

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

DEPARTMENT OF BUSINESS AND
PROFESSIONAL REGULATION,

PETITIONER,

vs.

CASE NO. 93-05750

MURIEL Y. Y. MYINT, 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 Muriel Y. Y. Myint, 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 0026238. Respondent's last known address is 3949 Evans Avenue #204, Fort Myers, Florida 33901-9343.

3. From on or about December 31, 1987 until on or about May 7, 1993, Respondent's husband, Tin Myo Than, practiced medicine with the Respondent without an active Florida medical license.

4. Respondent knew that Tin Myo Than had not renewed his license since about 1988.

5. Respondent continued to allow Tin Myo Than to see patients and to allow him to write prescriptions, including prescriptions for controlled medications.

6. Respondent allowed Tin Myo Than's name to remain on the lobby directory and on the office door as a practicing psychiatrist.

7. Respondent failed to notify the Board of Medicine that Tin Myo Than was practicing medicine without a valid medical license.

8. Pursuant to Section 458.327(2)(a), Florida Statutes, Respondent knowingly concealed information relating to violations of this chapter by Tin Myo Than.

COUNT ONE

9. Petitioner realleges and incorporates paragraphs one (1) through eight (8), as if fully set forth herein this Count One.

10. Respondent is guilty of failing to report to the department any person who the licensee knows is in violation of this chapter or the rules of the department of the department or the board by failing to notify the board of medicine that Tin Myo Than was practicing medicine without a valid license.

11. Based on the foregoing, Respondent violated Section 458.331(1)(e), Florida Statutes, by failing to report to the department any person who the licensee

knows is in violation of this chapter or the rules of the department of the department or the board.

COUNT TWO

12. Petitioner realleges and incorporates paragraphs one (1) through eight (8) and ten (10), as if fully set forth herein this Count Two.

13. Respondent is guilty of aiding, procuring, or advising any unlicensed to practice medicine contrary to this chapter or to a rule of the department or the board by allowing Tin Myo Than to practice medicine without a valid medical license.

14. Based on the foregoing, Respondent violated Section 458.331(1)(f), Florida Statutes, by aiding, procuring, or advising any unlicensed to practice medicine contrary to this chapter or to a rule of the department or the board.

COUNT THREE

15. Petitioner realleges and incorporates paragraphs one (1) through eight (8), ten (10) and thirteen (13), as if fully set forth herein this Count Three.

16. 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 by violating Section 458.327(2)(a).

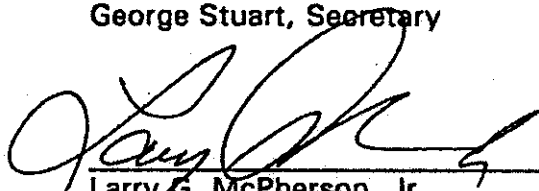
17. Based on the foregoing, Respondent violated Section 458.331(1)(x), Florida Statutes, by violating any provision of this chapter, a rule of the board or department, or a lawful order of the board or department previously entered in a

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: 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. Under the provisions of Section 458.331(3), Florida Statutes, the Petitioner does not seek revocation or suspension of the Respondent's license in this matter.

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 32399-0792
Florida Bar #788643
RPC/MLM
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
AGENCY FOR HEALTH CARE ADMINISTRATION
BOARD OF MEDICINE

AGENCY FOR HEALTH
CARE ADMINISTRATION,

Petitioner,

v.

AHCA CASE NO. 93-05750

MURIEL Y.Y. MYINT, M.D.,

Respondent.

CONSENT AGREEMENT

MURIEL Y.Y. MYINT, 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 0026238.

2. Respondent was charged by an Administrative Complaint filed by the Agency and properly served upon Respondent with violations of Chapters 455 and 458, Florida Statutes, and the rules enacted pursuant thereto. A true and correct copy of the Administrative Complaint is attached hereto as Composite 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 her capacity as a licensed physician, she is subject to the provisions of Chapters 455 and 458, Florida Statutes, and the jurisdiction of the Agency and the Board.

2. Respondent admits that the facts set forth in the Administrative Complaint, if proven, would constitute violations of Chapters 455 and 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. Respondent shall provide a signed affidavit to the Board attesting to the fact that she has read and understands Section 458.327 and 458.331, Florida Statutes.

2. FINE. The Board shall impose an administrative fine in the amount of one thousand eight hundred dollars (\$1,800.00) 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. 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.

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 or Agency Staff whereby she demonstrates what actions have been taken in her medical practice to insure that this type of episode does not reoccur.

6. 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.

7. Respondent and the Agency 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 Composite Exhibit "A" herein.

8. 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.

9. Upon the Board's adoption of this Agreement, the parties hereby agree that each party will bear her 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 Agency in connection with this matter.

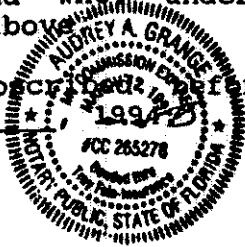
10. This Agreement is executed by the Respondent for the purpose of avoiding further administrative action with respect to these causes. In this regard, Respondent authorizes the Board to review and examine all investigative file materials concerning Respondent prior to or in conjunction with consideration 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 6 day of Jan., 1995.

Muriel Y.Y. Myint
MURIEL Y.Y. MYINT, M.D.

Before me, personally appeared MURIEL Y.Y. MYINT, whose identity is known to me by _____ (type of identification) and who, under oath, acknowledges that her signature appears above.

Sworn to and subscribed before me this 6th day of JANUARY



Audrey A. Grange
NOTARY PUBLIC

My Commission Expires:

APPROVED this 20 day of January, 1995

Douglas Cook
Director

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

STATE OF FLORIDA
AGENCY FOR HEALTH CARE ADMINISTRATION
BOARD OF MEDICINE

Final Order No. AHCA-95-00534 Date 4-11-95

AGENCY FOR HEALTH CARE
ADMINISTRATION, BOARD OF
MEDICINE,

Petitioner,

v.

MURIEL Y.Y. MYINT, M.D.,

Respondent.

CASE NUMBER: 93-05750
LICENSE NUMBER: ME 0026238

FILED

Agency for Health Care Administration
AGENCY CLERK

R.S. Power, Agency Clerk

By: Brenda D. Moore
Deputy Agency Clerk

FINAL ORDER

THIS MATTER came before the Board of Medicine (Board) pursuant to Section 120.57(3), Florida Statutes, on April 7, 1995 in Ft. Lauderdale, 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 10th day April, 1995.

BOARD OF MEDICINE

Gary E. Winchester, M.D.
GARY E. WINCHESTER, 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 Muriel Y.Y. Myint, M.D., 3949 Evans Avenue, Suite 204, Ft. Myers, Florida 33901-9343, Harold M. Stevens, Esquire, P.O. Drawer 1440, 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 _____, 1995.

MARM M. HARRIS, Ed.D.
Executive Director