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.

11. Respondent and the Department fully understand that this joint Stipulation and subsequent Final Order incorporating same will in no way preclude additional proceedings by the Board and/or the Department against the Respondent for acts or omissions not specifically set forth in the Administrative Complaint attached as Exhibit A, issued in this cause.

12. Respondent expressly waives all further procedural steps and expressly waives all right to seek judicial review or to otherwise challenge or contest the validity of the Joint Stipulation of facts, conclusions of law and imposition of discipline and the Final Order of the Board incorporating said Stipulation.

SIGNED this 4TH day of June, 1987.

Martin W. Dewise
Respondent

Sworn to and subscribed
before me this 4 day
of June, 1987

[Signature]
NOTARY PUBLIC

My Commission Expires: August 21, 1990

1987.

Approved this 8 day of June

Van B. Peola
Secretary

STATE OF FLORIDA
DEPARTMENT OF PROFESSIONAL REGULATION
BOARD OF MEDICINE

DEPARTMENT OF PROFESSIONAL
REGULATION,

DPR CASE NO. 0068565

Petitioner,

vs.

MARTIN DENKER, M.D.,

Respondent.

ADMINISTRATIVE COMPLAINT

COMES NOW, the Petitioner, Department of Professional Regulation, hereinafter referred to as "Petitioner," and files this Administrative Complaint before the Board of Medical Examiners against Martin Denker, M.D., hereinafter referred to as "Respondent," and alleges:

1. Petitioner is the state agency charged with regulating the practice of medicine pursuant to Section 20.30, Florida Statutes, Chapter 455, Florida Statutes, and Chapter 458, Florida Statutes.

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 0019434. Respondent's last known address is USF Medical Center, Box 14, Tampa, Florida 33612.

3. Between at least on or about June 20, 1984, and on or about May 12, 1986, Respondent was the treating physician of patient S.C. for heroin addiction and Borderline Personality Disorder.

4. During this period of time, Respondent treated patient S.C. in his office at the University of South Florida College of Medicine.

5. During the above-mentioned period of time, Respondent, in his treatment of patient S.C., prescribed Methadone and Valium in the quantities reflected in the attached Exhibit "A".

6. During this period of time, Respondent treated patient S.C. for known narcotic abuse even though neither Respondent nor

the University of South Florida College of Medicine was separately registered with the Drug Enforcement Administration as a Narcotic Treatment Program, in violation of the Narcotic Addict Treatment Act of 1974 (public law 93-281) and 21 C.F.R. Section 1301.22(a)(5).

COUNT ONE

7. Petitioner realleges paragraphs one through six above as if fully set forth herein this Count One.

8. Based on the foregoing allegations, Respondent violated Section 458.331(1)(h), Florida Statutes (1985), now Section 458.331(1)(g), Florida Statutes, as reenacted by Chapter 86-245, Laws of Florida, by failing to perform any statutory or legal obligation placed upon a licensed physician.

COUNT TWO

9. Petitioner realleges paragraphs one through six above as if fully set forth herein this Count Two.

10. Respondent inappropriately prescribed Methadone and Valium to patient S.C. when he prescribed these medications for detoxification or maintenance purposes.

11. Based on the foregoing allegations, 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.

WHEREFORE, Petitioner respectfully requests the Board of Medicine to enter an Order imposing one or more of the following penalties: revocation or suspension of the Respondent's license, restriction of Respondent's practice, imposition of an administrative fine, issuance of a reprimand, placement of the Respondent on probation, and/or any other relief that the Board deems appropriate.

SIGNED this 15th day of January, 1987.

FILED

DEPARTMENT OF PROFESSIONAL REGULATION

CLERK

DATE

Melinda H. Wagner
January 20, 1987

Fred Roche
Fred Roche, Secretary
Dept. of Professional Regulation

COUNSEL FOR DEPARTMENT:

Stephanie A. Daniel
Senior Attorney
Department of Professional Regulation
130 North Monroe Street.
Tallahassee, FL 32399-0750
(904) 488-0062

SAD/GM/11
12/15/86

PCP/Echevarria, O'Bryan & Sentelices