

STATE OF FLORIDA
DEPARTMENT OF HEALTH

DEPARTMENT OF HEALTH,)
)
 PETITIONER,)
)
 v.)
)
 STEVEN SPEISER, M.D.,)
)
 RESPONDENT.)

CASE NO. 1997-17770

ADMINISTRATIVE COMPLAINT

COMES NOW the Petitioner, Department of Health, hereinafter referred to as "Petitioner," and files this Administrative Complaint before the Board of Medicine against Steven Speiser, M.D., hereinafter referred to as "Respondent," and alleges:

1. Effective July 1, 1997, Petitioner is the state agency charged with regulating the practice of medicine pursuant to Section 20.43, Florida Statutes; Chapter 455, Florida Statutes, and Chapter 458, Florida Statutes. Pursuant to the authority of Section 20.43(3), Florida Statutes, the Petitioner has contracted with the Agency for Health Care Administration to provide consumer complaint, investigative and prosecutorial services required by the Division of Medical Quality Assurance, councils, or boards, as appropriate.
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 0038964. Respondent's last known address is 9539 Bay Vista Estates Blvd., Orlando, Florida, 32836.
3. Respondent is in the private practice of psychiatry and is board certified in psychiatry.

4. Prozac, also known as fluoxetine, is a legend drug as defined by Section 465.003(7), Florida Statutes, but it is not a controlled substance. Fluoxetine is an anti-depressant. Prozac has not been systematically studied for abuse, tolerance, or physical dependence.

5. Wellbutrin, also known as bupropion, is a legend drug as defined by Section 465.003(7), Florida Statutes, but it is not a controlled substance. Bupropion is an anti-depressant. The abuse of bupropion carries a risk of seizure and may lead to physical or psychological dependence.

6. Valium is a legend drug as defined by Section 465.003(7), Florida Statutes, and contains diazepam, a Schedule IV controlled substance listed in Chapter 893, Florida Statutes. Diazepam is a benzodiazepine anxiolytic (anti-anxiety drug) and muscle relaxant. The abuse of diazepam can lead to physical or psychological dependence.

7. Hydrocodone is a legend drug as defined by Section 465.003(7), Florida Statutes, and a Schedule II controlled substance listed in Chapter 893, Florida Statutes. Hydrocodone is a narcotic analgesic indicated for the relief of moderate to severe pain, and is also used as an antitussive (cough suppressant). Hydrocodone carries a high potential for abuse and dependence.

8. During the period of on or about March, 1997, through September, 1997, Patient D.J. was a patient and employee of Respondent. Respondent treated Patient D.J. for stress and prescribed various medications, including Prozac, Wellbutrin, and Valium. Respondent also indicated in his medical record for Patient D.J. that he treated her for headaches, and that he prescribed Hydrocodone to her for the treatment of the headaches.

9. Patient D.J. asserts that Respondent did not use the prescribed Hydrocodone to treat her for headaches. Rather, Respondent had Patient D.J. fill the two prescriptions for

hydrocodone dated May 19, 1997, for sixty tablets, and August 12, 1997, for ninety tablets, in Patient D.J.'s name for use by the Respondent's wife, Patient D.S.

10. Respondent kept no medical records for Patient D.S. He failed to record an assessment of her complaints and/or symptoms, failed to complete a proper history and physical examination, and failed to document any diagnosis to support his treatment, or an appropriate plan or course of treatment for Patient D.S.'s condition.

COUNT ONE

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

12. Respondent failed 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 prescribed hydrocodone for Patient D.S. under Patient D.J.'s name on two occasions; without ever documenting a proper physical examination, an appropriate history, or diagnosis and formulation of a plan of treatment.

13. Based on the foregoing, Respondent violated Section 458.331(t), Florida Statutes, by failing 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

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

15. Respondent prescribed, dispensed, administered, mixed, or otherwise prepared a legend drug, including any controlled substance, other than in the course of the physician's professional practice, in that Respondent prescribed hydrocodone for Patient D.S. under Patient D.J.'s name on two occasions, without ever documenting a proper physical examination, an appropriate history, or diagnosis and formulation of a plan of treatment.

16. Based on the foregoing, Respondent violated Section 458.331(1)(q), Florida Statutes, by 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 or her intent.

COUNT THREE

17. Petitioner realleges and incorporates paragraphs one (1) through ten (10), paragraph twelve (12), and paragraph fifteen (15), as if fully set forth herein this Count Three.

18. Respondent failed to keep legible, as defined by department rule in consultation with the board, medical records that identify the licensed physician or the physician extender and supervising physician by name and professional title who is or are responsible for rendering,

ordering, supervising, or billing for each diagnostic or treatment procedure and that justify the course of treatment of the patient, in that Respondent prescribed a legend drug for Patient D.S. on two occasions, but did not maintain any medical records for her.


19. Based on the foregoing, Respondent violated Section 458.331(1)(m), Florida Statutes, by failing to keep legible, as defined by department rule in consultation with the board, medical records that identify the licensed physician or the physician extender and supervising physician by name and professional title who is or are responsible for rendering, ordering, supervising, or billing for each diagnostic or treatment procedure and that justify 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: 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, to include 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 455.624(3), Florida Statutes. 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 2nd day of February, 2000, 1998.

Robert G. Brooks, M.D., Secretary


Kathryn L. Kasprzak
Chief Medical Attorney

COUNSEL FOR DEPARTMENT:

Kathryn L. Kasprzak
Chief Medical Attorney
Agency for Health Care Administration
P. O. Box 14229
Tallahassee, Florida 32317-4229
Florida Bar # 937819
MRH
PCP: January 22, 2000
PCP Members: Ashkar, Glotfelty, Rodriguez

FILED

DEPARTMENT OF HEALTH
DEPUTY CLERK

clerk Kelly J. Hightowich
DATE 2-3-2000

STATE OF FLORIDA
DEPARTMENT OF HEALTH
BOARD OF MEDICINE

DEPARTMENT OF HEALTH,

Petitioner,

v.

DOH CASE NUMBER 1997-17770

STEVEN OREN SPEISER, M.D.,

Respondent.

CONSENT AGREEMENT

Steven Oren Speiser, M.D., referred to as the "Respondent," and the Department of Health, 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.

Effective July 1, 1997, Petitioner is the state agency charged with regulating the practice of medicine pursuant to Section 20.43, Florida Statutes; Chapter 455, Florida Statutes, and Chapter 458, Florida Statutes. Pursuant to the provisions of Section 20.43(3), Florida Statutes, the Petitioner has contracted with the Agency for Health Care Administration to provide consumer complaint, investigative, and prosecutorial services required by the Division of Medical Quality Assurance, councils, or boards, as appropriate.

STIPULATED FACTS

1. At all times material hereto, the Respondent was a licensed physician in the State of Florida having been issued license number ME 0038964.
2. Respondent was charged by an Administrative Complaint filed by the Agency and properly served upon the Respondent with a violation 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 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 Agency and the Board.
2. Respondent admits that the facts set forth in the Administrative Complaint, if proven, would constitute a violation of Chapter 458, Florida Statutes, as alleged in the Administrative Complaint.
3. Respondent admits that the Stipulated Disposition in this case is fair, appropriate and acceptable to Respondent.

STIPULATED DISPOSITION

1. **FUTURE CONDUCT.** The Respondent shall not in the future violate Chapters 455, 458 and 893, Florida Statutes, or the rules promulgated pursuant thereto. Prior to signing this agreement, the Respondent shall read Chapters 455, 458, 893 and the Rules of the Board of Medicine, at Section 64B8, Florida Administrative Code.

2. **FINE.** Respondent shall pay an administrative fine in the amount of \$2,000.00 to the Board. Respondent shall pay this fine within **ONE HUNDRED AND EIGHTY (180)** days of its imposition by Final Order of the Board. **RESPONDENT ACKNOWLEDGES THAT THE TIMELY PAYMENT OF THE FINES IS HIS LEGAL OBLIGATION AND RESPONSIBILITY AND RESPONDENT AGREES TO CEASE PRACTICING IF THE FINE IS NOT PAID AS AGREED TO IN THIS CONSENT AGREEMENT, SPECIFICALLY: IF RESPONDENT HAS NOT RECEIVED WRITTEN CONFIRMATION THAT THE FULL AMOUNT OF THE FINE HAS BEEN RECEIVED BY THE BOARD OFFICE WITHIN ONE HUNDRED AND EIGHTY (180) DAYS OF THE FILING OF THIS FINAL ORDER, RESPONDENT AGREES TO CEASE PRACTICE UNTIL SUCH WRITTEN CONFIRMATION IS RECEIVED BY THE RESPONDENT FROM THE BOARD. (SEE EXHIBIT-B, PARAGRAPH 1 OF THIS CONSENT AGREEMENT FOR BOARD ADDRESS AND STANDARD TERMS).**

3. REIMBURSEMENT OF COSTS. In addition to the amount of any fine noted above, the Respondent agrees to reimburse the Department for any administrative costs incurred in the investigation and prosecution of this case. The agreed upon Agency costs to be reimbursed in this case is two thousand five hundred dollars (\$2500.00). Respondent shall pay these costs to the Board of Medicine within one (1) year of its imposition by Final Order of the Board. **THE RESPONDENT ACKNOWLEDGES THAT THE TIMELY PAYMENT OF THE COSTS IS HIS/HER LEGAL OBLIGATION AND RESPONSIBILITY AND RESPONDENT AGREES TO CEASE PRACTICING IF THE COSTS ARE NOT PAID AS AGREED TO IN THIS CONSENT AGREEMENT, SPECIFICALLY: IF THE RESPONDENT HAS NOT RECEIVED WRITTEN CONFIRMATION THAT THE FULL AMOUNT OF THE COSTS NOTED ABOVE HAS BEEN RECEIVED BY THE BOARD WITHIN ONE (1) YEAR OF THE FILING OF THIS FINAL ORDER, THE RESPONDENT AGREES TO CEASE PRACTICE UNTIL SUCH WRITTEN CONFIRMATION IS RECEIVED BY THE RESPONDENT FROM THE BOARD. (SEE EXHIBIT B, PARAGRAPH F OF THIS CONSENT AGREEMENT FOR BOARD ADDRESS AND STANDARD TERMS.**

4. UNIVERSITY OF SOUTH FLORIDA DRUG COURSE. Respondent shall complete the course, "Protecting Your Medical Practice, Clinical, Legal and Ethical Issues in Prescribing Abusable Drugs," sponsored by the University of South Florida within one (1) year of imposition by Final Order of the Board.

5. **LETTER OF CONCERN.** Respondent shall receive a letter of concern from the Board of Medicine.

STANDARD PROVISIONS

1. 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.

2. Respondent is required to appear before the Board at the meeting of the Board where this Agreement is considered.

3. Respondent and the Agency fully understand that this 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.

4. 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.

5. Upon the Board's adoption of this Agreement, Respondent agrees that he 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.

6. This agreement is executed by 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 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 26 day of September, 2000.

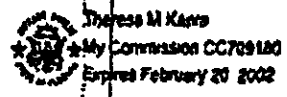
Steven Oren Spelser, M.D.
Steven Oren Spelser, M.D.

Before me, personally appeared Steven O. Spelser MD, whose identity is known to me by Florida drivers license, and who, under oath, acknowledges that his/her signature appears above.

Sworn to and subscribed before me this 26 day of September, 2000.

Theresa M. Kane
NOTARY PUBLIC

My Commission Expires:



APPROVED this 26th day of September, 2000.

Robert G. Brooks, M.D., Secretary

By: Kathryn L. Kasprzak
Kathryn L. Kasprzak
Chief Medical Attorney

Exhibit B

STANDARD TERMS APPLICABLE TO CONSENT AGREEMENTS

The following are the standard terms applicable to all consent agreements.

A. PAYMENT OF FINES.—Unless otherwise directed by the consent agreement, all fines shall be paid by check or money order and sent to the Board address set forth in paragraph F, below. The Board office does not have the authority to change the terms of payment of any fine imposed by the Board.

B. COMMUNITY SERVICE AND CONTINUING EDUCATION UNITS.
Unless otherwise directed by the consent agreement, all community service requirements, continuing education units/courses must be completed, and documentation of such completion submitted to the Board of Medicine at the address set forth below in paragraph F, **WITHIN ONE YEAR OF THE DATE OF THE FINAL ORDER.**

C. ADDRESSES. Respondent must keep current residence and practice addresses on file with the Board. Respondent shall notify the Board within ten (10) days of any changes of said addresses. Furthermore, if the Respondent's license is on probation, the Respondent shall notify the Board within ten (10) days in the event that Respondent leaves the active practice of medicine in Florida.

STATE OF FLORIDA
BOARD OF MEDICINE

Department of Health
By: Vicki R. Kenan
Deputy Agency Clerk

DEPARTMENT OF HEALTH,

Petitioner,

vs.

CASE NO.: 1997-17770
LICENSE NO.: ME0038964

STEVEN OREN SPEISER, M.D.,

Respondent.

FINAL ORDER

THIS CAUSE came before the Board of Medicine (Board) pursuant to Sections 120.569 and 120.57(4), Florida Statutes, on December 2, 2000, in Tampa, Florida, for consideration of a Consent Agreement (attached hereto as Exhibit A) entered into between the parties in the above-styled cause. 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 the terms and conditions of the Consent Agreement.

This Final Order shall take effect upon being filed with the Clerk of the Department of Health.

DONE AND ORDERED this 13th day of December, 2000.

BOARD OF MEDICINE

for Janya Williams
GASTON ACOSTA-RUA, M.D.
VICE-CHAIRMAN

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Final Order has been provided by U.S. Mail to Steven Oren Speiser, M.D., 7350 Sandlake Commons Boulevard, Suite 2205, Orlando, Florida 32819; to Thomas Bowden, Esquire, 11265 Alumni Way, Suite 201, Jacksonville, Florida 32246, and by interoffice delivery to Kathryn L. Kasprzak, Chief Medical Attorney, and Simone Marstiller, Senior Attorney - Appeals, Agency for Health Care Administration, 2727 Mahan Drive, Tallahassee, Florida 32308-5403, on or before 5:00 p.m., this _____ day of _____, 2000.
