

FILED

Department of Business and Professional Reg
AGENCY CLERK

DEPARTMENT OF BUSINESS AND
PROFESSIONAL REGULATION
BOARD OF MEDICINE

DEPARTMENT OF BUSINESS AND
PROFESSIONAL REGULATION,

CLERK *Sarah L. Washburn*
DATE 8/10/93

Petitioner,

v.

DEPR CASE NUMBER: 92-00445
LICENSE NUMBER: NE 0056706

MIREYA A. FRANCIS CARVAJAL, M.D.,

Respondent.

PLEASE

FINAL ORDER

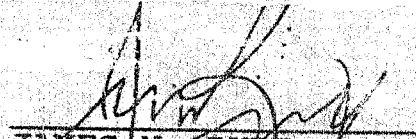
THIS MATTER came before the Board of Medicine (Board) pursuant to Section 120.57(3), Florida Statutes, on August 7, 1993, in Tampa, Florida, for consideration of a Consent Agreement (attached hereto as Exhibit A) entered into between the parties in the above-styled case. Upon consideration of the Consent Agreement, the documents submitted in support thereof, the arguments of the parties, and being otherwise advised in the premises,

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

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

DONE AND ORDERED this 7th day August, 1993.

BOARD OF MEDICINE



JAMES N. BURT, M.D.
CHAIRMAN

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been provided by certified U.S. Mail to Mireya A. Francis Carvajal, M.D., Circles of Care, Inc., 400 E. Sheridan Road, Melbourne, Florida 32901-3184, James L. Reinman, Esquire, 1825 South Riverview Drive, Melbourne, Florida 32901 and by interoffice delivery to Larry G. McPherson, Jr., Chief Medical Attorney, Department of Business and Professional Regulation, Northwood Centre, 1940 North Monroe Street, Tallahassee, Florida 32399-0792, at or before 5:00 P.M., this _____ day of _____, 1993.

DOOTHY J. FAIRCLOTH
Executive Director

STATE OF FLORIDA
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION
BOARD OF MEDICINE

DEPARTMENT OF BUSINESS AND
PROFESSIONAL REGULATION,

Petitioner,

v.

DPR CASE NO. 02-00445

MIREYA A. FRANCIS CARVAJAL, M.D.,

Respondent.

CONSENT AGREEMENT

MIREYA A. FRANCIS CARVAJAL, M.D., referred to as the "Respondent," and the Department of Business and Professional Regulation, 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.

STIPULATED FACTS

1. At all times material hereto, Respondent was a licensed physician in the State of Florida having been issued license number ME 0056706.
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 as Exhibit "A."
3. Respondent neither admits nor denies the allegations of fact contained in the Administrative Complaint.

STIPULATED CONCLUSIONS OF LAW

1. Respondent admits that, in her capacity as a licensed physician, she 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 Administrative Complaint, if proven, would constitute violations of Chapter 458, Florida Statutes, as alleged in the Administrative Complaint.

STIPULATED DISPOSITION

1. FUTURE CONDUCT. Respondent shall not in the future violate Chapters 455, 458 and 893, Florida Statutes, or the rules promulgated pursuant thereto.

2. FINE. The Board shall impose an administrative fine in the amount of \$2,500. against the Respondent. The fine shall be paid by the Respondent to the Board of Medicine within thirty (30) days of its imposition by Final Order of the Board.

3. LETTER OF CONCERN. The Respondent shall receive a Letter of Concern from the Board of Medicine.

4. CONTINUING MEDICAL EDUCATION. Within one year of the filing of the Final Order in this case:

i. Respondent shall attend five (5) hours of Category I Continuing Medical Education courses in the area of risk management. Respondent shall submit a written plan to the Chairman of the Probation Committee for course approval prior to the completion of said courses. In addition Respondent shall submit documentation in the form of certified copies of receipts, vouchers, certificates, or other papers, such as the physician's recognition awards

issued by the American Medical Association, as may be necessary to document completion of these continuing medical education courses within one (1) year of the entry of the Final Order in this matter. All such documentation shall be sent to the Board of Medicine, Attn: Final Order Compliance Section, regardless of whether some or any of such documentation was previously provided during the course of any audit or discussion with counsel for the Department. These hours shall be in addition to those hours required for renewal of licensure. Unless otherwise approved by the Board, said continuing education courses shall consist of a formal live lecture format.

ii. Respondent shall complete the course, "Protecting Your Medical Practice, Clinical, Legal and Ethical Issues in Prescribing Abusable Drugs," sponsored by the Florida Medical Association and the University of South Florida, or a Board-approved equivalent.

5. It is expressly understood that this Agreement is subject to the approval of the Board and the Department. In this regard, the foregoing paragraphs (and only the foregoing paragraphs) shall have no force and effect unless a Final Order incorporating the terms of this Agreement is entered by the Board.

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

7. Should this Agreement be rejected, no statement made in furtherance of this Agreement by the Respondent may be used as direct evidence against the Respondent in any proceeding; however, such statements may be used by the Petitioner for impeachment purposes.

8. Respondent and the Department fully understand that this joint Agreement 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" herein.

9. 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.

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

11. This Agreement is executed by the Respondent for the purpose of avoiding further administrative action with respect to this cause. In this regard, Respondent authorizes the Board to review and examine all investigative file materials concerning Respondent prior to or in conjunction with consideration of the Agreement. Furthermore, should this joint Agreement not be accepted by the Board, it is agreed that presentation to and consideration of this Agreement and other documents and matters by the Board shall not unfairly or illegally prejudice the Board or any of its members from further participation, consideration, or resolution of these proceedings.

**STANDARD TERMS APPLICABLE TO CONSENT AGREEMENTS
WHICH DO NOT INCLUDE PROBATION/SUSPENSION**

1. **ADDRESSES**. 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.

2. **ACTIVE PRACTICE**. In the event that Respondent leaves the active practice of medicine for a period of one year or more, the Probation Committee may require Respondent to appear before the Probation Committee and demonstrate her ability to practice medicine with skill and safety to patients prior to resuming the practice of medicine in this State.

3. **COSTS**. Respondent shall pay all costs necessary to comply with the terms of this Consent Agreement. Such costs include, but are not limited to, the costs of preparation of Investigative Reports detailing compliance with the terms of the Consent Agreement.

4. **BOARD ADDRESS**. Unless otherwise directed by the Board office, all reports, correspondence and inquiries shall be sent to: Board of Medicine, 1940 North Monroe Street, Tallahassee, Florida 32399-0792, Attn: Final Order Compliance Officer.

SIGNED this 9th day of JULY, 1993.

Mireya A. Francis Carvajal (M.D.)
MIREYA/A. FRANCIS CARVAJAL, M.D.

Before me, personally appeared Mireya A. Francis Carvajal, whose identity is known to me by ----- (type of identification) and who, under oath, acknowledges that his/her signature appears above.

Sworn to and subscribed before me this 9th day of JULY, 1993.

OFFICIAL NOTARY SEAL
LYN BROWN
NOTARY PUBLIC STATE OF FLORIDA
COMMISSION NO. CC201484
MY COMMISSION EXP. JUNE 16, 1996

Lyn Brown
NOTARY PUBLIC

My Commission Expires:

APPROVED this 11 day of July, 1993.

George Stuart
Acting Secretary

Larry G. McPherson, Jr.

By: Larry G. McPherson, Jr.
Chief Attorney
Medical Section

STATE OF FLORIDA
DEPARTMENT OF PROFESSIONAL REGULATION
BOARD OF MEDICINE

DEPARTMENT OF PROFESSIONAL
REGULATION,

PETITIONER,

vs.

CASE NO. 92-00445

MIREYA FRANCIS CARVAJAL, 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 Medicine against Mireya Francis Carvajal, 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 0056706. Respondent's last known address is Circles of Care, Inc., 400 E. Sheridan Road, Melbourne, Florida 32901-3184.

3. Respondent has worked at Circles of Care, Inc. in Melbourne, Florida since February, 1991.

4. Respondent's area of practice is psychiatry, however she is not Board Certified in this field.

Facts Pertaining to Patient #1

5. From on or about November 26, 1991 to on or about November 28, 1991, Respondent rendered psychiatric care to Patient #1, a 16 year old female, at Circles of Care, Inc.

6. Respondent failed to perform a psychiatric evaluation of Patient #1, including history, mental status examination, and treatment plans, within forty-eight (48) hours of Patient #1's admission.

7. Respondent's medical records for Patient #1 for November 27, 1991 reflect a prescription of Prozac, an antidepressant.

8. Respondent failed to provide medical justification for this prescription in her medical records for Patient #1.

COUNT ONE

9. Petitioner hereby realleges and incorporates paragraphs one (1) through eight (8) as fully stated herein this Count One.

10. Respondent practiced medicine below 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 Respondent failed to perform a psychiatric evaluation of Patient #1, including history, mental status examination, and treatment plans, within forty-eight (48) hours of Patient #1's admission.

11. Based on the preceding allegations, Respondent violated Section 458.331(1)(t), Florida Statutes, gross or repeated

malpractice or the failure 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.

COUNT TWO

12. Petitioner hereby realleges and incorporates paragraphs one (1) through eight (8) and ten (10) as fully stated herein this Count Two.

13. Respondent is guilty of prescribing a legend drug, including any controlled substance, other than in the course of the physician's professional practice in that Respondent prescribed Prozac for Patient #1 without first performing an adequate psychiatric evaluation.

14. Based on the preceding allegations, Respondent violated Section 458.331(1)(q), Florida Statutes, 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 legend drugs, including all controlled substances, inappropriately or in excessive or inappropriate quantities is not in the best interest of the patient and is not in the course of the physician's professional practice, without regard to his intent.

COUNT THREE

15. Petitioner hereby realleges and incorporates paragraphs one (1) through eight (8), ten (10), and thirteen (13), as fully stated herein this Count Three.

16. Respondent is guilty of failing to keep written medical records justifying the course of treatment of the patient in that Respondent's medical records for Patient #1 fail to document an appropriate psychiatric evaluation and fail to medically justify Respondent's prescription of Prozac for Patient #1.

17. Based on the preceding allegations, Respondent violated Section 458.331(1)(M), Florida Statutes, failing to keep written medical records justifying the course of treatment of the patient, including, but not limited to, patient histories; examination results; test results; records of drugs prescribed, dispensed, or administered; and reports of consultations and hospitalizations.

Facts Pertaining to Patient #2

18. From on or about November 25, 1991 to on or about December 2, 1991, Respondent rendered psychiatric care to Patient #2, a 43 year old female, at Circles of Care, Inc.

19. Upon admission, Dr. S.M. Vasudevan examined Patient #2 and prescribed Navane, a medication frequently used to control symptoms of psychotic disorders.

20. Respondent failed to perform a psychiatric evaluation of Patient #2, including history, mental status examination, and treatment plans, within seventy-two (72) hours of Patient #2's admission.

21. On or about November 26, 1991, Respondent ordered the discontinuation of Navane and prescribed Mellaril, a short-term treatment for depression, for Patient #2.

22. Respondent failed to medically justify the discontinuation of Navane and the prescription of Mellaril in her medical records for Patient #2.

23. Respondent's medical records for Patient #2 fail to adequately document Patient #2's progress during her stay at Circle of Care, Inc.

COUNT FOUR

24. Petitioner hereby realleges and incorporates paragraphs one (1) through four (4) and eighteen (18) through twenty-three (23), as fully stated herein this Count Four.

25. Respondent practiced medicine below 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 Respondent failed to perform a psychiatric evaluation of Patient #2, including history, mental status examination, and treatment plans, within seventy-two (72) hours of Patient #2's admission.

26. Based on the preceding allegations, Respondent violated Section 458.331(1)(t), Florida Statutes, gross or repeated malpractice or the failure 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.

COUNT FIVE

27. Petitioner hereby realleges and incorporates paragraphs one (1) through four (4), eighteen (18) through twenty-three (23), and twenty-five (25) as fully stated herein this Count Five.

28. Respondent is guilty of prescribing a legend drug, including any controlled substance, other than in the course of the physician's professional practice in that Respondent prescribed Mellaril and discontinued Patient #2's prescription of Navane without first performing an adequate psychiatric evaluation.

29. Based on the preceding allegations, Respondent violated Section 458.331(1)(q), Florida Statutes, 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 legend drugs, including all controlled substances, inappropriately or in excessive or inappropriate quantities is not in the best interest of the patient and is not in the course of the physician's professional practice, without regard to his intent.

COUNT SIX

30. Petitioner hereby realleges and incorporates paragraphs one (1) through four (4), eighteen (18) through twenty-three (23), twenty-five (25), and twenty-eight (28), as fully stated herein this Count Six.

31. Respondent is guilty of failing to keep written medical records justifying the course of treatment of the patient in that Respondent's medical records for Patient #2 fail to document an appropriate psychiatric evaluation, fail to document Patient #2's progress during her stay at Circles of Care, Inc., and fail to medically justify Respondent's prescription of Mellaril and discontinuation of Patient #2's prescription of Navane.

32. Based on the preceding allegations, Respondent violated Section 58.331(1)(m), Florida Statutes, failing to keep written medical records justifying the course of treatment of the patient, including, but not limited to, patient histories; examination results; test results; records of drugs prescribed, dispensed, or administered; and reports of consultations and hospitalizations.

Facts Pertaining to Patient #3

33. From on or about November 26, 1991 to December 5, 1991, Respondent rendered psychiatric care to Patient #3, a 20 year old female, at Circles of Care, Inc.

34. Respondent failed to perform a psychiatric evaluation of Patient #3 including history, mental status examination, and treatment plans within forty-eight (48) hours of Patient #3's admission.

COUNT SEVEN

35. Petitioner hereby realleges and incorporates paragraphs one (1) through four (4), thirty-three (33), and thirty-four (34), as fully stated herein this Count Seven.

36. Respondent practiced medicine below 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 Respondent failed to perform a psychiatric evaluation of Patient #3 including history, mental status examination, and treatment plans within forty-eight (48) hours of Patient #3's admission.

37. Based on the preceding allegations, Respondent violated Section 458.331(1)(t), Florida Statutes, gross or repeated malpractice or the failure 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.

COUNT EIGHT

38. Petitioner hereby realleges and incorporates paragraphs one (1) through four (4), thirty-three (33), thirty-four (34) and thirty-six (36), as fully stated herein this Count Eight.

39. Respondent is guilty of failing to keep written medical records justifying the course of treatment of the patient in that Respondent's medical records for Patient #3 fail to document an appropriate psychiatric evaluation in a timely manner.

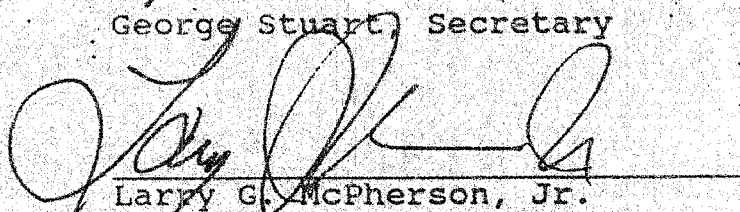
40. Based on the preceding allegations, Respondent violated Section 458.331(1)(m), Florida Statutes, failing to keep written medical records justifying the course of treatment of the patient, including, but not limited to, patient histories; examination

results; test results; records of drugs prescribed, dispensed, or administered; and reports of consultations and hospitalizations.

WHEREFORE, the Petitioner respectfully requests the Board of Medicine 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 13 day of April, 1993.

George Stuart, Secretary



Larry G. McPherson, Jr.
Chief Medical Attorney

COUNSEL FOR DEPARTMENT:

Larry G. McPherson, Jr.
Chief Medical Attorney
Department of Professional Regulation
1940 North Monroe Street
Tallahassee, Florida 32399-0750
Florida Bar #788643
LGM/nd
PCP: April 1, 1993
Dauer, McEwen, Katims

FILED

Department of Professional Regulation

DEPUTY CLERK

CLERK 

DATE 4-13-93