

STATE OF FLORIDA
AGENCY FOR HEALTH CARE ADMINISTRATION

AGENCY FOR HEALTH)
CARE ADMINISTRATION,)
)
PETITIONER,)
)
v.)
)
GREGORY JOHN ONDERKO, D.O.)
)
RESPONDENT.)
_____)

CASE NO. 96-11172

ADMINISTRATIVE COMPLAINT

COMES NOW the Petitioner, Agency for Health Care Administration, hereinafter referred to as "Petitioner," and files this Administrative Complaint before the Board of Osteopathic Medicine against Gregory John Onderko, D.O., hereinafter referred to as "Respondent," and alleges:

1. Petitioner is the state agency charged with regulating the practice of osteopathic medicine pursuant to Section 20.42, Florida Statutes; Chapter 455, Florida Statutes, and Chapter 459, Florida Statutes.

2. Respondent is and has been at all times material hereto a licensed osteopathic physician in the state of Florida, having been issued license number OS 0005968. Respondent's last known address is 6526 Manilla Palm Way, Apollo Beach, Florida, 33572.

3. In or about June 1996, a medical record audit was conducted in the Manatee Glens Community Mental Health Center, a center for the treatment of the mentally impaired.

Respondent was employed at the Manatee Glens Community Health Center since 1990. During the audit, a questionable prescription order was found in a suicidal patient's file which necessitated an investigation. The prescription in question did not seem consistent with previous orders from the admitting physician, who had ordered small quantities of medication with no refills to limit the potential overdose to this patient. The prescription in question was given to the patient by Respondent's nurse, with Respondent's signature, and ordered additional medication to the patient, who was only to receive limited amounts from the admitting physician.

4. Also during the audit, five (5) blank prescriptions which had been signed by Respondent were found in his nurse's top desk drawer. A forensic document examiner stated that the signatures on the blank and other filled scripts in question were that of Respondent, and that the prescription contents on fifteen (15) scripts were that of Respondent's nurse. Also discovered in the nurse's file cabinet were several bags of Vistaril, Buspar, Catapres, and one vile of Thorazine. These drugs are legend drugs as defined by Chapter 465.003 (7), Florida Statutes.

5. Respondent acknowledges that he had given pre-signed blank prescriptions to his nurse, who had his permission to write medication on the pre-signed prescriptions when he was not available.

6. Respondent's nurse prescribed medications to patients who were not in-patients at the Manatee Glenn Mental Health Center.

7. Respondent delegated professional responsibilities to a person when he had reason to know that the person was not qualified by training, experience, or licensure to perform them in

that Respondent gave pre-signed blank prescriptions to his nurse, who then wrote medication contents on the pre-signed prescriptions when Respondent was not available.

8. Respondent pre-signed prescription blank forms and allowed his nurse to fill in the prescription contents.

COUNT ONE

9. Petitioner realleges and incorporates paragraphs one (1) through eight (8), as if fully set forth herein this Count One.

10. Respondent delegated professional responsibilities to a person when he had reason to know that the person is not qualified by training, experience, or licensure to perform them in that Respondent gave pre-signed blank prescriptions to his nurse, who then wrote medication on the pre-signed prescriptions when Respondent was not available.

11. Based on the foregoing, Respondent violated Section 459.015(1)(aa), Florida Statutes, in that he delegated professional responsibilities to a person when the licensee delegating such responsibilities know or has reason to know that such person is not qualified by training, experience, or licensure to perform them.

COUNT TWO

12. Petitioner realleges and incorporates paragraphs one (1) through eleven (11) and paragraph eleven (11), as if fully set forth herein this Count Two.

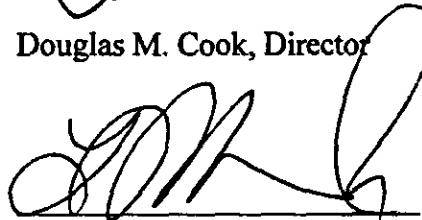
13. Respondent pre-signed blank prescription forms and allowed his nurse to fill in the prescription contents.

14. Based on the foregoing, Respondent violated Section 459.015(1)(ee), Florida Statutes, in that Respondent pre-signed blank prescription forms.

WHEREFORE, the Petitioner respectfully requests the Board of Osteopathic 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, other than costs associated with an attorney's time, as provided for in Section 455.227(3), Florida Statutes, and/or any other relief that the Board deems appropriate.

SIGNED this 5 day of May, 1997.

Douglas M. Cook, Director



Larry G. McPherson, Jr.
Chief Medical Attorney

COUNSEL FOR AGENCY:

Larry G. McPherson, Jr.
Chief Medical Attorney
Agency for Health Care Administration
P. O. Box 14229
Tallahassee, Florida 32317-4229
Florida Bar # 788643
LGM/kt
PCP: April 30, 1997
PCP Members: James Barker, D.O., and Joel Rose, D.O.

FILED

AGENCY FOR
HEALTH CARE ADMINISTRATION
DEPUTY CLERK

CLERK Stephanie J. Owen
DATE 5-6-97

**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

**DEPARTMENT OF HEALTH,
Petitioner,**

v.

AHCA Case No. 96-11172

GREGORY JOHN ONDERKO, D.O.,

Respondent

CONSENT AGREEMENT

Gregory John Onderko, D.O., 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 Osteopathic 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 OS 0005968.
2. Respondent was charged by an Administrative Complaint filed by the Department and properly served upon Respondent with violations of Chapter 459.015(1)(aa) and (ee), 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

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STIPULATED CONCLUSIONS OF LAW

1. Respondent admits that, in his capacity as a licensed physician, he is subject to the provisions of Chapters 455 and 459, 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 459, Florida Statutes, as alleged in the Administrative Complaint.

STIPULATED DISPOSITION

1. FUTURE CONDUCT. Respondent shall not in the future violate Chapters 455, 459 and 893, Florida Statutes, or the rules promulgated pursuant thereto.

2. FINE. The Board shall impose an administrative fine in the amount of \$3,000 (three thousand dollars) against the Respondent. The fine shall be paid by the Respondent to the Board of Osteopathic Medicine within one (1) year of its imposition by Final Order of the Board. **THE RESPONDENT ACKNOWLEDGES THAT THE TIMELY PAYMENT OF THE FINE IS HIS/HER LEGAL OBLIGATION AND RESPONSIBILITY AND THE RESPONDENT AGREES TO CEASE PRACTICING IF THE FINE IS NOT PAID AS AGREED TO IN THIS CONSENT AGREEMENT, SPECIFICALLY: IF THE RESPONDENT HAS NOT RECEIVED WRITTEN CONFIRMATION THAT THE FULL AMOUNT OF THE FINE HAS BEEN RECEIVED BY THE BOARD OFFICE WITHIN 90 DAYS OF THE FILING OF THIS FINAL ORDER, THE RESPONDENT AGREES TO CEASE PRACTICE UNTIL SUCH WRITTEN CONFIRMATION IS RECEIVED BY THE RESPONDENT FROM THE BOARD.**

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(SEE EXHIBIT B, PARAGRAPH F OF THIS CONSENT AGREEMENT FOR BOARD ADDRESS AND STANDARD TERMS).

3. CONTINUING MEDICAL EDUCATION. Within one (1) year of the filing of the Final Order incorporating the terms of this agreement, Respondent shall complete the Clinical, Legal, and Ethical Issues in Prescribing Course at the University of South Florida. Respondent shall submit a written plan to the Chairman of the Probationer's Committee for approval prior to the completion of said continuing education hours. In addition, Respondent shall submit documentation in the form of certified copies of the receipts, vouchers, certificates, or other papers, such as physician's recognition awards, documenting completion of these 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, regardless of whether some or any of such documentation was previously provided during the course of any audit or discussion with counsel for the Agency. These hours shall be in addition to those hours required for renewal of licensure. Unless otherwise approved by the Board, said continuing medical education courses shall consist of a formal, live lecture format.

4. LAWS AND RULES EXAMINATION. Respondent shall take and obtain a score of at least 70% correct on the Laws and Rules Examination within six months of the Final Order. The Respondent shall notify the Agency at least one week prior to the date he wishes to take the examination to schedule a time for the examination at one of the Agency's Investigative Offices. The Respondent may take the examination as many times as needed to obtain a passing score of 70%.

5. 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 Agency Staff. The Respondent shall be prepared to explain the circumstances involved in this matter and what measures have been taken to prevent a recurrence.

6. 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.

7. Respondent and the Agency 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 Agency against the Respondent for acts or omissions not specifically set forth in the Administrative Complaint attached hereto as Exhibit A.

8. 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.

9. 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 Agency in connection with this matter.

10. 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 matter 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.

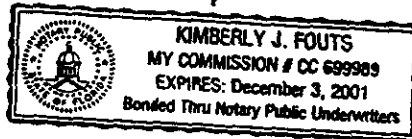
SIGNED this 30 day of July, 1998.

Gregory John Onderko
GREGORY JOHN ONDERKO, D.O.

Before me, personally appeared Gregory Onderko, whose identity is known to me by FD-101 053629058448 (type of identification) and who, under oath, acknowledges that his/her signature appears above.

Sworn to and subscribed before me this 3rd day of July, 1998.

Kimberly J. Fouts
NOTARY PUBLIC
My Commission Expires:



APPROVED this _____ day of _____, 1998.

James T. Howell, Secretary

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

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10/9/98

Final Order No. DOH-98-1171 Date 11-2-98

FILED

Department of Health
Angela Hall, AGENCY CLERK

By: Stephan J. Dixon
Deputy Agency Clerk

STATE OF FLA
BOARD OF OSTEOPAT

DEPARTMENT OF HEALTH
Petitioner,

vs.

CASE NO.: 96-11172
LICENSE NO.: OS 0005968

GREGORY JOHN ONDERKO, D.O.,
Respondent.

FINAL ORDER APPROVING CONSENT AGREEMENT

THIS MATTER came before the Board of Osteopathic Medicine (hereinafter referred to as the "Board") pursuant to Section 120.57(3), Florida Statutes, on September 12, 1998, in Tampa, Florida, for a determination of whether to accept the proposed consent agreement, a copy of which is attached and incorporated herein by reference entered into between the parties in the above-styled case. The Petitioner was represented by Carol Lanfri, Senior Attorney. The Respondent was present and represented by Steven Ballinger, Esquire.

Upon consideration of the Administrative Complaint and the proposed consent agreement in this matter, and being otherwise fully advised in the premises, it is hereby ORDERED AND ADJUDGED:

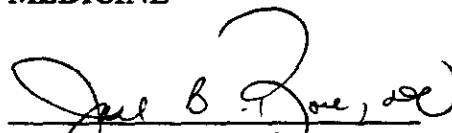
1. By agreement of the parties, the proposed consent agreement was modified as follows: under paragraph (3), Respondent shall have 18 months to complete the required CME; under paragraph (4), in lieu of a laws and rules examination, Respondent shall submit an Affidavit attesting to the fact that he has read Chapters 455, Part II and 459, Florida Statutes, and Rule Chapter 64B15, F.A.C.
2. The proposed consent agreement, as modified, is hereby approved, adopted and incorporated herein by reference.

3. The Respondent will adhere to and abide by all of the terms and conditions of the consent agreement.

4. This Order shall be placed in and become a part of Respondent's official records and shall become effective upon filing with the Clerk of the Department of Health.

DONE and ORDERED this 14 day of October, 1998.

BOARD OF OSTEOPATHIC
MEDICINE


JOEL B. ROSE, D.O.
CHAIR

NOTICE OF RIGHT TO JUDICIAL APPEAL

A PARTY WHO IS ADVERSELY AFFECTED BY THIS FINAL ORDER IS ENTITLED TO JUDICIAL REVIEW PURSUANT TO SECTION 120.68, FLORIDA STATUTES. REVIEW PROCEEDINGS ARE GOVERNED BY THE FLORIDA RULES OF APPELLATE PROCEDURE. SUCH PROCEEDINGS ARE COMMENCED BY FILING ONE COPY OF A NOTICE OF APPEAL WITH THE AGENCY CLERK OF THE DEPARTMENT OF HEALTH AND A SECOND COPY, ACCOMPANIED BY FILING FEES PRESCRIBED BY LAW, WITH THE DISTRICT COURT OF APPEAL, FIRST DISTRICT, OR WITH THE DISTRICT COURT OF APPEAL IN THE APPELLATE DISTRICT WHERE THE PARTY RESIDES. THE NOTICE OF APPEAL MUST BE FILED WITHIN THIRTY (30) DAYS OF RENDITION OF THE ORDER TO BE REVIEWED.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by United State Mail to Steven R. Ballinger, Esq., 412 SE 18th St., Ft. Lauderdale, FL 33316, and by hand delivery/United States Mail to the Clerk, Department of Health and its Counsel, 2020 Capital Circle S.E., Bin # C01, Tallahassee, Florida 32399-1703, this ____ day of _____, 1998.