

BEFORE THE BOARD OF MEDICINE

DEPARTMENT OF PROFESSIONAL
REGULATION,

Petitioner,

vs.

RICHARD BLACKWELL SEELY, M.D.,

Respondent.

FILED

Department of Professional Regulation
AGENCY CLERK

CLERK Melinda H. Wagner

DATE 10/13/88

DPR CASE NOS. 0090199

0094455

LICENSE NO. ME 0037422

FINAL ORDER

THIS MATTER came before the Board of Medicine (Board) pursuant to Section 120.57(3), Florida Statutes, on October 7, 1988, in Tampa, 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. Accordingly, the parties shall adhere to and abide by all of the terms and conditions of the Stipulation.

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

DONE AND ORDERED this 7 day of October, 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 Richard Blackwell Seely, M.D., 846 Anchor Road Drive, Naples, Florida 33940 and Donald K. Ross, Attorney at Law, 4085 Tamiami Trail North, Suite B-103, Naples, Florida 33940-7852 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 13 day of October, 1988.



AOG/SeelyR

STATE OF FLORIDA
DEPARTMENT OF PROFESSIONAL REGULATION

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REGULATION,

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vs.

DPR CASE NOS. 0090199
0094455

RICHARD BLACKWELL SEELY, M.D.

Respondent.

STIPULATION

Richard Blackwell Seely, 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 0037422.
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 \$2,000 against the Respondent. The fine shall be paid by the Respondent to the Executive Director of the Board within 1 year of the imposition by Final Order of the Board.

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

4. 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, Staff or Department

5. Effective the date of filing of the Final Order incorporating the terms of this Stipulation, Respondent's license to practice medicine shall be suspended until such time that Respondent, is able to prove by clear and convincing evidence that he is able to practice medicine with reasonable skill and safety to patients. Respondent may submit this evidence to the Board at the meeting whereat this Stipulation is considered. Such proof shall include, but not be limited to, the following:

a. Compliance with and satisfactory progress in the Impaired Professional's Program in the State of Florida.

b. Respondent shall present a practice plan to the Board of Medicine for Board approval, prior to reinstatement of Respondent's license to practice medicine. Said practice plan shall describe the practice location, the composition and type of practice, the average patient load (on a weekly basis), the names of any physicians with whom Respondent will be working.

6. Upon reinstatement of Respondent's license, Respondent's license to practice medicine shall forever be restricted so that Respondent must comply with and satisfactorily progress in the Impaired Professional's Program in the State of Florida or until such time as that the Director of the aforementioned program certifies that Respondent no longer needs to participate in the program.

7. Respondent shall not prescribe, dispense, administer or order schedule II-III controlled substances, as defined by Chapter 893, Florida Statutes. In this regard, Respondent shall,

upon receipt of a Final Order adopting the terms of this Stipulation, relinquish his Drug Enforcement Administrative Registration to prescribe Schedule II-III controlled substances, as defined by Chapter 893, Florida Statutes.

8. Effective on reinstatement of Respondent's license to practice medicine or upon the filing of a Final Order in the cause should Respondent's license not be suspended, Respondent's license to practice medicine shall be placed on probation for a period of 5 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 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 work under the indirect supervision of a physician to be approved by the Board or its Probationer's Committee. Respondent shall have the monitoring physician with him at his first probation appearance before the Board's Probationer's Committee. Prior to approval of the monitoring physician by the committee, the Respondent shall provide to the monitoring physician a copy of the Administrative Complaint and Final Order filed in this case. The responsibilities of the monitoring physician shall include:

i. Respondent's monitoring physician shall appear before the probationer's 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 his monitoring physician as requested or directed. Failure of the monitoring physician to appear as requested or directed shall constitute a violation of the terms of this Stipulation and shall subject the physician to disciplinary action.

ii. Respondent's monitoring physician shall submit reports on a Quarterly basis, in affidavit, which shall include:

a. Brief statement of why physician is on probation.

b. Description of probationer's practice.

c. Brief statement of probationer's compliance with terms of probation.

d. Brief description of probationer's relationship with monitoring physician.

e. Detail any problems which may have arisen with probationer. Respondent shall be responsible for ensuring that the monitoring physician submits the required reports.

iii. Review 25 percent of Respondent's patient records on a random basis at least once every month, for the purpose of ascertaining appropriateness of diagnosis and treatment.

iv. Review all of Respondent's patient records for patients treated with controlled substances.

vi. Report to the Board any violations by the probationer of Chapters 455 and 458, Florida Statutes, and the rules promulgated pursuant thereto.

vii. Receive and review copies of all controlled substance prescriptions.

e. In the event that the Respondent's monitoring physician is unable or unwilling to fulfill his responsibilities as a monitoring physician, as specified above, then the Respondent shall immediately advise the Board of this fact. Respondent shall further submit to the Chairman for the Board's Probationer's Committee the name of a temporary monitoring

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.

h. 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.

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

j. Respondent shall not consume, inject or ingest any controlled substances unless prescribed, dispensed or administered by a practitioner authorized by law to prescribe, administer or dispense controlled substances. However, the drugs shall be consumed, injected or ingested for a medically justifiable purpose. Furthermore, Respondent shall advise the Board in writing of any controlled substances which he is taking, immediately. Such written notification shall provide the name, strength and dosage of the controlled substance, the name of the practitioner responsible for prescribing, administering, dispensing or ordering the controlled substance, and the medical reason for which the drug is prescribed.

k. Respondent shall not consume alcohol.

l. Respondent shall participate in the Florida Physician's Recovery Network. Respondent shall comply with all of the conditions of his after care contract with the Florida Medical Foundation's Committee on Impaired Professionals.

m. Respondent shall attend AA/NA meetings on a

frequency of at least two meetings per week. Additionally, Respondent shall attend Cadeucus meetings on a frequency of not less than two meetings per month.

n. Respondent shall submit to random blood and urine testing for the purposes of ascertaining Respondent's compliance with his probation.

o. Respondent shall pay all reasonable costs of obtaining random urine and/or blood screens.

p. Respondent may prescribe Schedule IV-V controlled substances with the restrictions set forth below:

i. Respondent shall utilize sequentially numbered triplicate prescriptions in the prescribing of schedule IV-V controlled substances.

ii. Respondent shall immediately provide one copy of each prescription for Schedule IV-V controlled substances to his monitoring physician.

iii. Respondent shall provide one copy of each prescription for Schedule IV-V controlled substances to the Department's investigator within one month after issuing said prescription.

9. 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 eight 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.

10. 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 admissions not specifically set forth in the Administrative Complaint attached as Exhibit "A" herein.

11. 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.

12. 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 10th day of September, 1988.

Richard B Seely MD
(Respondent's Name)

Sworn to and subscribed
before me this 10th day
of September, 1988.

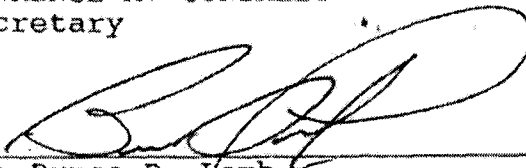
M. Robert Owen
NOTARY PUBLIC

Notary Public, State of Florida at Large
My Commission Expires April 11, 1990
Bonded thru Huckleberry, Sibley &
Harvey Insurance and Bonds, Inc.

My Commission Expires:

APPROVED this 16th day of September, 1988.

LAWRENCE A. GONZALEZ
Secretary



By: Bruce D. Lamb
Chief Attorney
Medical Section

BL/JK/vk

copy

STATE OF FLORIDA
DEPARTMENT OF PROFESSIONAL REGULATION
BOARD OF MEDICINE

DEPARTMENT OF PROFESSION
REGULATION

Petitioner,

DPR CASE NOS. 0090199
0094455

vs.

RICHARD BLACKWELL SEELY, 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 Richard Blackwell Seely, 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 0037422. Respondent's last known address is 846 Anchor Road Drive, Naples, Florida 33940.

3. Between on or during February 1986 and January 1988, Respondent treated patient No. 1 (J.E.F.) for pain resulting from an industrial accident and an auto accident.

4. That Respondent's treatment of patient No. 1 (J.E.F.) included the prescribing of Talwin, Darvon, and Tenuate. Respondent requested that patient No. 1 (J.E.F.) fill the prescriptions and return a part of the drugs received to Respondent.

5. During the aforementioned period of time Respondent also provided prescriptions for the drugs Darvon, Zydone, and Vicodin to patient No. 1 (J.E.F.) with instructions that said patient was to fill the prescriptions and return the drugs to the Respondent. Patient No. 1 (J.E.F.) complied with this result.

6. As a result of the ingestion of the drugs prescribed to patient No. 1 (J.E.F.), said patient has become addicted and is currently undergoing detoxification.

7. Between on or about April 29, 1986 and January 1988, Respondent treated patient No. 2 (D.H.C) for pain resulting from two (2) accidents, and for emotional problems.

8. The treatment of patient No. 2 (D.H.C.) included the prescribing of Darvocet, Motrin, Xanax, Vistaril, Tylenol #3, Vicodin, Valium, Restroil, Sinequan, and Elavil. During this period of time, Respondent requested that patient No. 2 (D.H.C.) return some of the drugs received to the Respondent. Said patient complied with this request.

9. Respondent also provided patient No. 2 (D.H.C.) with prescriptions for Hycodan and Zydone with instructions to return the drugs to the Respondent. Patient No. 2 (D.H.C.) complied with this request.

10. Between on or about February 1986 through January

27, 1988 the Respondent was the treating physician for patient No. 3 (B.P.).

11. Between on or about February 19, 1987 and January 27, 1988 Respondent prescribed the drugs Vicodin and Zydone in the name of patient No. 3 (B.P.) and instructed patient No. 3 (B.P.) to return the drugs to the Respondent. Said patient complied with this request.

12. Between on or about February 1986 through January 1988, patient No. 4 (J.H.) was a patient of Respondent.

13. Respondent requested that patient No. 4 (J.H.) obtain the drug Hycodan and return the same to Respondent, purportedly for Respondent's wife. Patient No. 4 (J.H.) complied with this request.

14. Between on or about August 1985 and January 1988, patient No. 5 (E.P.) was treated by Respondent. Said treatment included the prescribing of Valium and Hycodan.

15. Respondent prescribed Valium and Hycodan in the name of patient No. 5 (E.P.), and requested that patient No. 5 (E.P.) return the drug to him representing that "people will buy it". Patient No. 5 (E.P.) complied with the request.

16. During January 1988 Respondent abandoned his office practice at 846 Anchor Road Drive, Naples, Florida. Respondent failed to arrange for the continuity of treatment of his patients by another physician or for the transfer of patient records to another physician.

17. During December 1987 and January 1988 Respondent was observed by his employees and colleagues to have been exhibiting

unusual behavior. Respondent failed to keep scheduled appointments with patients who were being maintained on prescription drugs. Attempts to contact Respondent were unsuccessful.

18. Hycodan, Tylenol #3, Vicodin, Zydane, Darvocet, Darvon, Restoril, Talwin, Tenuate, Valium and Xanax are brand names of controlled substances as defined in Chapter 893, and are medicinal drugs as defined in Chapter 465, Florida Statutes.

19. Elavil, Motrin, Sinequan and Vistaril are brand names of medicinal drugs as defined in Chapter 465, Florida Statutes.

20. Respondent has prescribed a legend drug, including any controlled substance, other than in the course of his professional practice.

21. Respondent has self-administered controlled substances delivered to him by his patients.

22. Respondent is unable to practice medicine with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals or any other type of material or as a result of any mental or physical condition.

23. Respondent, by abandoning his patients who are in need of continuing care, has 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.

24. Section 893.05(1), Florida Statutes, provides in part:

A practitioner, in good faith and in the course of his professional practice only, may prescribe ... a controlled substance.

25. Respondent has prescribed other than in good faith and other than in the course of his professional practice, controlled substances.

26. Respondent has failed to perform a statutory or legal obligation placed upon a licensed physician, to wit, to prescribe controlled substances only in good faith and in the course of his professional practice as required by Section 893.05(1), Florida Statutes.

COUNT ONE

27. Petitioner realleges and incorporates by reference the allegations contained the foregoing paragraphs, and further alleges:

28. Respondent has prescribed, dispensed, administered, mixed, or otherwise prepared a legend drug, including any controlled substance, other than in the course of his professional practice, in violation of the provisions of Section 458.331(1)(g), Florida Statutes.

COUNT TWO

29. Petitioner realleges and incorporates by reference the allegations contained the foregoing paragraphs, and further alleges:

30. Respondent is unable to practice medicine with reasonable skills and safety to patients by reason of illness, or use of alcohol, drugs, narcotics, chemicals, or any other type of

material or as a result of any mental or physical condition, in violation of provisions of Section 458.331(1)(s), Florida Statutes.

COUNT THREE

31. Petitioner realleges and incorporates by reference the allegations contained the foregoing paragraphs, and further alleges:

32. Respondent has committed gross or repeated malpractice or has failed to practice medicine with that level of care, skill, treatment which is recognized by a reasonably prudent similar physician as being acceptable under similar conditions and circumstances in violation of the provisions of Section 458.331(1)(t), Florida Statutes.

COUNT FOUR

33. Petitioner realleges and incorporates by reference the allegations contained the foregoing paragraphs, and further alleges:

34. Petitioner has failed to perform any statutory or legal obligations placed upon a licensed physician, to wit, Section 893.05(1), Florida Statutes.

35. Based on the foregoing, Respondent violated Section 458.331(1)(g), Florida Statutes, by failing to perform any statutory or legal obligation placed upon a licensed physician by violating Section 893.05(1), Florida Statutes.

COUNT FIVE

36. Petitioner realleges and incorporates by reference the allegations contained the foregoing paragraphs, and further alleges:

37. Section 458.319(5), Florida Statutes, provides that the licensee must have on file with the Department the address of his primary place of practice within this state prior to engaging in that practice. Prior to changing the address of his primary place of practice, whether or not within this State, the licensee shall notify the Department of the address of his new primary place of practice.

38. Rule 21-6.12, Florida Administrative Code provides:

Licensee's Obligation. It shall be the duty of the licensees, active and inactive, to keep the Department informed of any information which the Department requires, including but not limited to his/her current mailing address.

39. Respondent's last known address of primary place of practice and mailing address on file with the Department is 848 Anchor Road Street, Naples, Florida. Respondent has failed to notify the Department of any change in mailing address or practice location and is not currently practicing at the address on file with the Department.

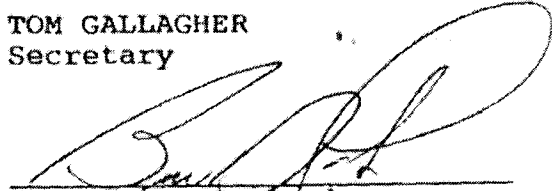
39. Respondent has failed to perform any statutory legal obligation placed upon a license physician, to wit, has failed to comply with the provisions of Rule 21-6.12, Florida Administrative Code and Section 458.319(5), Florida Statutes, in violation of Section 458.331(1)(g), Florida Statutes.

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 2nd day of March, 1988.

TOM GALLAGHER
Secretary



By: Bruce D. Lamb
Chief Attorney
Medical Section

COUNSEL FOR DEPARTMENT:

Jonathan R. King
Staff Attorney
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(904) 488-0062

JK/sdc
12/28/87

PCP:

FILED

Department of Professional Regulation
AGENCY CLERK

CLERK Melinda H. Wagner

DATE 3/2/88