

FILED

Department of Professional Regulation  
AGENCY CLERK

STATE OF FLORIDA  
DEPARTMENT OF PROFESSIONAL REGULATION  
BOARD OF OSTEOPATHIC MEDICAL EXAMINERS

CLERK  
DATE

*Robin Harmon*  
3/12/93

DEPARTMENT OF PROFESSIONAL  
REGULATION,

Petitioner,

vs.

DPR CASE NO. 90-004207  
92-13670

THOMAS P. DeVAUGHN,

Respondent.

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FINAL ORDER

THIS MATTER came before the Board of Osteopathic Medical Examiners pursuant to Section 120.57(3), Florida Statutes, on March 6, 1993, in Miami Beach, Florida, for determination of whether to accept to the proposed consent agreement. A copy of said consent agreement is attached as an exhibit to this final order. The Petitioner was represented by Francesca Plendl, Senior Attorney. The Respondent was present and represented by counsel, Neil Garfield, Esquire.

Upon consideration of the investigative file, the proposed consent agreement, the argument of the parties, and being otherwise fully advised in the premises, it is hereby ORDERED and ADJUDGED:

(1) The proposed consent agreement is hereby approved and adopted in toto and incorporated herein by reference.

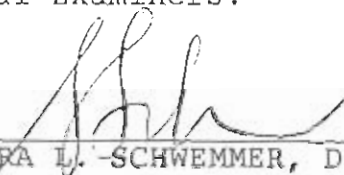
(2) Respondent will adhere to and abide by all the terms and conditions of the settlement stipulation, with the exception

that he shall have six months from the effective date of this Order to pay the fine.

(3) The Final Order and its attachments, as well as a copy of the Department's investigative report, 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 Professional Regulation.

(4) Pursuant to Section 120.68, Florida Statutes, the parties are hereby notified that they may appeal this Final Order by filing one copy of a Notice of Appeal with the Clerk of the Department of Professional Regulation and by filing the filing fee and a copy of a Notice of Appeal with the District Court of Appeal within thirty (30) days of the date when this Final Order is filed.

DONE AND ORDERED this 12 day of MARCH, 1993 by the Florida State Board of Osteopathic Medical Examiners.

  
\_\_\_\_\_  
SANDRA L. SCHWEMMER, D.O.  
CHAIR

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that true and correct copy of the foregoing has been furnished by U.S. Mail to Thomas P. DeVaughn, D.O., 4201 N. Ocean Drive, #602, Hollywood, Florida 33019 and Neil Garfield, Esquire, 3500 N. State Road 7, Fort Lauderdale, Florida 33319, this 12 day of MARCH, 1993.

  
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STATE OF FLORIDA  
DEPARTMENT OF PROFESSIONAL REGULATION

CLERK Robin Harmon

DEPARTMENT OF PROFESSIONAL  
REGULATION,

DATE 3/12/93

Petitioner,

v.

DPR CASE NO. 90-004207  
& 92-13670

THOMAS P. DeVAUGHN, D.O.

Respondent.

CONSENT AGREEMENT

THOMAS P. DeVAUGHN, 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 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 osteopathic physician in the State of Florida having been issued license number OS 0004260.

2. Respondent was charged by Administrative Complaints filed by the Department and properly served upon Respondent with violations of Chapter 459, Florida Statutes, and the rules enacted pursuant thereto. A true and correct copy of the Administrative Complaints is attached hereto as Exhibit A.

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3. Respondent neither admits nor denies the allegations of fact contained in the Administrative Complaints.

STIPULATED CONCLUSIONS OF LAW

1. Respondent admits that, in his capacity as a licensed osteopathic 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 Complaints, 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. LIFTING OF EMERGENCY SUSPENSION. The Emergency Suspension on Respondent's license to practice osteopathic medicine shall be lifted on the date of the filing of the Final Order incorporating the terms of this agreement.

3. FINE. The Board shall impose an administrative fine in the amount of \$ 4,000.00 against the Respondent. The fine shall be paid by the Respondent to the Board of Osteopathic Medicine within 30 days of its imposition by Final Order of the Board.

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

5. PROBATION. Effective on the date of the filing of the

Final Order incorporating the terms of this Agreement, Respondent's license to practice osteopathic medicine shall be placed on probation for a period of eighteen (18) months. The purpose of probation is not to prevent the Respondent from practicing medicine. Rather, probation is a supervised educational experience designed by the Board to make the Respondent aware of certain obligations to his patients and the profession and to insure Respondent's continued compliance with the high standards of the profession through interaction with another physician in the appropriate field of expertise. To this end, during the period of probation, Respondent shall comply with the following obligations and requirements:

i. Respondent shall comply with all terms of his criminal probation including but not limited to seeking a PRN evaluation.

A. RESTRICTIONS DURING PROBATION. During the period of probation, Respondent's license shall be restricted as follows:

i. INDIRECT SUPERVISION. Respondent shall practice only under the indirect supervision of a Board-approved physician, hereinafter referred to as the "monitor". In this regard, Respondent shall allow the monitor access to Respondent's medical records, calendar, patient logs or other documents necessary for the monitor to supervise Respondent as detailed below.

B. OBLIGATIONS/REQUIREMENTS OF PROBATION. During the period of probation, Respondent shall comply with the following

obligations and requirements:

i. Respondent shall appear before the of Board of Osteopathic Medicine at the first Board meeting after probation commences and at the last meeting of the Board preceding the scheduled termination of the probation; and at such other times as requested by the Board. Respondent shall be noticed by the Board staff of the date, time and place of the Board meeting 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.

ii. Within one (1) year of the filing of the Final Order incorporating the terms of this Agreement, Respondent shall attend twenty (20) hours of Category I Continuing Medical Education in medical record keeping. Respondent shall submit a written plan to the Chairman of the Board for approval prior to the completion of said continuing education hours. The Board confers authority on the Chairman of the Board to approve or disapprove 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 Osteopathic 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 Department. 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.

v. Respondent shall be responsible for ensuring that the monitor submits all required reports.

C. RESPONSIBILITIES OF THE MONITORING PHYSICIAN.

The Monitor shall:

i. Review 25% percent of Respondent's active patient records at least once a month, for the purpose of ascertaining that the medical records indicate the necessity for the treatment given to the patient and that the billing corresponds with the medical care given. The monitor shall go to Respondent's office once every month and shall review Respondent's calendar or patient log and shall select the records to be reviewed.

ii. Submit reports on a quarterly basis, in affidavit form, which shall include:

a) A brief statement of why Respondent is on probation.

b) A description of Respondent's practice (type and composition).

c) A statement addressing Respondent's compliance with the terms of probation.

d) A brief description of the monitor's relationship with the Respondent.

e) A statement advising the Board of any problems which have arisen.

f) A summary of the dates the monitor went to Respondent's office, the number of records reviewed, and the overall quality of the records reviewed.

vi. Maintain contact with the Respondent on a frequency of at least once per week. In the event that the monitor is not timely contacted by Respondent, then the monitor shall immediately report this fact to the Board, in writing.

vii. Respondent's monitor shall appear before the Board at the first meeting of said Board following commencement of the probation, and at such other times as directed by the Board. It shall be Respondent's responsibility to ensure the appearance of his monitor to appear as requested or directed. If the approved monitor fails to appear as requested or directed by the Probation Committee, the Respondent shall immediately cease practicing medicine until such time as the approved monitor or alternate monitor appears before the Probation Committee.

D. REPORTS FROM RESPONDENT. The Respondent shall submit quarterly reports, in affidavit form, the contents of which may be further specified by the Board, but which shall include:

i. A brief statement of why Respondent is on probation.

ii. A description of practice location.

iii. A description of current practice (type and composition).



iv. A brief statement of compliance with probationary terms.

v. A description of the relationship with monitoring osteopathic physician.

vi. A statement advising the Board of any problems which have arisen.

vii. A statement addressing compliance with any restrictions or requirements imposed.

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

6. It is expressly understood that this Agreement is subject to the approval of the Board and the Department. In this regard 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.

7. 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.

8. 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.

9. 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.

10. 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.

11. 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.

12. 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.

COUNTY OF BROWARD

SS

STATE OF FLORIDA

I hereby certify that I have read and understood the entire Proposed Stipulation and I agree to all terms thereof and further authorize my attorney, Neil F. Garfield, to negotiate any additional terms which might be in my interest.

It witness whereof I have affixed my hand this 9th day of January, 1993.

*Thomas P. Devaughn*  
THOMAS P. DEVAUGHN

STATE OF FLORIDA )  
                          )SS.  
COUNTY OF BROWARD )

The foregoing instrument was acknowledged before me this 9 day of January 1993, by THOMAS P. DEVAUGHN, who is personally known to me or who has produced his driver's license as identification and who did (did not) take an oath.

WITNESS my hand and official seal this 9TH day of January 1993.

*Stephanie Lerner*  
NOTARY PUBLIC OF FLORIDA



STEPHANIE LERNER  
MY COMMISSION EXPIRES  
April 9, 1995  
BONDED THRU NOTARY PUBLIC UNDERWRITERS

APPROVED this 2 day of February, 1993

George Stuart  
Secretary

*Larry C. McPherson, Jr.*  
By: Larry C. McPherson, Jr.  
Chief Attorney

Medical Section

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STATE OF FLORIDA  
DEPARTMENT OF PROFESSIONAL REGULATION  
BOARD OF OSTEOPATHIC MEDICINE

DEPARTMENT OF PROFESSIONAL  
REGULATION,

Petitioner,

DPR CASE NO. 9213670

vs.

THOMAS DE VAUGHN, D.O.

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 Osteopathic Medicine against Thomas De Vaughn, 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 20.30, Florida Statutes, Chapter 455, Florida Statutes, and Chapter 459, Florida Statutes.

2. Respondent is and has been at all times material hereto licensed to practice osteopathic medicine in the State of Florida, having been issued license number OS 0004260. Respondent's last known address is 4201 North Ocean Drive, #602, Hollywood, Florida 33019.

3. On or about October 5, 1991, the Respondent plead guilty in the Circuit Court of the Seventeenth Judicial Circuit in and for Broward County, Florida to two counts of Medicaid Fraud amounting to more than \$200.00 in twelve consecutive months. Adjudication of

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guilt was withheld on both counts.

4. Medicaid Fraud in the amount of more than \$200.00 in twelve consecutive months is a third degree felony pursuant to Section 402.325(5)(b), Florida Statutes.

5. Respondent was convicted or found guilty of, or entered a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction which directly relates to the practice of medicine or the ability to practice medicine, in that the Respondent plead guilty to Medicaid Fraud.

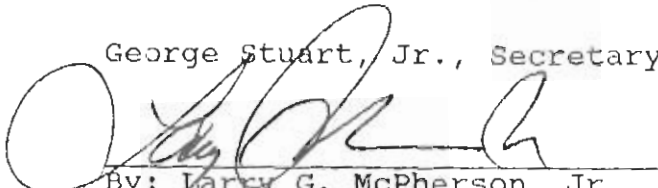
6. Based on the foregoing, Respondent violated Section 458.331(1)(c), Florida Statutes, by being convicted or found guilty of, or entering a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction which directly relates to the practice of medicine or to the ability to practice medicine.

WHEREFORE, Petitioner respectfully requests the Board of Osteopathic 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.

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SIGNED this 15 day of December, 1992.

George Stuart, Jr., Secretary

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

COUNSEL FOR DEPARTMENT:

Francesca Plendl  
Senior Attorney  
Florida Bar No. 765996  
Department of Professional Regulation  
1940 N. Monroe Street, Ste. 60  
Tallahassee, Florida 32399-0792  
(904) 488-0062  
PCP date: 12-3-92  
Members of Panel: Patterson and Lancaster

**FILED**

Department of Professional Regulation  
AGENCY CLERK



CLERK \_\_\_\_\_

DATE 12-16-92

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**MEMORANDUM**

**TO:** Compliance Tracking File

**FROM:** Client Services Unit

**DATE:** August 26, 2005

**SUBJECT:** Closing Document

Due to the history and age of this file, it is apparent that it should have been closed; however, no closing order or notice of completion was entered into this file during the normal course of business. In the absence of this documentation, this memorandum will serve as the official closing document and terminates compliance tracking activities for the attached Final Order.