

By: Heather Coleman
Deputy Agency Clerk

STATE OF FLORIDA
BOARD OF MEDICINE

DEPARTMENT OF HEALTH,

Petitioner,

vs.

DOH CASE NO.: 2002-11759
LICENSE NO.: ME0003991

WEST MAGNON, M.D.,

Respondent.

FINAL ORDER

THIS CAUSE came before the BOARD OF MEDICINE (Board) on April 1, 2005, in Tampa, Florida, for the purpose of considering Respondent's offer to voluntarily relinquish his license to practice medicine in the State of Florida. (Attached hereto as Exhibit A.) Said written offer of relinquishment specifically provides that Respondent agrees never again to apply for licensure as a physician in the State of Florida.


Upon consideration of the written offer of voluntary relinquishment, the charges, and the other documents of record, and being otherwise fully advised in the premises,

IT IS HEREBY ORDERED that Respondent's Voluntary Relinquishment of his license to practice medicine in the State of Florida is hereby ACCEPTED, and shall constitute discipline upon Respondent's license.

This Final Order shall take effect upon being filed with the Clerk of the Department of Health.

DONE AND ORDERED this 12 day of April,
2005.

BOARD OF MEDICINE



Larry McPherson, Jr., Executive Director
for Laurie K. Davies, M.D., Chair

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the
foregoing Final Order has been provided by U.S. Mail to WEST
MAGNON, M.D., 2010 59th Street West, Bradenton, Florida 34209;
to Carl J. Robie, III, Esquire, P.O. Box 5747, Sarasota, Florida
34277; and by interoffice delivery to Denise O'Brien and Dana
Baird, Department of Health, 4052 Bald Cypress Way, Bin #C-65,
Tallahassee, Florida 32399-3265 this 13th day of
April, 2005.



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Deputy Agency Clerk

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STATE OF FLORIDA
DEPARTMENT OF HEALTH

DEPARTMENT OF HEALTH,

PETITIONER,

v.

CASE NO. 2002-11759

WEST MAGNON, M.D.,

RESPONDENT.

ADMINISTRATIVE COMPLAINT

COMES NOW Petitioner, Department of Health, by and through its undersigned counsel, and files this Administrative Complaint before the Board of Medicine against Respondent, West Magnon, M.D., and in support thereof alleges:

1. Petitioner is the state department charged with regulating the practice of medicine pursuant to Section 20.43, Florida Statutes; Chapter 456, Florida Statutes; and Chapter 458, Florida Statutes.
2. At all times material to this Complaint, Respondent was a licensed physician within the State of Florida, having been issued license number ME 3991.

3. Respondent's address of record is 2010 59th Street West, Bradenton, Florida 34209.

4. Respondent is not board certified in any specialty but practices as a family practitioner.

5. Respondent wrote prescriptions for Patient A.J., a then thirty-three (33) year-old female, as early as January 2001.

6. Respondent continued to write prescriptions for Patient A.J. until March 22, 2002.

7. Respondent has a total of approximately seven pages of medical records for Patient A.J. The first entry is January 3, 2001, and the last entry is March 22, 2002.

8. The medical records contain no documentation of the following in Patient A.J.'s medical records:

- a. A mental status examination conducted of Patient A.J.;
- b. A substance abuse evaluation conducted of Patient A.J.;
- c. Patient A.J.'s vital signs.

9. The medical records for each visit include documentation as to what prescriptions were ordered. While the size and quantity of many of the ordered drugs were specified, not all documentation includes this

information. The information as follows is the complete recitation of the prescriptions listed on the medical records for each date:

- a. January 3, 2001
 - 1) Xanax, .5 mg, #150-twice a day
 - 2) Lortab, 10 mg., #36, twice a day.
- b. January 19, 2001
 - 1) Xanax, 1 mg., #200, four times a day as needed
 - 2) Lortab 10 mg., #200, four times a day as needed
- c. February 16, 2001
 - 1) Xanax, 1 mg, #50, four times a day
 - 2) Lortab, 10 mg., #50, four times a day
- d. March 15, 2001
 - 1) Lortab: 10 mg.: #50: four times a day as needed
 - 2) Xanax: 1 mg.: #50: four times a day as needed
 - 3) Restoril: 30 mg.: #12: one at bedtime
- e. March 21, 2001
 - 1) Xanax: 1 mg.: #120: four times a day
 - 2) Lortab: 10 mg.: #120: four times a day
 - 3) Dalmane: 30 mg.: #30
- f. April 18, 2001
 - 1) Xanax: 1 mg.: #180: four times a day as needed
 - 2) Lortab: 10 mg.: #180: four times a day as needed
 - 3) Dalmane: 30 mg.: #45: at bedtime
- g. June 1, 2001
 - 1) Xanax: 1 mg." #180: four times a day as needed
 - 2) Lortab: 10: #180: four times a day
 - 3) Dalmane: 30 mg: #45: hour of sleep
- h. June 29, 2001-telephone
 - 1) Soma: 350 mg.: #50: three times a day
- i. July 24, 2001
 - 1) Lortab: 10: #200: four times a day as needed
 - 2) Valium: 10 mg.: #100: one or two before sleep
 - 3) Xanax: 1 mg.: #120: three times a day as needed
 - 3) Soma: 350 mg.: #180: three times a day
- j. August 17, 2001
 - 1) Lortab: 10: #200: four times a day as needed

- 2) Xanax: 1 mg.: #120: three times a day as needed
- k. August 24, 2001 (to pick-up prescriptions)
 - 1) Valium: 10 mg.: #100: one or two at bedtime
- l. August 28, 2001
 - 1) Xanax: .25 mg.: #200
- m. September 28, 2001
 - 1) Xanax: 1 mg.: #36: four times a day as needed
 - 2) Lortab: 10.: #36: four times a day as needed
- n. October 5, 2001-telephone
 - 1) Valium: 5 mg.: #24: before sleep
 - 2) Xanax: .5 mg.: #100: three times a day
 - 3) Lortab: 5: #100
- o. October 9, 2001
 - 1) Valium: 5 mg.: #100: four times a day
 - 2) Xanax: .5 mg.: #100: four times a day
 - 3) Lortab: 10: #100: four times a day
- p. October 16, 2001
 - 1) Xanax: 1 mg.: #100: four times a day as needed
 - 2) Lortab: 10: #50: four times a day
- q. November 2, 2001
 - 1) Delmare: 30: #100: four times a day as needed
 - 2) Xanax: 1 mg: #120: four times a day as needed
 - 3) Valium: 10 mg: #100: four times a day as needed
- r. November 7, 2001
 - 1) Xanax: 1 mg.: #100
 - 2) Valium: 100: four times a day
- s. November 14, 2001
 - 1) Xanax: 1 mg: #120: four times a day as needed
 - 2) Lortab: 10 mg: #100: 1 every four hours as needed
- t. November 15, 2001
 - 1) Valium: 10 mg: #100: one at bedtime
- u. January 2, 2002
 - 1) Xanax: 1mg: #168: four times a day
 - 2) Valium: 10 mg.: #168: four times a day
 - 3) Delmane: 30: #50: 1 at sleep
 - 4) Lortab: 10: #100: four times a day as needed
 - 5) Hycodan syrup
- v. January 4, 2002

- 1) Xanax: 1 mg: #168: four times a day as needed
 - 2) Lortab: 10: #50: four times a day as needed
- w. March 22, 2002
- 1) Valium: 10 mg: #240: four times a day as needed
 - 2) Dalmane: 30 mg: #75: 1 before sleep as needed
 - 3) Hycodan cough syrup: one pint: take as needed
 - 4) Fioricet: #150: one or two three times a day
 - 5) Ascriptin

10. Valium is a legend drug as defined by Section 465.003(8), Florida Statutes, and contains diazepam, a Schedule IV controlled substance listed in Chapter 893, Florida Statutes. Diazepam is a benzodiazepine anxiolytic (anti-anxiety drug) and muscle relaxant. The abuse of diazepam can lead to physical or psychological dependence.

11. Lortab is a legend drug as defined by Section 465.003(8), Florida Statutes, and contains hydrocodone bitartrate and acetaminophen, which, when mixed together, is a Schedule III controlled substance. Lortab is indicated for the relief of moderate to moderately severe pain. Lortab has a potential for abuse, and the abuse of Lortab can lead to moderate or low physical dependence or high psychological dependence.

12. Xanax is a legend drug as defined by Section 465.003(8), Florida Statutes, and contains alprazolam, a Schedule IV controlled substance listed in Chapter 893, Florida Statutes. Alprazolam is a benzodiazepine anxiolytic, and the abuse of alprazolam can lead to

physical and psychological dependence. Xanax is indicated for the short-term relief of symptoms of anxiety. It produces additive Central Nervous System (CNS) depressant effects when co-administered with other CNS depressants.

13. Soma (carisoprodol) is a legend drug as defined by Section 465.003(8), Florida Statutes, and is a muscle relaxant used as an adjunct to rest, physical therapy, and other measures for the relief of discomfort associated with acute, painful musculoskeletal conditions. The effects of carisoprodol and other drugs that depress the CNS may be additive, and Soma should be prescribed with caution to patients taking other CNS depressant medications, such as narcotics, benzodiazepine anxiolytics and tranquilizers, and barbiturates.

14. Restoril (temazepam) is a legend drug as defined by Section 465.003(8), Florida Statutes, and is a benzodiazepine sleeping medication. It is indicated for the short term treatment of insomnia. This controlled substance can cause dependence. Patients receiving Restoril should be cautioned about the combined effects with other CNS depressants.

15. Fioricet (Butalbital, acetaminophen, and caffeine tablets) is a legend drug as defined by Section 465.003(8), Florida Statutes, and is

indicated for the relief of the symptom complex of tension headache. A single or multiple overdose with this product is a potentially lethal polydrug overdose. The adverse reactions of this drug include the adverse impact on the CNS. Butalbital is habit-forming and potentially abusable.

16. Dalmane (Flurazepam) is a legend drug as defined by Section 465.003(8), Florida Statutes, and is commonly referred to as a sleeping pill. Flurazepam is in a class of drugs called benzodiazepines. Flurazepam affects chemicals in the brain that may become unbalanced and cause insomnia or anxiety. Flurazepam may increase the effects of other drugs that cause drowsiness.

17. Hycodan Syrup (hydrocodone bitartrate and homatropine methylbromide) is a legend drug as defined by Section 465.003(8), Florida Statutes, and is indicated for the symptomatic relief of cough. Hydrocodone can produce drug dependence of the morphine type and has the potential for being abused. Patients receiving narcotics, antipsychotics, antianxiety agents or other CNS depressants concomitantly with Hycodan may exhibit an additive CNS depression.

18. Ascriptin is the combination of aspirin and an antacid.

19. The medical records contain no documentation to medically support the quantity and combination of controlled substances prescribed to Patient A.J.

20. On January 5, 2002, Patient A.J. was admitted to the emergency department of Manatee Memorial Hospital (MMA) seeking detoxification from controlled substances.

21. According the hospital records, when Patient A.J. was admitted to MMA she was using Alprazolam, Diazepam and Hydrocodone.

22. Patient A.J. was prescribed Remeron during her stay at MMH.

23. Mirtazapine (Remeron) is a legend drug as defined by Section 465.003(8), Florida Statutes, and is an antidepressant. Mirtazapine may increase the effects of other antidepressants.

24. Patient A.J. was discharged from MMH on January 11, 2002 in stable condition having been successfully detoxified.

25. After Patient A.J.'s release from MMA, Respondent continued to write her prescriptions for sedatives.

26. On March 22, 2002, Patient A.J. filled prescriptions from Respondent for Hydrocodone, Bupropion/APAP/Caffeine, Fluoxetine and two prescriptions for Diazepam.

27. On or about March 24, 2002, Patient A.J. was found dead in her apartment.

28. The Autopsy Report lists the cause of death to be Acute Multi-Drug Toxicity (Hydrocodone, Alprazolam, Diazepam, Butalbital and Mirtazapine).

29. A reasonably prudent physician under similar conditions and circumstances would not have prescribed the quantities and combination of medications in the manner in which Respondent prescribed to Patient A.J.

30. A reasonably prudent physician under similar conditions and circumstances would have documented the medical justification for the medications Respondent prescribed to Patient A.J.

31. A reasonably prudent physician under similar conditions and circumstances would have more adequately assessed Patient A.J.'s complaints and symptoms before prescribing controlled substances in the manner in which they were prescribed by Respondent.

COUNT ONE

32. Petitioner realleges and incorporates paragraphs one (1) through thirty-one (31) as if fully set forth herein.

33. Section 458.331(1)(m), Florida Statutes (2000)(2001), sets forth grounds for disciplinary action by the Board of Medicine and provides that a physician may be subject to discipline for failing to keep legible, as defined by the department rule in consultation with the board, medical records that justify 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.

34. Respondent failed to keep medical records that justified the course of treatment of Patient A.J. in that Respondent failed to document one or more of the following:

- a. The basis for the quantities and combination of controlled substances that were prescribed to Patient A.J.
- b. Patient A.J.'s vital signs;
- c. A mental status examination of Patient A.J.;
- d. A substance abuse evaluation of Patient A.J.

35. Based on the foregoing, Respondent has violated Section 458.331(1)(m), Florida Statutes (2000)(2001), by failing to keep legible, as

defined by the department rule in consultation with the board, medical records that justify the course of treatment of Patient A.J.

COUNT TWO

36. Petitioner realleges and incorporates paragraphs one (1) through thirty-one (31) as if fully set forth herein.

37. Section 458.331(1)(t), Florida Statutes (2000)(2001), states that a physician must 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.

38. Respondent failed to practice medicine with that level of care, skill, and treatment which is recognized by a reasonably prudent similar physician when he prescribed medications in specific quantities and combinations to Patient A.J. without medical justification.

39. Based on the foregoing, Respondent has violated Section 458.331(1)(t), Florida Statutes (2000)(2001), by failing 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 THREE

40. Petitioner realleges and incorporates paragraphs one (1) through thirty-one (31) as if fully set forth herein.

41. Section 458.331(1)(q), Florida Statutes (2000)(2001), provides that 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, constitutes grounds for disciplinary action. For the purposes of this statutes, 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.

42. Respondent inappropriately prescribed controlled substances by prescribing controlled substances to Patient A.J. without conducting adequate physical examinations and by prescribing controlled substances to Patient A.J. in quantities and combinations for which there was no medical justification.

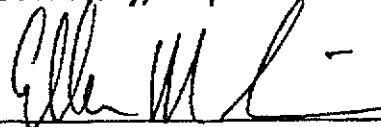
43. Based on the foregoing, Respondent has violated Section 458.331(1)(q), Florida Statutes (2000)(2001), by prescribing, dispensing,

or administering a legend drug, including a controlled substance, other than in the course of the his professional practice.

WHEREFORE, the Petitioner respectfully requests that the Board of Medicine enter an order imposing one or more of the following penalties: permanent revocation or suspension of Respondent's license, restriction of practice, imposition of an administrative fine, issuance of a reprimand, placement of the Respondent on probation, corrective action, refund of fees billed or collected, remedial education and/or any other relief that the Board deems appropriate.

SIGNED this 13th day of December, 2004.

John O. Agwunobi, M.D., M.B.A.
Secretary, Department of Health



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FILED
DEPARTMENT OF HEALTH
DEPUTY CLERK
CLERK Nathan Coleman
DATE 12-13-04

Reviewed and approved by: mc (initials) 2/19/04 (date)

PCP: December 10, 2004

PCP Members: Gustavo Leon, M.D. (Chairperson), Mammen Zachariah, M.D., and John Beebe

NOTICE OF RIGHTS

Respondent has the right to request a hearing to be conducted in accordance with Section 120.569 and 120.57, Florida Statutes, to be represented by counsel or other qualified representative, to present evidence and argument, to call and cross-examine witnesses and to have subpoena and subpoena duces tecum issued on his or her behalf if a hearing is requested.

NOTICE REGARDING ASSESSMENT OF COSTS

Respondent is placed on notice that Petitioner has incurred costs related to the investigation and prosecution of this matter. Pursuant to Section 456.072(4), Florida Statutes, the Board shall assess costs related to the investigation and prosecution of a disciplinary matter, which may include attorney hours and costs, on the Respondent in addition to any other discipline imposed.

STATE OF FLORIDA
DEPARTMENT OF HEALTH

RECEIVED
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MAY 27 2002

DEPARTMENT OF HEALTH,
Petitioner,

v.

DOH Case No. 2002-11759

WEST MAGNON, M.D.,
Respondent.

VOLUNTARY RELINQUISHMENT OF LICENSE

Respondent West Magnon, M.D., license No. ME 3991, hereby voluntarily relinquishes Respondent's license to practice medicine in the State of Florida and states as follows:

1. Respondent's purpose in executing this Voluntary Relinquishment is to avoid further administrative action with respect to this cause. Respondent understands that acceptance by the Board of Medicine (hereinafter the Board) of this Voluntary Relinquishment shall be construed as disciplinary action against Respondent's license pursuant to Section 456.072(1)(f), Florida Statutes.

2. Respondent agrees to never reapply for licensure as a physician in the State of Florida.

3. Respondent agrees to voluntarily cease practicing medicine immediately upon executing this Voluntary Relinquishment. Respondent further agrees to refrain from the practice of medicine until such time as this Voluntary Relinquishment is presented to the Board and the Board issues a written final order in this matter.

4. Upon the Board's acceptance of this Voluntary Relinquishment, Respondent agrees to waive all rights to seek judicial review of, or to otherwise challenge or contest the

validity of, this Voluntary Relinquishment and of the Final Order of the Board Incorporating this Voluntary Relinquishment.

5. Petitioner and Respondent hereby agree that upon the Board's acceptance of this Voluntary Relinquishment, each party shall bear its own attorney's fees and costs related to the prosecution or defense of this matter.

6. Respondent authorizes the Board to review and examine all investigative file materials concerning Respondent in connection with the Board's consideration of this Voluntary Relinquishment. Respondent agrees that consideration of this Voluntary Relinquishment and other related materials by the Board shall not prejudice or preclude the Board, or any of its members, from further participation, consideration, or resolution of these proceedings if the terms of this Voluntary Relinquishment are not accepted by the Board.

DATED this 26th day of January, 2005.

West Magnon

WEST MAGNON, M.D.

STATE OF FLORIDA

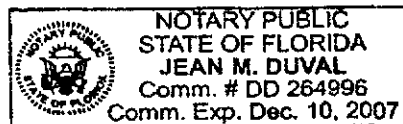
COUNTY OF: Manatee

Before me, personally appeared West Magnon, M.D., whose identity is known to me by Florida Drivers License (type of identification) and who, under oath, acknowledges that his signature appears above. Sworn to and subscribed before me this 26th day of January, 2005.

Jean M. Duval

NOTARY PUBLIC

My Commission Expires: 12-10-07



DOH v. West Magnon, M.D., Case No. 2002-11759