

V  
reple 28 ✓

STATE OF FLORIDA  
AGENCY FOR HEALTH CARE ADMINISTRATION  
BOARD OF MEDICINE

AGENCY FOR HEALTH CARE  
ADMINISTRATION, BOARD OF  
MEDICINE,

Petitioner,

v.

TIN MYO THAN, M.D.,

Respondent.

---

Final Order No. AHCA-94-234 Date 8-26-94

**FILED**

Agency for Health Care Administration

AGENCY CLERK

R.S. Power, Agency Clerk

By: Brandan L. Moore  
Deputy Agency Clerk

CASE NUMBERS: 93-04447

93-19926

LICENSE NUMBER: ME 0026383

FINAL ORDER

THIS MATTER came before the Board of Medicine (Board) pursuant to Section 120.57(3), Florida Statutes, on August 6, 1994 in Orlando, 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, the Board rejected the Consent Agreement proposed and offered an amendment at the hearing, which amendment was accepted without objection by the parties.

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 with the amendment that the Respondent shall attend the course "Quality Medical Record Keeping

---

<sup>1</sup>Effective July 01, 1994, the Board of Medicine was transferred from the Department of Business and Professional Regulation to the Agency for Health Care Administration pursuant to Section 20.42, Florida Statutes.

For Health Care Professionals" sponsored by the Florida Medical Association Committee on Clinical Excellence in October, 1994. Accordingly, the parties shall adhere to and abide by all of the terms and conditions of the Consent Agreement, as amended.

This Final Order takes effect upon filing with the Clerk of the Agency.

DONE AND ORDERED this 22 day August, 1994.

BOARD OF MEDICINE

  
EDWARD A. DAUER, 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 Tin Myo Than, M.D., 3949 Evans Avenue #204, Ft. Myers, Florida 33901-9343, Steven J. Taminosian, Esquire, 2108 Monroe Street, Post Office Box 2648, Ft. Myers, Florida 33902, and by interoffice delivery to Larry G. McPherson, Jr., Chief Medical Attorney, Agency for Health Care Administration, Northwood Centre, 1940 North Monroe Street, Tallahassee, Florida 32399-0792, at or before 5:00 P.M., this \_\_\_\_\_ day of \_\_\_\_\_, 1994.

\_\_\_\_\_  
MARM M. HARRIS, Ed.D.  
Executive Director

STATE OF FLORIDA  
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

DEPARTMENT OF BUSINESS AND  
PROFESSIONAL REGULATION,

Petitioner,

v.

DBPR CASE NOS. 93-04447  
93-19926

TIN MYO THAN, M.D.

Respondent.

\_\_\_\_\_ /

CONSENT AGREEMENT

TIN MYO THAN, 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 0026383.

2. Respondent was charged by Administrative Complaints filed by the Department and properly served upon Respondent with violations of Chapters 455 and 458, Florida Statutes, and the rules enacted pursuant thereto. True and correct copies of the Administrative Complaints are attached hereto as Composite Exhibit "A."

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 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 Complaints, if proven, would constitute violations of Chapters 455 and 458, Florida Statutes, as alleged in the Administrative Complaints.

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. Respondent shall use due diligence in attending to the administrative requirements of his practice.

2. FINE. The Board shall impose an administrative fine in the amount of two thousand five hundred dollars (\$2,500.00) against the Respondent. The fine shall be paid by the Respondent to the Executive Director of the Board within one hundred eighty (180) days of its imposition by Final Order of the Board.

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

4. PROBATION. 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 placed on probation for a

period of one (1) year. 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 administrative obligations to his patients and the profession and in this case to make certain that Respondent acts with more diligence regarding his licensure administrative responsibilities.

A. OBLIGATIONS/REQUIREMENTS OF PROBATION. During the period of probation, Respondent shall comply with the following obligations and requirements:

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

B. INDIRECT SUPERVISION: Respondent shall practice only under the indirect supervision of a Board-approved physician, hereinafter referred to as the "monitor" for a period of one (1) year. 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.

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

C. RESPONSIBILITIES OF THE MONITORING PHYSICIAN.

The Monitor shall:

i. Review twenty-five (25) percent of Respondent's active patient records at least once a month, for the purpose of ascertaining Respondent's due diligence to the administrative requirements of his practice. 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.

iii. Maintain contact with the Respondent on a frequency of at least once a month. 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.

iv. Respondent's monitor shall appear before the Probation Committee at the first meeting of said committee following commencement of the probation, and at such other times as directed by the Committee. 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 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 physicians," Exhibit "B," which is incorporated as if fully set forth herein.

5. 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.

6. 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 whereby he demonstrates what actions have been taken in his medical practice to insure that this type of episode does not reoccur.

7. 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.

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 Complaints attached as Composite Exhibit "A" herein.

9. 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.

10. 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.

11. This Agreement is executed by the Respondent for the purpose of avoiding further administrative action with respect to these causes. 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 28<sup>th</sup> day of June, 1994.

*Tin Myo Than*

TIN MYO THAN, M.D.

Before me, personally appeared Tin Myo Than, whose identity is known to me by personal knowledge (type of identification) and who, under oath, acknowledges that his/her signature appears above.

Sworn to and subscribed before me this 28<sup>th</sup> day of June, 1994.

OFFICIAL NOTARY SEAL  
MARIE L RICH  
NOTARY PUBLIC STATE OF FLORIDA  
COMMISSION NO. CC326335  
MY COMMISSION EXP. DEC. 29, 1997

My Commission Expires:

*Marie L Rich*  
NOTARY PUBLIC

APPROVED this 29 day of June, 1994.

George Stuart  
Secretary

*Larry G. McPherson, Jr.*

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

Exhibit B

**STANDARD TERMS APPLICABLE TO CONSENT AGREEMENTS**

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 the appearance of his monitor/supervisor as 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.

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.

d. The provisions regarding reports by the Respondent shall be tolled.

e. The provisions regarding appearances before the Probationer's Committee 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.



STATE OF FLORIDA  
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION  
BOARD OF MEDICINE

DEPARTMENT OF BUSINESS AND  
PROFESSIONAL REGULATION,

PETITIONER,

vs.

CASE NO. 9304447

TIN MYO THAN, M.D.,

RESPONDENT.

\_\_\_\_\_ /

ADMINISTRATIVE COMPLAINT

COMES NOW the Petitioner, Department of Business and Professional Regulation, hereinafter referred to as "Petitioner," and files this Administrative Complaint before the Board of Medicine against Tin Myo Than, 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 20.165, 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 0026383. Respondent's last known address is 3943 Evans Avenue Fort Myers, FL 33901-9343.

3. On or about January 1, 1988, medical license number ME 0026383 issued to Respondent became involuntarily inactive because Respondent failed to renew his license.

4. Respondent last renewed his medical license on or about December 1985.

5. Section 458.327(2)(e), Florida Statutes, practicing medicine, or attempting to practice medicine, without holding a valid, active license is a misdemeanor in the first degree.

6. Respondent practiced medicine during the period of January 1, 1988 to April 6, 1993 without an active medical license, to include issuing prescriptions to Patient S.G. on or about October 1989 through on or about October 1991 for numerous and various drugs, including but not limited to the following: Tegretol, Methylphenidate, Prozac, and Ritalin.

7. Respondent also issued prescriptions to Patient V.G. on or about February 25, 1993 through on or about March 4, 1993 for various drugs, including but not limited to the following: Depakote, Navane, Prozac, and Eskalith.

8. Respondent also issued prescriptions to Patient B.S. on or about January 1993 through on or about March 1993 for various drugs including but not limited to the following: Haldol, Symmetrel, and Depakote.

9. Respondent also issued prescriptions to various other patients not named herein for various other drugs since January 1, 1988 without an active medical license.

Count One

10. Petitioner realleges and incorporates paragraphs one (1) through nine (9) as if fully set forth herein this Count One.

11. Respondent is guilty of 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. For the purposes of this paragraph, 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 in that Respondent has prescribed various legend drugs to various patients without an active medical license since on or about January 1, 1988.

12. Based on the foregoing, Respondent violated Section 458.331(1)(q), Florida Statutes, in that he is guilty of 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. For the purposes of this paragraph, 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.

Count Two

13. Petitioner realleges and incorporates paragraphs one (1) through nine (9) and eleven (11) as if fully set forth herein this Count Two.


14. Respondent is guilty of 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 in that Respondent misrepresented himself as a licensed medical doctor and practiced medicine without an active license in violation of Section 458.327(2)(e), Florida Statutes.

15. Based on the foregoing, Respondent violated Section 458.331 (1)(x), Florida Statutes, in that he is guilty of 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, 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 22 day of September, 1993.

George Stuart, Secretary

  
Larry G. McPherson, Jr.  
Chief Medical Attorney

COUNSEL FOR DEPARTMENT:

Larry G. McPherson, Jr.  
Chief Medical Attorney  
Department of Business and Professional Regulation  
1940 North Monroe Street  
Tallahassee, Florida 32399-0750  
Florida Bar #788643  
RPC/mry  
PCP: September 16, 1993  
Murray and Slade

**FILED**  
Department of Business and Professional Regulation  
AGENCY CLERK

CLERK Sarah L. Washman  
DATE 9/23/93

STATE OF FLORIDA  
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION  
BOARD OF MEDICINE

DEPARTMENT OF BUSINESS AND  
PROFESSIONAL REGULATION,

PETITIONER,

vs.

CASE NO. 93-19926

TIN MYO THAN, M.D.,

RESPONDENT.

---

ADMINISTRATIVE COMPLAINT

COMES NOW the Petitioner, Department of Business and Professional Regulation, hereinafter referred to as "Petitioner," and files this Administrative Complaint before the Board of Medicine against Tin Myo Than, 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 20.165, 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 0026383. Respondent's last known address is 3949 Evans Avenue, #204, Fort Myers, Florida 33900.

3. Respondent is a non-Board Certified psychiatrist.

4. Respondent's license became inactive on or about January 1, 1988.

5. Respondent treated Patient R.S. during 1989 through about May 1993.

6. Section 458.327(1)(a), Florida Statutes, states in part, it is unlawful to practice medicine or attempt to practice medicine without an active license.

7. Respondent closed his practice in about May 1993, without the taking the appropriate measures as listed in Rule 61F6-26.002(4), Florida Administrative Code .

8. Rule 61F6-26.002(4), Florida Administrative Code, states, when a licensed physician terminates practice or relocates and is no longer available to patients, patients should be notified of such termination, sale, or relocation and unavailability by the physician's causing to be published, in the newspaper of greatest general circulation in each county in which the physician practices or practiced and in a local newspaper that serves the immediate practice area, a notice which shall contain the date of termination, sale, or relocation and an address at which the records may be obtained from the physician terminating or selling the practice or relocating or from another licensed physician or osteopathic physician. In addition, the licensed physician shall place in a conspicuous location in or on the facade of the physician's office, a sign, announcing the termination, sale, or relocation of the practice. The sign shall be placed at least thirty days prior to the termination, sale, or relocation of practice and shall remain until the date of termination, sale, or relocation. Both the notice and the sign shall advise the licensed physician's patients of their opportunity to transfer or receive their records.

9. On or about August 27, 1993, Patient R.S. sent Respondent a written authorization for release of medical records to her subsequent treating physician.

10. Respondent failed to respond to Patient R.S.'s request.

11. Respondent was notified of the complaint on or about November 4, 1993, and again on or about January 20, 1994.

12. Respondent mailed Patient R.S.'s medical records to Patient R.S.'s subsequent treating physician on or about February 4, 1994.

13. On or about February 8, 1994, Patient R.S.'s subsequent treating physician received Patient R.S.'s medical records.

14. Section 455.241(1), Florida Statutes, states in part, any health care practitioner who makes a physical or mental examination of, or administers treatment to, any person shall, upon request of such person or his legal representative, furnish, in a timely manner, without delays for legal review, copies of all reports and records relative to such examination or treatment. Upon a patient's written request, complete copies of the patient's psychiatric records shall be provided directly to a subsequent treating psychiatrist.

Count One

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

16. Respondent is guilty of failing to perform any statutory or legal obligation placed upon a licensed physician, in that Respondent violated Section 455.241, Florida Statutes, by failing



to timely provide Patient R.S.'s subsequent physician Patient R.S.'s medical records upon request.

17. Based on the foregoing, Respondent violated Section 458.331(1)(g), Florida Statutes, and is guilty of failing to perform any statutory or legal obligation placed upon a licensed physician.

Count Two

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

19. Respondent is guilty of 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, in that Respondent violated Section 458.327(1)(a) by practicing with an inactive license.

20. Based on the foregoing, Respondent violated Section 458.331(1)(x), Florida Statutes, and is guilty of 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.

Count Three

21. Petitioner realleges and incorporates paragraph one (1) through fourteen (14), sixteen (16) and nineteen (19) as if full set forth herein this Count Three.

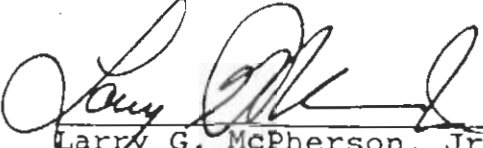
22. Respondent is guilty of violating any provision of this chapter, a rule of the board or department, or a lawful order of the board or department previously entered in a disciplinary hearing or failing to comply with a lawfully issued subpoena of the department, in that Respondent violated Rule 61F6-26.002(4), Florida Administrative Code, by failing to appropriately disseminate notification of the closure of his practice.

23. Based on the foregoing, Respondent violated Section 458.331(1)(x), Florida Statutes, and is guilty of 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, the Petitioner respectfully requests the Board of Medicine enter an Order imposing one or more of the following penalties: permanent 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 23 day of April, 1994.

George Stuart, Secretary

  
Larry G. McPherson, Jr.  
Chief Medical Attorney

COUNSEL FOR DEPARTMENT:

Larry G. McPherson, Jr.  
Chief Medical Attorney  
Department of Business and Professional Regulation  
1940 North Monroe Street  
Tallahassee, Florida 32399-0792  
Florida Bar #788643  
RPC/kjh  
PCP: April 20, 1994  
Murray and Varn

**FILED**

Department of Business and Professional Regulation  
AGENCY CLERK

CLERK Sarah L. Washburn  
DATE 4-26-94