

BEFORE THE BOARD OF MEDICINE

DEPARTMENT OF PROFESSIONAL  
REGULATION,

Petitioner,

vs.

MARIO IBANEZ, M.D.,

Respondent.

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**FILED**

Department of Professional Regulation  
AGENCY CLERK

CLERK Melinda H. Wagner

DATE 8-25-88

DPR CASE NO. 0081575  
LICENSE NO. ME 0011707

FINAL ORDER

THIS MATTER came before the Board of Medicine (Board) pursuant to Section 120.57(3), Florida Statutes, on August 5, 1988, in Palm Beach, 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, the Board rejected the Stipulation proposed and offered an amendment at the hearing, which amendment was accepted without objection by the parties.

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 with the following:

Paragrah 4 of the Stipulated Disposition is amended to read:

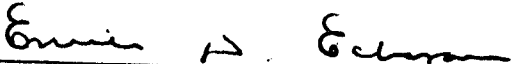
Respondent's license to practice medicine shall be hereinafter restricted in that it shall be limited to practicing solely as a salaried employee of the State of Florida.

Accordingly, the parties shall adhere to and abide by all of the terms and conditions of the Stipulation as amended.

This Order takes effect upon filing with the Clerk of the Department.


DONE AND ORDERED this 19<sup>th</sup> day of August, 1988.

BOARD OF MEDICINE

  
EMILIO D. ECHEVARRIA, M.D.  
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 Mario Ibanez, M.D., 9101 S.W. 62 Court, Miami, Florida 33156; Raul J. Valdes-Fauli, Attorney at Law, Suite 3400, One Biscayne Tower, 2 South Biscayne Boulevard, Miami, Florida 33131-1897 and by interoffice delivery to Jonathan King, Attorney at Law, Department of Professional Regulation, 130 North Monroe Street, Tallahassee, Florida 32399-0750, at or before 5:00 P.M., this 25 day of August, 1988.

  
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AOG/IbanezM

STATE OF FLORIDA  
DEPARTMENT OF PROFESSIONAL REGULATION

DEPARTMENT OF PROFESSIONAL  
REGULATION, )

Petitioner, )

vs. )

MARIO IBANEZ, M.D., )

Respondent. )

---

CASE NO. 0081575

STIPULATION

Mario Ibanez, 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 Medicine, hereinafter referred to as Board, incorporating this Stipulation and the agreement in the above-styled manner.

STIPULATED FACTS

1. At all times material hereto, Respondent was a licensed physician in the State of Florida having been issued license number ME 0011707.

2. Respondent was charged by an Administrative Complaint filed by the Department and properly served upon 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 and incorporated by reference as Exhibit A.

3. Respondent neither admits nor denies the allegations of fact contained in the Administrative Complaint attached hereto as 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 Chapters 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, if proven, would 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 and 893, Florida Statutes, or the rules promulgated pursuant thereto.

2. The Board shall impose an administrative fine in the amount of \$10,000 against the Respondent. The sum of \$5,000 of said fine shall be paid by the Respondent to the Executive Director of the Board within one year of the imposition by Final Order of the Board. The remainder of said fine shall be paid by the Respondent to the Executive Director of the Board within two years of the imposition by Final Order of the Board.

3. The Respondent shall receive a reprimand from the Board of Medicine.

4. Respondent's license to practice medicine shall be hereinafter restricted in the following manner:

a. Respondent's practice shall be limited to practicing solely as a salaried employee of the State of Florida except as provided in paragraph (4)(b).

b. Should Respondent seeks to practice outside of his duties as an employee of the State of Florida, for compensation, Respondent shall obtain the approval of the Board prior to doing so. Respondent understands and agrees that the Board may, for any cause, deny Respondent's request to practice outside of his employment relationship with the State of Florida.

5. Effective on the date of the filing of the Final Order incorporating the terms of this Stipulation, Respondent's license to practice medicine shall be placed on probation for a period of three years. The terms and conditions of probation shall include:

a. Respondent shall comply with all state and federal statutes, rules and regulations pertaining to the practice of medicine, including Chapters 455, 458, and 893, Florida Statutes, and Rules 21M, Florida Administrative Code.

b. Respondent shall appear before the Board or its designated probationer's committee at the first meeting after said probation commences, at the last meeting of the Board or its designated probationer's committee preceding termination of the probation, and at such other times as requested by the Board or its probationer's committee. Failure of Respondent to appear as requested or directed shall be considered a violation of the terms of this Stipulation, and shall subject the Respondent to disciplinary action.

c. In the event the 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, Respondent's probation shall be tolled and shall remain in a tolled status until Respondent returns to active practice in the State of Florida. Respondent must keep current residence and business addresses on file with the Board. Respondent shall notify the Board within ten (10) days of any changes of said addresses. Furthermore, Respondent shall notify the Board within ten (10) days in the event that Respondent leaves the active practice of medicine in Florida.

d. Respondent shall submit semi-annual reports in affidavit form, the contents of which shall be specified by the Board. The reports shall include:

- i. Description of practice location.
- ii. Describe current practice (type and composition).
- iii. Brief statement of compliance with probationary terms.
- iv. Advise Board of any problems.

e. Respondent understands that during the course of the probation, quarterly reports shall be prepared by investigators with the Department detailing Respondent's compliance with the terms and conditions of this probation. Respondent waives confidentiality of these reports as to the Department only so that the Board may review these reports.

f. Respondent agrees to pay all reasonable costs of compiling and preparing these investigative reports, including the time spent by investigators in gathering necessary information for said reports.

g. Respondent shall comply with all of the terms and conditions of the Stipulation.

h. During the next two years Respondent shall perform 100 hours of community service per year in a not-for profit setting, outside of the physician's office. Community service shall consist of medical service without fee for the good of the people of the State of Florida. Affidavits detailing the community service performed shall be filed with the Board of Medicine.

6. Respondent shall appear before the Board at the meeting whereat this Stipulation is considered. Respondent, in conjunction with the consideration of this Stipulation by the Board, shall respond to questions under oath from the Board, Board Staff or Department Staff.

7. It is expressly understood that this Stipulation is subject to the approval of the Board and the Department. In this regard, paragraphs one through three of the Stipulated Facts, one and two of the Stipulated Conclusions of Law, and one through six of the Stipulated Disposition shall have no force and effect unless a Final Order is entered incorporating the terms of this Stipulation, by the Board.

8. Respondent and the Department fully understand that this joint Stipulation and subsequent Final Order incorporating same will in no preclude additional proceedings by the Board and/or the Department against the Respondent for acts or admissions not specifically set forth in the Administrative Complaint attached as Exhibit "A" herein.

9. Upon the Board's adoption of this Stipulation, 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 joint Stipulation of Facts, Conclusions of Law and imposition of discipline, and the Final Order of the Board incorporating said Stipulation.

10. Upon the Board's adoption of this Stipulation, the parties hereby agree that each party will bear his own attorney's fees and costs resulting from prosecution and/or defense of this proceeding. Respondent waives the right to seek any attorney's fees or costs from the Department in connection with this disciplinary proceeding.

SIGNED this 5th day of July, 1988.

Mario Ibanez, M.D.  
MARIO IBANEZ, M.D.  
Respondent

SWORN TO AND SUBSCRIBED  
before me this 5th day  
of July, 1988.

Janet Myers  
NOTARY PUBLIC

My Commission Expires:

Notary Public State of Florida at Large.

~~My Commission Expires April 24, 1989~~

APPROVED this 12th day of July, 1988.

Lawrence A. Gonzalez  
Acting Secretary

Charles F. Jurek  
BY: Bruce D. Lamb  
Chief Attorney  
Medical Section



STATE OF FLORIDA  
DEPARTMENT OF PROFESSIONAL REGULATION  
BOARD OF MEDICINE

DEPARTMENT OF PROFESSIONAL  
REGULATION,

Petitioner,

vs.

CASE NO. 0081575

Mario Ibanez, M.D.

Respondent.

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ADMINISTRATIVE COMPLAINT

COMES NOW the Petitioner, Department of Professional Regulation, hereinafter referred to as "Petitioner," and files this Administrative Complaint before the Board of Medicine against Mario Ibanez, 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 0011707. Respondent's last known address is 9101 South West 62nd Court, Miami, Florida 33156.

3. Landmark Learning Center, hereinafter referred to as "Landmark", is a facility that provides group therapy for human growth and development.

4. Village Psychological Services, hereinafter referred to as "VPS", is a non-profit partnership that was formed in July, 1982 and provides counseling to patients, approximately 50 percent of which are retarded adults who reside at Landmark.

5. VPS applied for and was denied a contract as a Medicaid health care provider.

COUNT ONE

6. Petitioner realleges paragraphs one through five above as fully set forth herein this Count One.

7. From on or about January 1983 until on or about September 1983, a member of the VPS staff, with the Respondent's knowledge, conducted group psychiatric therapy sessions at Landmark.

8. Respondent was not present during the conduction of the aforementioned therapy sessions.

9. The aforementioned therapy sessions conducted by the VPS staff constitute the practice of medicine.

10. The VPS staff member who conducted the aforementioned therapy sessions was not licensed to practice medicine.

11. The Respondent failed to report the unauthorized practice of medicine by VPS staff members to the Department of Professional Regulation or the Board of Medicine.

12. Based on the foregoing Respondent violated Section 458.331(1)(f), Florida Statutes(1985) now Section 458,331(1)(e), Florida Statutes(1986), by failing to report to the Department any person who the licensee knows is in violation of this chapter or the rules of the Department.

COUNT TWO

13. Petitioner realleges paragraphs one through five and seven through eleven above as if fully set forth in this Count Two.

14. Respondent aided and assisted an unlicensed staff member at VPS in the practice of medicine.

15. Based on the foregoing Respondent violated Section 458.331(1)(g), Florida Statutes(1985) now Section 458.331(1)(f), Florida Statutes, by aiding, assisting, procuring, or advising any unlicensed person to practice medicine contrary to this chapter or to a rule of the department or the board.

COUNT THREE

16. Petitioner realleges paragraphs one through five above as if fully set forth herein this Count Three.

17. From on or about September 1982 until on or about September 1983 and from on or about September 1, 1984 until on or about January 29, 1985 Respondent knowingly allowed VPS to use Respondent's Medicaid health care provider number and a facsimile stamp of Respondent's signature for the purposes of filing Medicaid billings representing that Respondent rendered services to patients at Landmark.

18. Respondent was not present when the aforementioned services were rendered.

19. Respondent filed bills to Medicaid which he knew to be false.

20. Based on the foregoing Respondent violated Section 458.331(1)(i), Florida Statutes(1985) now Section 458.331(1)(h), Florida Statutes, by making or filing a report which the licensee knows to be false, intentionally or negligently failing to file a report or record required by the state or federal law, willfully impeding or obstructing such filing or inducing another person to do so.

COUNT FOUR

21. Petitioner realleges paragraphs one through five and seventeen through nineteen above as if fully set forth herein this Count Four.

22. By allowing members of the staff of VPS to use Respondent's Medicaid health care provider number to bill for services Respondent did not provide, Respondent employed a trick or scheme in the practice of medicine.

23. Based on the foregoing Respondent violated Section 458.331(1)(l), Florida Statutes(1985), now Section 458.331(1)(k), Florida Statutes, by making deceptive, untrue, or fraudulent representations in the practice of medicine or employing a trick or scheme in the practice of medicine.

COUNT FIVE

24. Petitioner realleges paragraphs one through five and seventeen through nineteen above as if fully set forth herein this Count Five.

25. Respondent received payment for services not personally rendered by Respondent.

26. Based on the foregoing Respondent violated Section 458.331(1)(h), Florida Statutes(1985) now Section 458.331(1)(g), Florida Statutes, by failing to perform a statutory or legal obligation placed upon a licensed physician to wit by violating Section 10C-7.038(4)(a)(7), Florida Administrative Code, which states that "payment for psychiatric services shall be made only for those services personally rendered by a psychiatrist."

COUNT SIX

27. Petitioner realleges paragraphs one through five and seventeen through nineteen and twenty-five above as if fully set forth herein this Count Six.

28. Respondent received twenty percent of the funds collected from Medicaid from VPS in return for VPS' use of the Respondent's health care provider number and signature facsimile stamp to bill for psychiatric services rendered when Respondent was not present.

29. Respondent engaged in a kickback or fee-splitting arrangement with the staff of VPS.

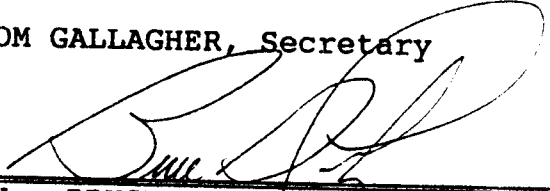
30. Based on the foregoing Respondent violated Section 458.331(1)(j), Florida Statutes(1985) now Section 458.331(1)(i), Florida Statutes, by paying or receiving any commission, bonus, kickback, or rebate, or engaging in any split-fee arrangement in any form whatsoever with a physician, organization, agency, or person, either directly or indirectly, for patients referred to

providers of health care goods and services, including, but not limited to, hospital, nursing homes, clinical laboratories, ambulatory surgical centers, or pharmacies.

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 the 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 1st day of March, 1988.

TOM GALLAGHER, Secretary

  
BY: BRUCE D. LAMB  
Chief Medical Attorney

COUNSEL FOR DEPARTMENT:

Jonathan King  
Staff Attorney  
Department of Professional  
Regulation  
130 North Monroe Street  
Tallahassee, Florida 32399-0750  
(904) 488-0062

 JK/ew/rb  
01/19/88

PCP:  
Moya, Hantman & Ashkar  
2/23/88

**FILED**

Department of Professional Regulation  
AGENCY CLERK

CLERK Melinda H. Wagner

DATE 3/2/88



FLORIDA BOARD OF MEDICINE  
DEPARTMENT OF PROFESSIONAL REGULATION

Lawton Chiles

Governor

George Stuart

Secretary

Jan 16 8 27 AM '92

BEFORE THE BOARD OF MEDICINE

FLORIDA BOARD OF MEDICINE  
1940 North Monroe Street  
Tallahassee, Florida 32399-0770  
Telephone (904) 488-0595

DEPARTMENT OF  
PROFESSIONAL REGULATION,  
PETITIONER

DPR CASE NO. 0081575

v.

Mario Ibanez, M.D.

RESPONDENT

Chairperson

Zachariah P. Zachariah, M.D.  
Fort Lauderdale, Florida

Members

Fuad S. Ashkar, M.D.  
Miami, Florida

James N. Burt, M.D.  
Jacksonville, Florida

Pamela A. M. Campbell, Esq.  
St. Petersburg, Florida

Richard James Cavallaro, M.D.  
Naples, Florida

Edward A. Dauer, M.D.  
Fort Lauderdale, Florida

Mary Kathryn Garrett, M.D.  
Orlando, Florida

John W. Glotfelty, M.D.  
Lakeland, Florida

Manning H. Hanline, Jr., M.D.  
Pensacola, Florida

Gerard A. Kaiser, M.D.  
Miami, Florida

Richard McEwen  
Tallahassee, Florida

Louis C. Murray, M.D.  
Orlando, Florida

Gilbert M. Rodriguez  
Tampa, Florida


Margaret S. Skinner, M.D.  
West Palm Beach, Florida

Gary E. Winchester, M.D.  
Tallahassee, Florida

ORDER OF TERMINATION

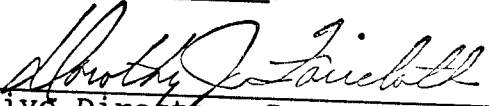
Upon review of the terms and conditions of the Final Order of the Board of Medicine rendered August 25, 1988 the documentation offered on behalf of Respondent, and being otherwise fully advised in the premises, it is hereby ORDERED AND ADJUDGED: That Respondent completed his period of probation on May 20, 1992 and has complied with all terms of the Final Order rendered August 25, 1988. DONE AND ORDERED this 14<sup>th</sup> day of April, 1992.

BOARD OF MEDICINE

  
Zachariah P. Zachariah, M.D., Chairperson  
Board of Medicine

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Final Order has been provided by certified mail to Mario Ibanez, M.D., Gateway Point, 401-D Garvin Street, Punta Gorda, FL 33950, at or before 5 p.m. of this 2nd day of June, 1992.

  
Executive Director, Board of Medicine

Executive Director

Dorothy J. Faircloth

FILED

Department of Professional Regulation  
AGENCY CLERK

CLERK

DATE

6-29-92

DIVISION OF MEDICAL QUALITY ASSURANCE

NORTHWOOD CENTRE • 1940 NORTH MONROE STREET • TALLAHASSEE, FLORIDA 32399-0770

