

8/7/92

STATE OF FLORIDA  
DEPARTMENT OF PROFESSIONAL REGULATION  
BOARD OF MEDICINE

DEPARTMENT OF PROFESSIONAL  
REGULATION,

PETITIONER,

vs.

CASE NO. 9201781

EULOGIO MUNCAL VIZCARRA, M.D.

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 Medicine against EULOGIO MUNCAL VIZCARRA, 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 000300012. Respondent's last known address is P.O. Box 1030, 1012 South Jefferson Street, Perry, Florida, 32347-4619.

3. At all times material hereto, Respondent was Patient #1c's attending physician at Perry Health Facility Nursing Home,

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Perry, Florida, and Dr. Yaser Hasan Loutfi, hereinafter referred to as "Dr. Loutfi," served as his associate.

4. On or about August 21, 1991, Patient #1c, an eighty-two (82) year old female, presented to Respondent with complaints of abdominal pain.

5. Notwithstanding Patient #1c's complaints of abdominal pain on August 21, 1991, neither Respondent nor Dr. Loutfi examined the patient to determine the cause of abdominal pain until on or about November 11, 1991, at which time Dr. Loutfi performed a colonoscopy on Patient #1c's midtransverse colon.

6. As a result of the colonoscopy, Dr. Loutfi diagnosed Patient #1c as suffering from chronic diverticulitis.

7. During the period of on or about November 11, 1991, to on or about January 10, 1992, neither Respondent nor Dr. Loutfi conducted any follow up examinations or diagnostic testing to address Patient #1c's continuing complaint of abdominal pain.

8. On or about January 10, 1992, Patient #1c continued to have abdominal pain. She was then taken to Respondent's office where Dr. Loutfi ordered an X-ray, which revealed a bowel obstruction, and performed a manual bowel disimpaction.

9. On or about January 14, 1992, Respondent saw Patient #1c and ordered another X-ray which had abnormal results which indicated immediate sophisticated consultation and additional care in a hospital.

10. Although this X-ray had abnormal results, Respondent opined that it revealed no indication of an acute abdomen and failed to obtain consultation or hospital care for Patient #1c.

11. On or about January 16, 1992, Patient #1c continued to have severe abdominal pain and her daughter had her transferred to Crest Medical Center, where that same day Patient #1c underwent surgery which revealed obstruction of the ileum, which had perforated the small intestine, and mesenteric thrombosis.

11. Respondent inappropriately waited from on or about August 21, 1991 to on or about November 11, 1991 to examine or conduct other procedures, or to arrange for these to be done, on Patient #1c to determine the cause of her abdominal pain.

12. Respondent failed to properly read Patient #1c's January 14, 1992 X-rays and obtain consultation and/or hospital care for Patient #1c.

13. Respondent failed to properly diagnose Patient #1c's true condition.

14. Respondent's medical records of Patient #1 fail to justify his treatment of her.

COUNT ONE

15. Petitioner realleges and incorporates paragraphs one (1) through fourteen (14) as if fully set forth herein this Count One.

16. Respondent is guilty of gross or repeated malpractice or the failure 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 in that Respondent waited from on or about August 21, 1991 to on or about November 11, 1991 to examine or conduct other procedures, or to arrange to have these done, on Patient #1c to determine the cause of her abdominal pain; failed to properly read Patient #1c's January 10, 1992 X-ray and obtain consultation and/or hospital care for Patient #1c; and failed to properly diagnose Patient #1c's true condition.

17. Based on the preceding allegations, Respondent violated Section 458.331(1)(t), Florida Statutes in that he is guilty of gross or repeated malpractice or the failure 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 TWO

18. Petitioner realleges and incorporates paragraphs one (1) through fourteen (14) and sixteen (16) as if fully set forth herein this Count Two.

19. Respondent is guilty of failing to keep written medical records justifying the course of treatment of the patient in that Respondent's medical records of Patient #1c fail to justify his treatment of her.


20. Based on the preceding allegations, Respondent violated Section 458.331(1)(m), Florida Statutes, in that he is guilty of failing to keep written medical records justifying 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.

WHEREFORE, the 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 7 day of August, 1992.

George Stuart, Secretary

  
Larry G. McPherson, Jr.  
Chief Medical Attorney

COUNSEL FOR DEPARTMENT:

Larry G. McPherson, Jr.  
Chief Medical Attorney  
Department of Professional Regulation  
1940 North Monroe Street  
Tallahassee, Florida 32399-0750  
Florida Bar #788643  
CJR/dpb  
PCP: July 29, 1992  
McEwen, Kaiser and Dauer

**FILED**

Department of Professional Regulation  
AGENCY CLERK



CLERK \_\_\_\_\_

DATE 8-7-92

STATE OF FLORIDA  
DEPARTMENT OF PROFESSIONAL REGULATION

DEPARTMENT OF BUSINESS AND  
PROFESSIONAL REGULATION,  
BOARD OF MEDICINE,

Petitioner,

v.

DPR CASE NO. 92-01781  
DOAH CASE NO. 93-0137

EULOGIO M. VIZCARRA, M.D.,

Respondent.

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CONSENT AGREEMENT

Eulogio M. Vizcarra, M.D., referred to as the "Respondent", and the Department of Business and 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 000300012.
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

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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 abide by 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 \$5,000.00 against the Respondent. The fine shall be paid by the Respondent to the Board of Medicine within twelve (12) months of its imposition by Final Order of the Board.

3. **OBLIGATIONS/REQUIREMENTS.** Within one (1) year of the filing of the Final Order incorporating the terms of this Agreement, Respondent shall attend fifteen (15) hours of Category I Continuing Medical Education in General Practice and five (5) hours of Category I Continuing Medical Education in Risk Management. Respondent shall also submit a written plan to the Chairman of the Board for approval prior to completion of said continuing education hours. In the event that the required

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continuing education hours are not readily available during the mandated time frame, the Respondent may petition the Board for an extension of time in which to complete this requirement. 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 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.

4. The Department of Professional Regulation agrees that no information concerning this Consent Agreement and any of its contents will be reported, forwarded, or otherwise disseminated to the National Practitioner Data Bank or published in the National Practitioner Data Bank.

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

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or Department staff.

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 incorporating the terms of this Agreement is entered by the Board.

7. Should this agreement be rejected, no statement made in furtherance of this agreement by 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.

8. Respondent and the Department fully understand that this joint Agreement and subsequent Final Order incorporating same will in no way preclude additional proceedings against Respondent for acts or omissions not specifically set forth in the Administrative Complaint attached as Exhibit "A" herein.

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 Department 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 this Agreement. Furthermore, should this joint Agreement not be

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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 15 day of October, 1993.

  
Eulogio Vizcarra, M.D.

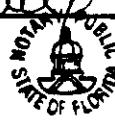
STATE OF FLORIDA

COUNTY OF TAYLOR

Before me, personally appeared Eulogio Vizcarra, M.D., whose identity is known to me by personally known (type of identification) and who, under oath, acknowledges that his signature appears above.

Sworn to and subscribed before me this 15<sup>th</sup> day of October, 1993.

  
NOTARY PUBLIC

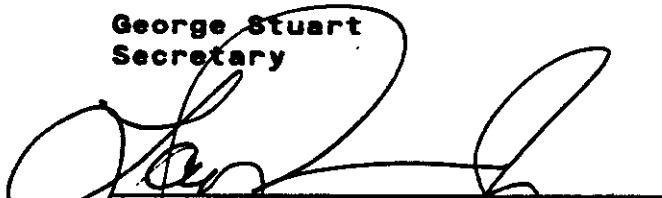


ANGELA TERRAYNE ROWELL  
COMMISSION # CC 310044  
EXPIRES AUG 19, 1997  
Atlantic Bonding Co., Inc.  
800-732-2245

My Commission Expires: 8-19-97

Approved this 20 day of October, 1993.

George Stuart  
Secretary

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

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FILED

Department of Business and Professional Regulation  
DEPUTY CLERK

DEPARTMENT OF BUSINESS AND  
PROFESSIONAL REGULATION  
BOARD OF MEDICINE

CLERK *Ronald L. Bryan*  
DATE 12-23-93

DEPARTMENT OF BUSINESS AND  
PROFESSIONAL REGULATION,

Petitioner,

v.

DBPR CASE NUMBER: 92-01781  
LICENSE NUMBER: ME 0030012

EULOGIO MUNCAL VIZCARRA, M.D.,

Respondent.

FINAL ORDER

THIS MATTER came before the Board of Medicine (Board) pursuant to Section 120.57(3), Florida Statutes, on December 4, 1993, in Boca Raton, 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 20<sup>th</sup> day December, 1993.

BOARD OF MEDICINE



RICHARD JAMES CAVALLARO, M.D.  
FIRST VICE 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 Eulogio Muncal Vizcarra, M.D., P.O. Box 1030, 1012 South Jefferson Street, Perry, Florida 32347-4619, E. Dillon Vizcarra, Esquire, 605 South Jefferson Street, Perry, Florida 32347 and by interoffice delivery to Larry G. McPherson, Jr., Chief Medical Attorney, Department of Business and Professional Regulation, Northwood Centre, 1940 North Monroe Street, Tallahassee, Florida 32399-0792, at or before 5:00 P.M., this \_\_\_\_\_ day of \_\_\_\_\_, 1993.

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MARM M. HARRIS, Ph.D.  
Executive Director