



STATE OF FLORIDA
DEPARTMENT OF PROFESSIONAL REGULATION

CLERK _____
DATE 3-16-92

BOARD: Medicine
 CASE NO: 0105970
 COMPLAINT MADE BY: Department of Insurance
 DATE COMPLAINT RECEIVED: September 20, 1988
 COMPLAINT MADE AGAINST: Bernard Joseph Zumpano, M.D.,
 2 W. 42nd Street, Suite 2400
 Scottsbluff, Nebraska 69361
 REVIEWED BY: Randolph P. Collette
 Senior Attorney
 STAFF RECOMMENDATION: DISMISS (PL-82)

CLOSING ORDER

THE COMPLAINT: Complainant alleges that the Subject of the investigation failed to practice medicine with that level of care, skill and treatment which a reasonably prudent similar physician recognizes as acceptable under similar conditions.

THE FACTS: Initial investigation revealed that on January 8, 1982, Respondent performed disc surgery on Patient G.S. at Coral Reef General Hospital in Miami, Florida. Patient G.S. had been diagnosed as having nerve root scaring of L5-S1 nerve root and a hernia disk at the L4-L5 level. Respondent performed a lumbar discectomy, a facetectomy, and related procedures. During the surgical procedure performed by the Respondent, the patient's jejunum was perforated and the peritoneum torn or injured. The complication was immediately recognized by Respondent and appropriate consultations and corrective treatment were undertaken. It is alleged that this additional injury to Patient G.S. occurred through Respondent's improper use or surgical instruments and could have been avoided if Respondent had employed proper surgical technique.

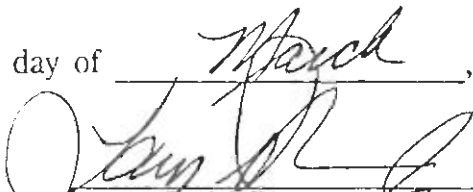
Further investigation into this matter has revealed expert opinions which state that the complication encountered in this incident is a known complication documented in the surgical literature for this type of procedure. The expert opinions are split; one stating that as this is a known complication, there is no breach of the standard of care. Another expert also states this is a known complication, but that the allowing of this to occur brings Respondent's medical skills in this matter below the acceptable standard of care.

THE LAW: There is sufficient for the Panel to have found probable cause in the case. However, based upon the above facts, the Department has determined that there

is insufficient evidence to support the prosecution of allegations contained there. Therefore, pursuant to Section 455.225(2), Florida Statutes, and Rule 21-31.001, Florida Administrative Code, this case is DISMISSED.

It is therefore, ORDERED that this matter should be and the same is hereby DISMISSED.

DONE and ORDERED this 16 day of March, 1992.


Larry G. McPherson, Jr.
Chief Medical Attorney

LGM/RPC/pdt
PCR 3-17-92