

STATE OF FLORIDA
AGENCY FOR HEALTH CARE ADMINISTRATION
BOARD OF MEDICINE

AGENCY FOR HEALTH CARE
ADMINISTRATION,

PETITIONER,

vs.

CASE NOS. 95-09567
95-05807

GEORGE DIAZ, M.D.,

RESPONDENT.

ADMINISTRATIVE COMPLAINT

COMES NOW the Petitioner, Agency for Health Care Administration Regulation, hereinafter referred to as "Petitioner," and files this Administrative Complaint before the Board of Medicine against George Diaz, 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 20.42, 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 0013224. Respondent's last known address is 13506 Southwest 58th Court, Miami, Florida 33156-7252.

3. Respondent is Board Certified in Psychiatry.

4. Between on or about May 2, 1990 and February 28, 1993, Respondent submitted claims to the Florida Medicaid Program for psychiatry services he had rendered to patients. Respondent was

billing all of his Medicaid patients for the same treatment period of forty-five (45) minutes and he received payment in excess of \$3500.

5. On or about February 8, 1995, Respondent appeared unto the Circuit Court of the Eleventh Judicial Circuit in and for Dade County, Florida.

6. Appearing unto the Court, Respondent was found guilty of the charge of grand theft--third degree by the Court upon the entry of a nolo contendere plea.

7. It was ordered and adjudged by the court that Respondent pay the following: restitution in the amount of \$3,915 to the Agency for Health Care Administration; and reimbursement of \$10,000 in investigative costs to the Office of the Attorney General.

8. Respondent was also terminated for a period of five (5) years from participation in the Florida Medicaid program for violation of federal and state laws and regulations respecting the Medicaid program.

9. Section 812.014(1)(b), Florida Statutes, states in part:

A person commits theft if he knowingly obtains or uses, or endeavors to obtain or to use, the property of another with intent to, either temporarily or permanently appropriate the property to his own use or to the use of any person not entitled thereto.

10. Section 812.014(2)(c), Florida Statutes, states it is grand theft of the third degree and a felony of the third degree, punishable as provided in s. 775.082, s.775.083, or s.775.084, if

the property stolen is valued at \$300 or more, but less than \$20,000.

11. Section 409.325(4)(a), Florida Statutes, states:

Any person who knowingly files, attempts to file, or aids and abets in the filing of a claim for services to a recipient of benefits under any state or federally funded assistance program for services which were not rendered; knowingly files a false claim or a claim for nonauthorized items or services under such a program; or knowingly bills the recipient of benefits under such a program, or his family, for an amount in excess of that provided by law or regulation, or:

(c) In any way knowingly receives, attempts to receive, or aids and abets in the receipts of, unauthorized payment or other benefit or authorization or identification to obtain benefits as provided herein, is guilty of a crime and shall be punished as provided in subsection (5).

12. Section 409.325(5)(b), Florida Statutes, states:

If the value of the assistance or identification wrongfully received, retained, misappropriated, sought, or used is of an aggregate value of \$200 or more in any 12 consecutive months, such person is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

13. Section 409.913(8), Florida Statutes, states:

The department may impose administrative sanctions against a Medicaid provider if: (a) the provider has entered into a pretrial intervention or other first-offender agreement respecting a charge of, has pled nolo contendere or guilty

to a charge of, has been found guilty regardless of adjudication of, or has been convicted of Medicaid fraud or any other Medicaid-related crime, such as theft, bribery, giving or receiving a kickback, or neglecting or physically abusing a recipient.

14. Section 409.913(9), Florida Statutes, states the department may impose any of the following sanctions on a provider for any of the acts described in subsection (8): (b) termination for a specific period of time from more than 1 year to 20 years.

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 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, in that Respondent submitted fraudulent claims to the Florida Medicaid Program for psychiatry services which had not been provided, for which he received payment in excess of \$3,500, and for which he was found guilty of the charge of grand theft--third degree by the Court upon the entry of a nolo contendere plea.

17. Based on the foregoing, Respondent is guilty of violating Section 458.331(1)(c), Florida Statutes, 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.

Count Two

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

19. Respondent is guilty of failing to perform any statutory or legal obligation placed upon a licensed physician in that Respondent submitted fraudulent claims to the Florida Medicaid Program for psychiatry services which had not been provided, for which he received payment in excess of \$3,500, for which he was found guilty of the charge of grand theft--third degree by the Court upon the entry of a nolo contendere plea, and for which he was also terminated for a period of five (5) years from participation in the Florida Medicaid program for violation of federal and state laws and regulations respecting the Medicaid program in violation of Sections 812.014(1),(2)(c), 409.325(4)(a),(c),(5)(b), and 409.913(8)(a),(9)(b), Florida Statutes.

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

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, the assessment of costs related to the investigation and prosecution of this case, other than costs

associated with an attorney's time, as provided for in Section 455.227(3), Florida Statutes, and/or any other relief that the Board deems appropriate.

SIGNED this 31^{16 LGM} day of February, 1996.

Douglas M. Cook, Director



Larry G. McPherson, Jr.
Chief Medical Attorney

COUNSEL FOR AGENCY:

Larry G. McPherson, Jr.
Chief Medical Attorney
Agency for Health Care Administration
1940 North Monroe Street
Tallahassee, Florida 32399-0750
Florida Bar #788643
LGM/sdb
PCP: February 15, 1996
Slade, Cerda, and Scoon

FILED
AGENCY FOR
HEALTH CARE ADMINISTRATION
DEPUTY CLERK
CLERK Ronda R. Brea
DATE 2-19-96

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

**AGENCY FOR HEALTH CARE
ADMINISTRATION,**

Petitioner,

v.

**AHCA Case No. 95-05807
95-09567**

GEORGE DIAZ, M.D.,

Respondent.

VOLUNTARY RELINQUISHMENT OF LICENSE

To avoid the necessity of further administrative proceedings in this case, the Respondent herein files this Voluntary Relinquishment of his license to practice as a physician in the State of Florida, with the provision that the Respondent agrees never again to apply for licensure as a physician in the State of Florida.

Respondent hereby waives a finding of probable cause in this matter and requests that the Board consider the investigative report compiled.

When relinquishments are offered to the Board of Medicine to avoid further administrative prosecution, this is considered to be disciplinary action against Respondent's license to practice medicine in the State of Florida. As such, any and all disciplinary actions taken by the Board of Medicine are reported to the Federation of State Medical Boards and the National Practitioner Data Bank.

Upon the Board's adoption of this Relinquishment, 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 Relinquishment and the Final Order of the Board incorporating said relinquishment.

Upon the Board's adoption of this relinquishment, 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 Agency in connection with this matter.

This Relinquishment 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 Relinquishment. Furthermore, should this Relinquishment not be accepted by the Board, it is agreed that presentation to and consideration of this Relinquishment 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 this proceedings.

DATED this 19 day of MARCH, 1996.



George Diaz, M.D.

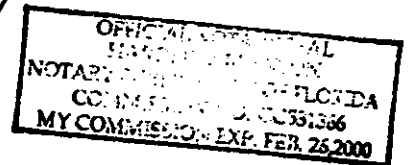
STATE OF FLORIDA
COUNTY OF:

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

Sworn to and subscribed before me this 19 day of March, 1996

NOTARY PUBLIC

My Commission Expires:



STATE OF FLORIDA
AGENCY FOR HEALTH CARE ADMINISTRATION
BOARD OF M

Final Order No. AHCA-96-00748 Date 6-27-96

AGENCY FOR HEALTH CARE
ADMINISTRATION, BOARD OF
MEDICINE,

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CASE NUMBERS: 95-05807
95-09567
LICENSE NUMBER: ME 0013224

GEORGE DIAZ, M.D.,

Respondent.

FILED
Agency for Health Care Administration
AGENCY CLERK

R.S. Power, Agency Clerk

By: Stephan J. Diaz
Deputy Agency Clerk

FINAL ORDER

THIS MATTER came before the Board of Medicine in Miami Beach, Florida on June 9, 1996, for the purpose of considering Respondent's offer to voluntarily relinquish his license to practice medicine in the State of Florida. (Attached hereto as Exhibit A.) Said written offer of relinquishment specifically provides: "Respondent agrees never again to apply for licensure medicine in the State of Florida."

Upon consideration of the written offer of voluntary relinquishment, the charges, and the other documents of record, and being otherwise fully advised in the premises,

IT IS HEREBY ORDERED,

That Respondent's Voluntary Relinquishment of his license to practice medicine in the State of Florida is hereby ACCEPTED.

DONE AND ORDERED this 21st day of June, 1996.

BOARD OF MEDICINE

M. Kathryn Garrett M.D.

MARY KATHRYN GARRETT, M.D.

CHAIRMAN

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Final Order has been provided by certified mail to George Diaz, M.D., 13506 SW 58th Court, Miami, Florida 33156-7258, Harold M. Braxton, Esquire, Suite 400, One Datran Center, 9100 South Dadeland Boulevard, Miami, Florida 33156-7815 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 _____, 1996.

MARM HARRIS, Ed.D.
Executive Director