

STATE OF FLORIDA  
DEPARTMENT OF PROFESSIONAL REGULATION  
BOARD OF MEDICINE

DEPARTMENT OF PROFESSIONAL  
REGULATION,

Petitioner,

CASE NO: 8905739

vs.

FILEMON OCAMPO ALCANTARA, M.D.

Respondent.

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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 Filemon Ocampo Alcantara, 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 0027836. Respondent's last known address is 3225 N.W. 57th Place, Gainesville, Florida 32606.

3. At all times material hereto, Respondent was employed by the Florida State Prison, Starke, Florida, as a staff psychiatrist.

4. On or about June 7, 1989, Respondent performed a Routine examination on patient #1, a male inmate.

5. During the examination the inmate began to fondle and attempted to arouse the Respondent.

6. Respondent, after initially resisting patient #1's overtures, allowed the inmate to perform fellatio on him.

COUNT ONE

7. Petitioner realleges and incorporates paragraphs one (1) through six (6).

8. Respondent exercised influence within a Patient Physician relationship for purposes of engaging a patient in sexual activity in that Subject permitted patient #1 to perform fellatio on him.

9. Based on the preceding allegations Respondent violated Section 458.331(1)(j) Florida Statutes in that he is guilty of exercising influence within a patient-physician relationship for purposes of engaging a patient in sexual activity. A patient shall be presumed to be incapable of giving free, full, and informed consent to sexual activity with his physician.

COUNT TWO

10. Petitioner realleges and incorporates paragraphs one (1) through six (6) and eight (8) as if fully set forth herein.

11. Respondent violated the patient-physician relationship by engaging patient #1 in sexual activity outside the scope of practice in that Respondent participated in fellatio with a patient. Said practice is in violation of Section 458.329 Florida Statutes.

12. Based on the preceding allegations Respondent violated Section 458.331(1)(x) Florida Statutes violating any provision of this chapter, a rule of the board or department, or a lawful order of the board or department previously entered in a disciplinary hearing or failing to comply with a lawfully issued subpoena of the

department.

WHEREFORE, 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 19th day of July, 1990.

Larry Gonzalez, Secretary

  
By: Stephanie A. Daniel  
Chief Medical Attorney

COUNSEL FOR DEPARTMENT:

Larry G. McPherson  
Senior Attorney  
Florida Bar No. 788643  
Department of Professional Regulation  
1940 N. Monroe Street, Suite 60  
Tallahassee, FL 32399-0792  
(904) 488-0062

LGM/tt/gs  
7/19/90

**FILED**

Department of Professional Regulation  
AGENCY CLERK



CLERK

DATE

7-19-90

**STATE OF FLORIDA  
DEPARTMENT OF PROFESSIONAL REGULATION**

**DEPARTMENT OF PROFESSIONAL  
REGULATION,**

**Petitioner,**

**v.**

**DOAH CASE NO. 90-05151  
DPR CASE NO. 89-5739**

**FILEMON O. ALCANTARA, M.D.**

**Respondent,**

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**CONSENT AGREEMENT**

Filemon O. Alcantara, M.D., referred to as the "Respondent", and the Department of 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 0027836.
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 his capacity as a licensed physician, 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 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 \$2,500.00 against the Respondent. The fine shall be paid by the Respondent to the Executive Director of the Board within two and one-half (2 1/2) years of its imposition by Final Order of the Board.

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

4. RESTRICTION OF LICENSE. The Respondent's license to practice medicine shall be restricted such that the Respondent shall not examine any male patient without the presence of another health care practitioner licensed by the Department of Professional Regulation being present for the entire examination. The medical records of each male patient so examined by the Respondent shall be annotated with the name and license number of the health care practitioner observing the examination. Respondent shall make available the medical records of his male patients to investigators

with the Department in order to monitor and document Respondent's compliance with the restriction.

5. PSYCHIATRIC EVALUATION/TREATMENT. The Respondent shall undergo a psychiatric evaluation by a Physician's Recovery Network (PRN) approved psychiatrist within sixty (60) days of the Board's approval of the Consent Agreement and shall comply with all PRN recommendations resulting from this psychiatric evaluation.

6. SUSPENSION. Effective on the date of the filing of the Final Order incorporating the terms of this Agreement, Respondent's license to practice medicine shall be suspended for a period of one (1) year; however, six (6) months of said suspension shall be stayed conditioned upon Respondent's compliance with all recommendations and requirements of the Physician's Recovery Network (PRN).

7. PROBATION. Effective upon the completion of the imposed period of suspension, Respondent's license to practice medicine shall be placed on probation for a period of two (2) years.

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

b. Respondent shall appear before the designated probationer's committee at the first meeting after said probation commences, at the last meeting of the Board's designated probationer's committee preceding termination of the probation, and at such other times as requested by the Board's probationer's committee.

Respondent shall be noticed by the Board staff of the time, date and place of the Board's Probationer's Committee whereat Respondent's appearance is required. Failure of Respondent to appear as requested or directed shall be considered a violation of the terms of this Agreement, and shall subject the Respondent to disciplinary action.

c. Respondent shall submit reports on a quarterly basis, in affidavit form, which shall include:

i. Brief statement of why physician is on probation.  
ii. Description of probationer's practice.  
iii. Brief statement of probationer's compliance with terms of probation.

iv. Detail any problems which may have arisen.

d. Respondent shall complete 25 hours of Category I Continuing Medical Education courses per year in the area of medical ethics/risk management. These hours shall be in addition to those hours required for renewal of licensure.

e. STANDARD PROVISIONS. Respondents probation shall be governed by the attached "provisions regarding monitoring/supervising physicians", Exhibit B, which is incorporated as if fully set forth herein.

8. Respondent agrees to the issuance of an Emergency Suspension Order by the Secretary of the Department upon a finding of reasonable/probable cause to believe that the terms of this Agreement, as incorporated by a Final Order, have been violated.

9. It is expressly understood that this Agreement is subject to the approval of the Board and the Department. In this regards the foregoing paragraphs (and only the

foregoing paragraphs) shall have no force and effect unless a Final Order is entered incorporating the terms of this Agreement, by the Board.

10. 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.

11. 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.

12. 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.


13. 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.

14. 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.



15. 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.


SIGNED this 19 day of November, 1991.

  
Filemon O. Alcantara, M.D.

Sworn to and subscribed  
before me this 19<sup>th</sup> day  
of November 1991.

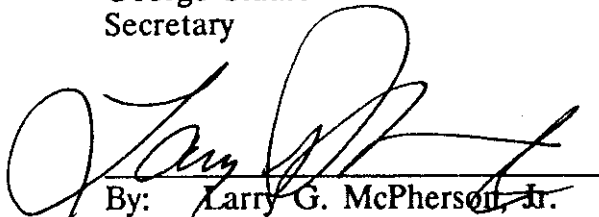
  
NOTARY PUBLIC

My Commission Expires:

NOTARY PUBLIC STATE OF FLORIDA  
MY COMMISSION EXP JULY 28, 1990 (1994)   
BONDED THRU GENERAL INS. UND.

APPROVED this 25 day of NOVEMBER, 1991.

George Stuart  
Secretary

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

## PROVISIONS REGARDING MONITORING/SUPERVISING PHYSICIANS

Provisions governing physicians ordered to work under supervision of monitoring or supervising physician.

### I. DEFINITIONS:

A. INDIRECT SUPERVISION is supervision by a monitoring physician (monitor) whose responsibilities are set by the Board. Indirect supervision does not require that the monitor practice on the same premises as the Respondent, however, the monitor shall practice within a reasonable geographic proximity to Respondent, which shall be within 20 miles unless otherwise provided by the Board and shall be readily available for consultation. The monitor shall be Board-certified in the Respondent's specialty area, unless otherwise provided by the Board.

B. DIRECT SUPERVISION is supervision by a supervising physician (supervisor) whose responsibilities are set by the Board. Direct supervision requires that the supervisor and Respondent work in the same office. The supervising physician shall be board-certified in the Respondent's specialty area, unless otherwise provided by the Board.

C. PROBATION COMMITTEE or "committee" are members of the Board of Medicine designated by the Chairman of the Board to serve as the Probation Committee.

### II. STANDARD TERMS.

#### A. REQUIRED SUPERVISION.

1. The Respondent shall not practice medicine without an approved monitor/supervisor, as specified by the Consent Agreement, unless otherwise ordered by the Board.

2. The monitor/supervisor must be a licensee under Chapter 458, Florida Statutes, in good standing and without restriction or limitation on his license. In addition, the Board or Committee may reject any proposed monitor/supervisor on the basis that he has previously been subject to any disciplinary action against his medical license in this or any other jurisdiction, is currently under investigation, or is the subject of a pending disciplinary action. The monitor/supervisor must be actively engaged in the same or similar specialty area unless otherwise provided by the Board or Committee. The Board or Committee may also reject any proposed monitor/supervisor for good cause shown.

**B. MECHANISM FOR APPROVAL OF MONITOR/SUPERVISOR:**

1. **TEMPORARY APPROVAL.** The Board confers authority on the Chairman of the Board's Probation Committee to temporarily approve Respondent's monitor/supervisor. To obtain this temporary approval, Respondent shall submit to the Chairman of the Probation Committee the name and curriculum vitae of the proposed monitor/supervisor at the time this agreement is considered by the Board. **Once a Final Order adopting this Agreement is filed, Respondent shall not practice medicine without an approved monitor/supervisor. Temporary approval shall only remain in effect until the next meeting of the Probation Committee.**

2. **FORMAL APPROVAL.**

a. Respondent shall have the monitor/supervisor with him at his first probation appearance before the Probation Committee. Prior to consideration of the monitor/supervisor by the Committee, the Respondent shall provide to the monitor/supervisor a copy of the Administrative Complaint and Final Order in this case. Respondent shall submit a current curriculum vitae and a description of current practice

from the proposed monitor/supervisor to the Board office no later than fourteen days before the Respondent's first scheduled probation appearance.

b. Respondent's monitor/supervisor shall also appear before the Probation Committee at such other times as directed by the Committee. It shall be Respondent's responsibility to ensure that the appearance of his monitor/supervisor as directed. Failure of the monitor/supervisor to appear as directed shall constitute a violation of the terms of this Stipulation and shall subject the Respondent to disciplinary action.

3. CHANGE IN MONITOR/SUPERVISOR. In the event that Respondent's monitor/supervisor is unable or unwilling to fulfill his responsibilities as a monitor/supervisor as described above, then the Respondent shall immediately advise the Board of this fact. Respondent shall immediately submit to the Chairman of the Board's Probation Committee, the name of a temporary monitor/supervisor for consideration. Respondent shall not practice pending approval of this temporary monitor/supervisor by the Chairman of the Probation Committee. Furthermore, Respondent shall make arrangements with his temporary monitor/supervisor to appear before the Probation Committee at its next regularly scheduled meeting, for consideration of the monitor/supervisor by the Committee. Respondent shall only practice under the auspices of the temporary monitor/supervisor (approved by the Chairman) until the next regularly scheduled meeting of the Probation Committee whereat the issue of the Committee's approval of the Respondent's new monitor/supervisor shall be addressed.

C. CONTINUITY OF PRACTICE

1. TOLLING PROVISIONS. 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, then certain provisions of Respondent's probation (and only those provisions of the probation) shall be tolled as enumerated below and shall remain in a tolled status until Respondent returns to active practice in the State of Florida.

a. The time period of probation shall be tolled.

b. The provisions regarding supervision whether direct or indirect by another physician, and required reports from the monitor/supervisor shall be tolled.

c. The provisions regarding preparation of investigative reports detailing compliance with this Stipulation shall be tolled.

2. 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.

3. 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 his ability to practice medicine with skill and safety to patients prior to resuming the practice of medicine in this State.

D. 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, and the Board's administrative costs directly associated with Respondent's probation.

E. 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.

FILED

Department of Professional Regulation  
AGENCY CLERK



CLERK

4-8-92

DEPARTMENT OF PROFESSIONAL REGULATION  
BOARD OF MEDICINE

DEPARTMENT OF PROFESSIONAL  
REGULATION,

Petitioner,

v.

DPR CASE NUMBER: 89-05739  
LICENSE NUMBER: ME 0027836

FILEMON O. ALCANTARA, M.D.,

Respondent.

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FINAL ORDER


THIS MATTER came before the Board of Medicine (Board) pursuant to Section 120.57(3), Florida Statutes, on April 3, 1992, in Jacksonville, 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 4<sup>th</sup> day ~~March~~ April, 1992.

BOARD OF MEDICINE

  
ZACHARIAH P. ZACHARIAH, 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 Rodney W. Smith, Esq., Smith & Fletcher, P.A., 409 Northeast First Street, P. O. Box 628, Alachua, FL 32615, Filemon O. Alcantara, M.D., 3225 N.W. 57th Place, Gainesville, Florida 32606 and by interoffice delivery to Larry G. McPherson, Jr., Chief Medical Attorney, Department of Professional Regulation, Northwood Centre, 1940 North Monroe Street, Tallahassee, Florida 32399-0792, at or before 5:00 P.M., this 8 day of April, 1992.

  
DOROTHY J. FAIRCLOTH  
Executive Director