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STATE OF FLORIDA
AGENCY FOR HEALTH CARE ADMINISTRATION
BOARD OF MEDICINE

AGENCY FOR HEALTH CARE
ADMINISTRATION, BOARD OF
MEDICINE,

Petitioner,

v.

CHARLES WILLIAM HIRT, M.D.,

Respondent.

Final Order No. AHCA-94-859 Date 12-22-94

FILED

Agency for Health Care Administration
AGENCY CLERK

R.S. Power, Agency Clerk
By: Donna C. Hirt
Deputy Agency Clerk

CASE NUMBER: 93-04911
LICENSE NUMBER: ME 0037230

FINAL ORDER

THIS MATTER came before the Board of Medicine (Board) pursuant to Section 120.57(3), Florida Statutes, on December 3, 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,

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 Agency.

DONE AND ORDERED this 3rd day December, 1994.

BOARD OF MEDICINE

Edward A. Dauer M.D.
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 Charles William Hirt, M.D., 2041 Hawaii Avenue NE, St. Petersburg, Florida 33703, Scot E. Samis, Esquire, 4699 Central Avenue, St. Petersburg, Florida 33713 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 22 day of December, 1994.

Marm Harris
MARM M. HARRIS, Ed.D.
Executive Director

STATE OF FLORIDA
AGENCY FOR HEALTH CARE ADMINISTRATION
BOARD OF MEDICINE --

AGENCY FOR HEALTH
CARE ADMINISTRATION¹,

PETITIONER,

vs.

CASE NUMBER: 93-04911

CHARLES WILLIAM HIRT, M.D.,

RESPONDENT.

CONSENT AGREEMENT

Charles William Hirt, M. D., referred to as the "Respondent," and the Agency For Health Care Administration, referred to as "Agency," 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 0050155.

2. Respondent was charged by an Administrative Complaint filed by the Agency and properly served upon Respondent with violations of Chapter 455 and Chapter 458, Florida Statutes, and

¹ NOTE: Pursuant to Section 20.42, Florida Statutes, effective July 1, 1994, all Boards in the Medical Quality Assurance Section of the Department of Business and Professional Regulation were transferred to the newly created Agency for Health Care Administration.

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 Chapter 455 and Chapter 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 Chapter 458, Florida Statutes, or the rules promulgated pursuant thereto.

2. FINE. The Board shall impose an administrative fine in the amount of one thousand dollars (\$1,000.00) against the Respondent. The fine shall be paid by the Respondent to the Board of Medicine within ninety (90) days of the filing of the Final Order of the Board.

3. Respondent shall explain to the Board the circumstances of this case and how his subsequent training and present approach

will prevent future occurrences such as the one in the Administrative Complaint.

4. Respondent shall perform 30 additional hours of continuing medical education in the area of general radiology, including mammography, within one (1) year of the Final Order of the Board.

5. Respondent shall submit an affidavit stating that he has read and understands Chapter 455 and Chapter 458 of the Florida Statutes.

6. It is expressly understood that this Agreement is subject to the approval of the Board and the Agency. 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. 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 Agency Staff. The Respondent shall be prepared to explain the circumstances involved in this matter and what measures have been taken to prevent a reoccurrence.

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 Agency 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 Agency 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.

SIGNED this 5 day of OCT, 1994.

Charles William Hirt
CHARLES WILLIAM HIRT

Before me, ^{personally} personally appeared Charles William Hirt whose identity is known to me by (type of identification) and who, under oath, acknowledges that his signature appears above.

Sworn to and subscribed before me this 5 day of OCT, 1994.

[Signature]
NOTARY PUBLIC

My Commission Expires:

NOTARY PUBLIC STATE OF FLORIDA
COMMISSION EXPIRES: FEB. 26, 2003
LARRY G. MCPHERSON, JR., D.D.

APPROVED this 27 day of October, 1994.

George Stuart
Secretary

[Signature]

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

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

DEPARTMENT OF BUSINESS AND
PROFESSIONAL REGULATION,

PETITIONER,

vs.

CASE NO. 93-04911

CHARLES WILLIAM HIRT, 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 Charles William Hirt, 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 0037230. Respondent's last known address is 2041 Hawaii Avenue, N.E., St. Petersburg, Florida 33703.
3. Respondent is a radiologist, but is not board certified.
4. On or about February 25, 1992, Patient #1, a 68 year old female, presented to Holiday Diagnostic Clinic for a rash on her chest wall, at which time she had a screening mammogram performed.

5. The mammogram films were read by Respondent, who noted "no evidence of malignancy."

6. On or about April 27, 1992, Patient #1 presented to a subsequent treating physician, a board certified general surgeon, complaining of dimpling on the nipple of her left breast. The subsequent treater's initial diagnosis was breast cancer.

7. The subsequent treater reviewed the film from the mammogram that was taken on or about February 25, 1992, and noted a mass in the left breast of Patient #1. A biopsy on the left breast of Patient #1 was performed and breast cancer diagnosed.

8. On or about May 1, 1992, a left mastectomy on Patient #1 was performed. Patient #1 was discharged on or about May 6, 1992 and later underwent chemotherapy treatment.

9. Respondent practiced medicine below the acceptable level of care in that Respondent failed to identify or note any masses in the left breast of Patient #1 when he interpreted the mammogram that was taken on or about February 25, 1992. A reasonably prudent similar physician would have noted the mass in the left breast of Patient #1 left breast to be abnormal and would have recommended that the patient undergo further clinical evaluation to determine the nature of the mass.

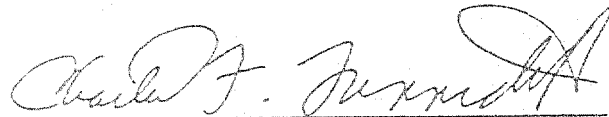
10. Based on the preceding allegations, Respondent violated Section 458.331(1)(t), Florida Statutes, gross or repeated malpractice or the failure to practice with that level of care, skill, and treatment which is recognized by a reasonably prudent

similar physician as being acceptable under similar conditions and circumstances.

WHEREFORE, the Petitioner respectfully requests the Board of Medicine enter an Order imposing one or more of the following penalties: 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. Petitioner is not seeking revocation or suspension of the Respondent's license.

SIGNED this 11th 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 32399-0750
Florida Bar #788643
LGM/dr
PCP: March 2, 1994
Katims, Diblan, Fenwick

FILED

Department of Business and Professional Regulation
DEPUTY CLERK

CLERK Brandon L. Moore

DATE 4-12-94