

STATE OF FLORIDA
DEPARTMENT OF HEALTH

DEPARTMENT OF HEALTH,)
)
 PETITIONER,)
)
 v.)
)
 EULOGIO M. VIZCARRA, M.D.,)
)
 RESPONDENT.)
_____)

CASE NO. 1999-50423

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 Eulogio M. Vizcarra, 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 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.

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 0030012. Respondent's last known address is Route 1, Box 1086, Perry, Florida 32347.

3. Respondent was initially licensed as a physician in the State of Florida on or about April 19, 1977.

4. Respondent is not board certified and practices in the area of Internal Medicine.

5. On or about June 15, 1989, a Final Order was filed by the Florida Board of Medicine against Respondent's medical license in DPR case number 0067161, DOAH case number 88-5115. The Final Order imposed a penalty of an administrative fine of \$2,500, a one (1) year probation, with indirect supervision, and completion of 21 hours of Category I continuing medical education courses.

6. On or about August 5, 1990, the Respondent completed his Probation that was required by the order in DPR case number 0067161 and DOAH case number 88-5115.

7. On or about December 23, 1993, a Final Order was filed by the Florida Board of Medicine against Respondent's medical license in DBPR case number 92-01781. The Final Order approved and adopted a Consent Agreement signed by the Respondent on October 15, 1993. The Consent Agreement imposed a penalty of an administrative fine of \$5,000 and completion of 15 hours of Category I continuing medical education courses in Risk Management.

8. On or about January 6, 1995, the Respondent was notified that he had successfully fulfilled all requirements as set forth in the Final Order filed on December 23, 1993, by the Florida Board of Medicine in DBPR case number 92-01781.

9. On or about January 30, 1997, the Respondent submitted an application for Appointment to the Medical Staff to the Lake City Medical Center for courtesy privileges.

10. On page seven (7), section "L" of the application submitted to Lake City Medical Center for courtesy privileges, question number one (1) asked, "Has your license to practice medicine in any jurisdiction ever been diminished, voluntarily/involuntarily relinquished, revoked or not renewed, or are any actions pending?" Respondent answered, "No."

11. On page seven (7), section "L" of the application question number five (5) asked, "Has your membership or privileges from any medical facility been suspended, limited, revoked or not renewed because of disciplinary action or the possibility that an investigation or disciplinary action was to take place, or are your current privileges the subject of focused peer review?" Respondent answered "No."

12. On page seven (7), section "L" of the application question eleven (11) asked, "Have you experienced an interruption of your medical practice or hospital privileges for a period longer than thirty (30) days?" Respondent answered, "No."

13. On or about April 21, 1997, the Medical Staff Coordinator for Columbia Credentialing Services, Inc. in Ft. Lauderdale, Fl. Completed a form indicating that there was a temporary suspension in Respondent's privileges at Doctors' Memorial Hospital - Perry from October 31, 1989 through December 15, 1989.

14. On or about July 7, 1997, correspondence from Elaine Lupola, Manager of Columbia Credentialing Service, was sent to the Respondent requesting an explanation of the Respondent's prior disciplinary history with the Florida Board of Medicine and requesting that he correct the application submitted to Lake City Medical Center for courtesy privileges.

15. On or about July 16, 1997, the Respondent replied to Ms. Lupola's correspondence with a handwritten note, which only mentioned the Final Order filed on June 15,

1989 and failed to mention either the Final Order of December 23, 1993 or the suspension at Doctors' Memorial Hospital in Perry.

COUNT ONE

16. Petitioner realleges and incorporates paragraphs one (1) through fifteen (15), as if fully set forth herein this Count One.

17. On or about January 30, 1997, the Respondent submitted an application to Lake City Medical Center for privileges that contained false information in that it failed to reveal his prior discipline by the Florida Board of Medicine or his suspension at Doctors' Memorial Hospital in Perry.

18. Based on the foregoing, the Respondent violated Section 458.331(1)(h), Florida Statutes, by making or filing a report which the licensee knows to be false, intentionally or negligently failing to file a report or record required by state or federal law, willfully impeding or obstructing such filing or inducing another person to do so. Such reports or records shall include only those which are signed in the capacity as a licensed physician.

COUNT TWO

19. Petitioner realleges and incorporates paragraphs one (1) through fifteen (15) and seventeen (17), as if fully set forth herein this Count Two.

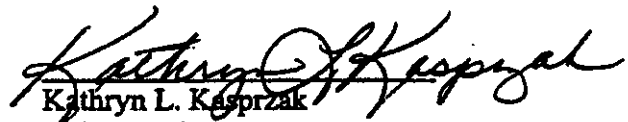
20. On or about January 30, 1997, the Respondent submitted an application to Lake City Medical Center for courtesy privileges which contained deceptive, untrue, or fraudulent representations in that he answered "no" to questions on the application regarding past disciplinary actions taken by the Board of Medicine against his license, and regarding any or all past actions taken concerning membership or privileges at any medical facility, including but not limited to an interruption of hospital privileges for a period longer than thirty (30) days.

21. Based on the foregoing, the Respondent violated Section 458.331(1)(k), Florida Statutes, by making deceptive, untrue, or fraudulent representations in or related to the practice of medicine or employing a trick or scheme in the practice of medicine.

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 as provided for in Section 455.624(3), Florida Statutes, and/or any other relief that the Board deems appropriate.

SIGNED this 16th day of December, 1999.

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
JET/jet
PCP: December 8, 1999
PCP Members: Skinner, Zachariah, Chorney

FILED
DEPARTMENT OF HEALTH
DEPUTY CLERK
CLERK Vicki R. Ellman
DATE 12/16/99

STATE OF FLORIDA
DEPARTMENT OF HEALTH
BOARD OF MEDICINE

DEPARTMENT OF HEALTH,

Petitioner,

v.

DOH CASE NUMBER 99-50423

EULOGIO M. VIZCARRA, M.D.,

Respondent.

CONSENT AGREEMENT

EULOGIO M. VIZCARRA, 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 0030012.

2. The Respondent was charged by an Administrative Complaint filed by the Agency and properly served upon the Respondent with violations 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. The 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. The 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.

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.** The Board shall impose an administrative fine in the amount of \$3,000.00 against the Respondent. The fine shall be paid by the Respondent to the Board of Medicine within six (6) months of its imposition by Final Order of the Board.

THE RESPONDENT ACKNOWLEDGES THAT THE TIMELY PAYMENT OF THE FINES IS HIS/HER LEGAL OBLIGATION AND RESPONSIBILITY AND THE RESPONDENT AGREES TO CEASE PRACTICING IF THE FINE IS NOT PAID AS AGREED TO IN THIS CONSENT AGREEMENT, SPECIFICALLY: IF THE RESPONDENT HAS NOT RECEIVED WRITTEN CONFIRMATION THAT THE FULL AMOUNT OF THE FINE HAS BEEN RECEIVED BY THE BOARD OFFICE WITHIN SIX (6) MONTHS 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 1 OF THIS CONSENT AGREEMENT FOR BOARD ADDRESS AND STANDARD TERMS).

3. CONTINUING MEDICAL EDUCATION. Within one (1) year of the date of the filing of a Final Order in this cause, Respondent shall attend five (5) hours of Continuing Medical Education in ethics. Respondent shall submit a written plan to the Chairman of the Board for approval prior to the completion of said continuing education hours and course. The Board confers authority on the Chairman of the Board to approve or disapprove said continuing education hours or course. In addition, Respondent shall submit documentation in the form of certified copies of the receipts, vouchers, certificates, or other papers, such as physician's recognition awards, documenting completion of this medical course within one (1) year of the Final Order in this matter. All such documentation shall be sent to the Board of Medicine, regardless of whether some or any of such documentation was previously provided during the course of any audit or discussion with counsel for the Department. These hours shall be in addition to those hours required for

renewal of licensure. Unless otherwise approved by the Board, said continuing education course shall consist of a formal, live lecture format.

4. **REPRIMAND.** The Respondent shall receive a reprimand 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.

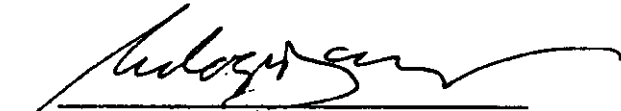
3. Respondent and the Agency fully understand that this joint agreement and subsequent Final Order incorporating same will in no way preclude additional proceedings against Respondent for acts or omissions not specifically set forth in the Administrative Complaint attached as Exhibit "A" herein.

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, 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.

6. 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.

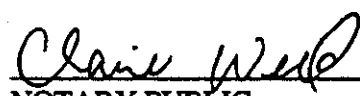
SIGNED this 5th day of April
2000.



Eulogio M. Vizcarra, M.D.

Before me, personally appeared Eulogio M. Vizcarra, 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 5th day of April
2000.



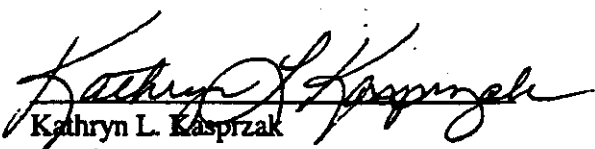
NOTARY PUBLIC

My Commission Expires:



APPROVED this 18th day of April, 2000.

Robert G. Brooks, M.D., Secretary

By: 
Kathryn L. Kasprzak
Chief Medical Attorney
Practitioner Regulation-Legal

STATE OF FLORIDA
BOARD OF MEDICINE

DEPARTMENT OF HEALTH,

Petitioner,

Final Order No. DOH-00-1118-5 -MOA
FILED DATE - 6-29-00

Department of Health

By: 
Deputy Agency Clerk

vs.

CASE NO.: 99-50423
LICENSE NO.: ME0030012

EULOGIO M. VIZCARRA, 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 June 2, 2000, in Ft. Lauderdale, 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 23⁰⁰ day of June, 2000.

BOARD OF MEDICINE

for Tanya Williams
GEORGES A. EL-BAHRI, M.D.
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 Eulogio M. Vizcarra, M.D., Route 1, Box 1086, Perry, Florida 32347; to John R. Weed, Esquire, 103 Miller Drive, Perry, Florida 32347; and by interoffice delivery to Kathryn L. Kasprzak, Chief Medical Attorney, Agency for Health Care Administration, 2727 Mahan Drive, Tallahassee, Florida 32308-5403, on or before 5:00 p.m., this _____ day of _____, 2000.
