

By: Neather Coleman
Deputy Agency Clerk

STATE OF FLORIDA
BOARD OF MEDICINE

DEPARTMENT OF HEALTH,

Petitioner,

vs.

DOH CASE NO.: 2000-05843
LICENSE NO.: ME0049447

GREGG LOWELL FRIEDMAN, 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 3, 2004, in Orlando, Florida, for the purpose of considering a Consent Agreement (attached hereto as Exhibit A) entered into between the parties in this cause. Upon consideration of the Consent Agreement, the documents submitted in support thereof, the arguments of the parties, and being otherwise fully 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 herein by reference with the following modifications which were accepted on the record by the parties:

1. The costs set forth in Paragraph 2 of the Stipulated Disposition shall be set at \$4,433.57.

2. The community service required by Paragraph 5 of the Stipulated Disposition shall be clarified to require the 1000 hours of community service to be performed during the five years

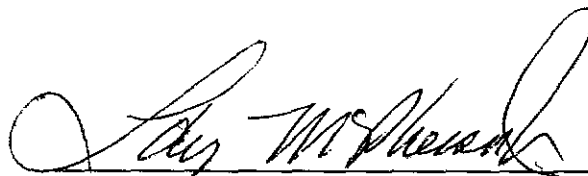
of probation. Community service shall be provided outside of the Respondent's regular practice setting and without fee or cost to the person or entity benefitting from the service, for the good of the people of the State of Florida. A community service plan must be pre-approved by the Board's Probationer's Committee. Affidavits detailing the completion of community service requirements shall be filed with the Board's Probationer's Committee.

Accordingly, the parties shall adhere to and abide by all the terms and conditions of the Consent Agreement as modified above.

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

DONE AND ORDERED this 16 day of DECEMBER, 2004.

BOARD OF MEDICINE



Larry McPherson, Jr., Executive Director
for Kriston Kent, M.D., Vice-Chair

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 GREGG

LOWELL FRIEDMAN, M.D., 17971 Biscayne Boulevard, Suite 220,
Aventura, Florida 33160; to Julie Gallagher, Esquire, Greenberg,
Traurig, P.O. Drawer 1838, Tallahassee, Florida 32302; and by
interoffice delivery to Denise O'Brien and Dana Baird, Department
of Health, 4052 Bald Cypress Way, Bin #C-65, Tallahassee, Florida
32399-3253 this 17th day of December, 2004.



Deputy Agency Clerk

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**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

PRACTITIONER REGULATION
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DEPARTMENT OF HEALTH,

Petitioner,

v.

Case No. 2000-05843

GREGG LOWELL FRIEDMAN, M.D.,

Respondent.

CONSENT AGREEMENT

GREGG LOWELL FRIEDMAN, 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.

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.

STIPULATED FACTS

1. At all times material hereto, Respondent was a licensed physician in the State of Florida having been issued license number ME 49447.

2. The Department charged Respondent with an Administrative Complaint that was filed and properly served upon Respondent with violations of Chapter 458, Florida Statutes, and the rules adopted 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 for purposes of these proceedings only.

STIPULATED CONCLUSIONS OF LAW

1. Respondent admits that, in his capacity as a licensed physician, he is subject to the provisions of Chapters 456 and 458, Florida Statutes, and the jurisdiction of the Department and the Board.

2. Respondent admits that the facts alleged in the Administrative Complaint, if proven, would constitute violations of Chapter 458, Florida Statutes, as alleged in the Administrative Complaint.

3. Respondent agrees that the Stipulated Disposition in this case is fair, appropriate and acceptable to Respondent.

STIPULATED DISPOSITION

1. **Fine** - The Board of Medicine shall impose an administrative fine of twenty-five thousand (\$25,000) dollars against the license of Respondent, to be paid by Respondent to the Department of Health, HMQAMS/Client Services, Post Office Box 6320, Tallahassee, Florida 32314-6320, Attention: Board of Medicine Compliance Officer, within thirty-days (30) of the Final Order accepting this Agreement. All fines shall be paid by check or money order. The Board office does not have the authority to change the terms of payment of any fine imposed by the Board.

RESPONDENT ACKNOWLEDGES THAT THE TIMELY PAYMENT OF THE FINE IS HIS/HER 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 WITHIN 45 DAYS OF THE FILING OF THE FINAL ORDER, RESPONDENT HAS NOT RECEIVED WRITTEN CONFIRMATION THAT THE FULL AMOUNT OF THE FINE HAS BEEN RECEIVED BY THE BOARD OFFICE, RESPONDENT AGREES TO CEASE PRACTICE UNTIL SUCH

WRITTEN CONFIRMATION IS RECEIVED BY RESPONDENT FROM THE BOARD.

2. **Reimbursement Of Costs** - Pursuant to Section 458, Florida Statutes, Respondent agrees to pay the Department for any administrative costs incurred in the investigation and preparation of this case. Such costs include, but are not limited to obtaining supervision or monitoring of the practice, the cost of quality assurance reviews, and the Board's administrative cost directly associated with Respondent's probation, if any. The agreed upon amount of Department costs to be paid in this case is actual costs but not to exceed four thousand five hundred (\$4,500) dollars. Respondent will pay costs to the Department of Health, HMQAMS/Client Services, P.O. Box 6320, Tallahassee, Florida 32314-6320, Attention: Board of Medicine Compliance Officer, within thirty-days (30) from the entry of the Final Order in this cause.

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 WITHIN 45 DAYS OF THE FILING OF THE FINAL ORDER, RESPONDENT HAS NOT

RECEIVED WRITTEN CONFIRMATION THAT THE FULL AMOUNT OF THE COSTS NOTED ABOVE HAS BEEN RECEIVED BY THE BOARD OFFICE, RESPONDENT AGREES TO CEASE PRACTICE UNTIL SUCH WRITTEN CONFIRMATION IS RECEIVED BY RESPONDENT FROM THE BOARD.

3. **SUSPENSION TERMS** - Respondent's license shall be suspended for a period of fifteen (15) days followed by a five (5) year suspension to be stayed by the Board with the Respondent placed on probation for a concurrent five-year period. The fifteen-day suspension is to begin on the first day of the month immediately following the date of filing of the Final Order.

4. **PROBATION TERMS** - The purpose of probation is not to prevent Respondent from practicing medicine. Rather, probation is a supervised educational experience designed by the Board to make Respondent aware of certain obligations to Respondent's patients and the profession and to ensure Respondent's continued compliance with the high standards of the profession through interaction with another physician in the appropriate field of expertise. During the period of probation, Respondent shall be subject to the following terms and conditions:

a) During period of probation, Respondent agrees that, upon notification to the Respondent to appear at the next Probation Committee meeting and be heard, upon a finding by the Probation Committee that the Respondent failed to comply with any of the terms of this agreement the Committee may SUSPEND his license to practice medicine until he demonstrates to the Committee that he is in compliance with the terms of probation.

b) Respondent shall appear before the Probation Committee of the Board of Medicine at the first Committee meeting after probation commences, at the last meeting of the Committee preceding scheduled termination of the probation, and at such other times as requested by the Committee. Respondent shall be noticed by the Board staff of the date, time and place of the Committee meeting whereat Respondent's appearance is required. Failure of Respondent to appear as requested or directed shall be considered a violation of the terms of this Agreement, and shall subject the Respondent to disciplinary action.

c) **Restrictions During Probation** - During the period of probation, Respondent's license shall be restricted as follows:

i. **Indirect Supervision** - Respondent shall practice only under the indirect supervision of a Board-approved individual or company that specializes in the audit/review of billing codes and practices, hereinafter referred to as the "monitor", whose responsibilities are set by the Board. Indirect supervision does not require that the monitor operate on the same premises as Respondent, however, the monitor shall be within a reasonable geographic proximity to Respondent, which shall be within 50 miles unless otherwise provided by the Board and shall be readily available for consultation. In this regard, Respondent shall allow the monitor access to Respondent's medical and billing records, calendar, patient logs or other documents necessary for the monitor to supervise Respondent as detailed below. The Board may reject any proposed monitor for good cause shown.

ii. **Temporary Approval** - The Board confers authority on the Chairman of the Probation Committee to temporarily approve Respondent's monitor. To obtain this temporary approval, Respondent shall submit to the Chairman of the Probation Committee the name, curriculum vitae, or other appropriate documentation of qualification of the proposed monitor at the time this agreement is considered by the Board. **Once a Final Order adopting the Agreement is filed, Respondent shall not practice medicine without an approved monitor. Temporary approval shall only remain in effect until the next meeting of the Probation Committee.**

iii. **Formal Approval** - Respondent shall have the monitor with Respondent at Respondent's first probation appearance before the Probation Committee. Prior to the consideration of the monitor by the Probation Committee, Respondent shall provide to the monitor a copy of the Administrative Complaint and Final Order in this case. Respondent shall submit a current curriculum

vitae or other appropriate documentation of qualification from the proposed monitor to the Board office no later than fourteen (14) days before Respondent's first scheduled probation appearance. Respondent's monitor shall also appear before the Probation Committee at such other times as directed by the Probation Committee. It shall be Respondent's responsibility to ensure the appearance of the monitor as directed. Failure of the monitor to appear as directed shall constitute a violation of the terms of this Consent Agreement and shall subject Respondent to disciplinary action.

iv. **Change In Monitor** - In the event that Respondent's monitor is unable or unwilling to fulfill the responsibilities as described above, Respondent shall immediately advise the Probation Committee of this fact. Respondent shall immediately submit to the Chairman of the Probation Committee the name of a temporary monitor for consideration. Respondent shall not practice pending approval of this temporary monitor

by the Chairman of the Probation Committee. Furthermore, Respondent shall make arrangements with his temporary monitor to appear before the Probation Committee at its next regularly scheduled meeting for consideration of the monitor by the Probation Committee. Respondent shall only practice under the auspices of the temporary monitor (approved by the Chairman) until the next regularly scheduled meeting of the Probation Committee at which the issue of the Probation Committee's approval of Respondent's new monitor shall be addressed.

d) **Responsibilities Of The Monitor** - The Monitor shall:

i) Review 25 percent of Respondent's active government payor patient records and billings (as randomly selected by the monitor) at the end of the first quarter following the completion of the required community service and then 15 percent for the remainder of the probation period for the purpose of ascertaining that the billing are in compliance with federal and state

rules and regulations. The monitor shall go to Respondent's office at least once every quarter and shall review Respondent's calendar and/or patient log and shall select the records to be reviewed.

ii) Submit reports on a quarterly basis, in affidavit form, which shall include:

1) A brief statement of why Respondent is on probation;

2) A description of Respondent's practice (type and composition);

3) A statement addressing Respondent's compliance with the terms of probation;

4) A brief description of the monitor's relationship with Respondent;

5) A statement advising the Probation Committee of any problems which have arisen; and

6) A summary of the dates the monitor went to Respondent's office, the number of records

which may be further specified by the Board, but which shall include:

- i) A brief statement of why Respondent is on probation;
- ii) A description of practice location;
- iii) A description of current practice (type and composition);
- iv) A brief statement of compliance with probationary terms;
- v) A description of the relationship with monitoring physician;
- vi) A statement advising the Board of any problems which have arisen; and
- vii) A statement addressing compliance with any restrictions or requirements imposed.

f) **Continuity Of Practice -**

i) **Tolling Provisions** - In the event Respondent leaves the State of Florida for a period of thirty days or more or otherwise does not engage in the active

practice of medicine in the State of Florida, then certain provisions of Respondent's probation (and only those provisions of the probation) shall be tolled as enumerated below and shall remain in a tolled status until Respondent returns to active practice in the State of Florida:

1) The time period of probation shall be tolled;

2) The provisions regarding supervision whether direct or indirect by another physician, and required reports from the monitor shall be tolled;

3) The provisions regarding preparation of investigative reports detailing compliance with this Consent Agreement shall be tolled; and

4) Any provisions regarding community service shall be tolled.

ii) **Active Practice** - In the event that Respondent leaves active practice for a period of one year or more, the Board may require Respondent to

appear before the Board and demonstrate his ability to practice with skill and safety to patients prior to resuming the practice in this State.

5) **COMMUNITY SERVICE** - During the first six months of probation, Respondent shall perform one thousand (1,000) hours of community service to be provided by delivery of his professional services to current or new patients but without fee or cost to the patient, Medicare or Medicaid, or private insurers, and for the good of the people of the State of Florida. Such services may be performed in the Respondent's regular practice setting. Respondent shall submit a written plan for performance and completion of the community service to the Probation Committee for approval prior to performance of said community service. Affidavits detailing the completion of community service requirements shall be filed with the Board quarterly.

STANDARD PROVISIONS

6. **Appearance**: Respondent is required to appear before the Board at the meeting of the Board where this Agreement is considered.

7. **No force or effect until final order** - It is expressly understood that this Agreement is subject to the approval of the Board and the Department. In this regard, the foregoing paragraphs (and only the foregoing paragraphs) shall have no force and effect unless the Board enters a Final Order incorporating the terms of this Agreement.

8. **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.

9. **Future Conduct** - In the future, Respondent shall not violate Chapter 456, 458 or 893, Florida Statutes, or the rules promulgated pursuant thereto, or any other state or federal law, rule, or regulation relating to the practice or the ability to practice medicine.

10. **Violation of terms considered** - It is expressly understood that a violation of the terms of this Agreement shall be considered a violation of a Final Order of the Board, for which disciplinary action may be initiated pursuant to Chapters 456 and 458, Florida Statutes.

11. **Purpose of Agreement** - Respondent, for the purpose of avoiding further administrative action with respect to this cause, executes this Agreement. 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. Respondent agrees to support this Agreement at the time it is

presented to the Board and shall offer no evidence, testimony or argument that disputes or contravenes any stipulated fact or conclusion of law. 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.

12. **No preclusion of additional proceedings** - Respondent and the Department fully understand that this Agreement and subsequent Final Order incorporating same will in no way preclude additional proceedings by the Board and/or the Department against Respondent for acts or omissions not specifically set forth in the Administrative Complaint attached as Exhibit A.

13. **Waiver of attorney's fees and costs** - Upon the Board's adoption of this Agreement, the parties hereby agree that with the exception of costs noted above, the parties will bear their 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 and the Board in connection with this matter

14. **Waiver of further procedural steps** - 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.

SIGNED this 17th day of Sept, 2004.


Gregg Lowell Friedman M.D.
GREGG LOWELL FRIEDMAN, M.D.

Before me, personally appeared Gregg Lowell Friedman, whose identity is known to me by FDL # F635-292-61-013-0 (type of identification) and who, under oath, acknowledges that his/her signature appears above.

Sworn to and subscribed before me this 17 day of September, 2004.

[Signature]
NOTARY PUBLIC

My Commission Expires: Jan. 2, 2006

 Allan Kiblsky
Commission # DD081895
Expires Jan. 2, 2006
Bonded Thru
Atlantic Bonding Co., Inc.

APPROVED this ~~17~~ day of ~~September~~, 2004.
12th October
WSB WSB

John O. Agwunobi, M.D., M.B.A., M.P.H.
Secretary, Department of Health

Wings S. Benton
By: Wings S. Benton
Deputy General Counsel
Department of Health

AUG 28 2002

STATE OF FLORIDA
DEPARTMENT OF HEALTH

DEPARTMENT OF HEALTH,)
)
 PETITIONER,)
)
 v.)
)
 GREGG LOWELL FRIEDMAN, M.D.,)
)
 RESPONDENT.)
 _____)

CASE NO. 2000-05843

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 Gregg Lowell Friedman, 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 456, 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 0049447. Respondent's last known address is 1400 N.E. Miami Gardens, Drive, #103, Miami, Florida 33179-4843.

3. Respondent is board certified in psychiatry.

4. From January of 1997 to December of 1998, the Respondent was assigned Medicaid Provider Number 0640522 00, and was listed as the sole treating physician for that provider number.

Patients S.T., N.T., and W.T.

5. Patient S.T. and her two minor children, Patient N.T. and Patient W.T., all visited the Respondent's office where they were seen by Haley Sloman, a licensed mental health counselor, for family therapy. Patients S.T., N.T. and W.T. only saw the Respondent once a month to have their prescriptions refilled.

6. From February of 1998 through December of 1998, the Respondent billed Medicaid for 38 appointments for Patient S.T.

7. From January of 1997 to December of 1998, the Respondent billed Medicaid for 66 appointments with Patient N.T.

8. During that same period of time, the Respondent billed Medicaid for 61 appointments with Patient W.T.

9. Elementary school attendance records reflect that on September 2, 1998, September 11, 1998, and October 9, 1998, Patient N.T. and W.T. were in school during the time that the Respondent billed Medicaid for their appointments.

Patient L.S.

10. Patient L.S. is a minor and a recipient of Medicaid. Patient L.S. was being treated by licensed mental health counselor Haley Sloman, once a month for family therapy and behavioral problems. Respondent submitted 93 claims for appointments

for Patient L.S. during the period of January 1997 to December of 1998, when he only should have billed for approximately 24 appointments.

Patients P.B., R.B., T.B., T.B., W.B.

11. Patient P.B., R.B., T.B., T.B., and W.B. are minor Medicaid recipients. The five children went to the Respondent's office once a month where they were seen together as a "group" by Haley Sloman for family therapy.

12. From January of 1997 to December of 1998, the Respondent submitted claims to Medicaid for four to five appointments per month for each child. The appointments were billed as individual appointments, not group appointments.

13. Elementary school attendance records reflect that on September 10, 17, and 30, 1998; and October 5 and 12, 1998, Patients P.B., R.B., T.B., T.B., and W.B. were in school during the time that the Respondent billed Medicaid for their appointments.

Patients P.M., J.B., E.H. and J.H.

14. Patients P.M., J.B., E.H., and J.H. are minor Medicaid recipients.

15. Patients P.M. and E.H. went to the Respondent's office approximately four to five times each and were seen by Haley Sloman. From January of 1997 to December of 1998, the Respondent submitted claims to Medicaid for 50 individual appointments with Patient P.M. and 46 individual appointments with Patient E.H.

16. Patient J.B. only went to the Respondent's office twice. However, the Respondent submitted claims to Medicaid for 48 individual appointments with Patient J.B.

17. The Respondent saw Patient J.H. once or twice a month, however, he submitted 46 claims for individual appointments with Patient J.H. from February 1997 to October 1997.

Patients E.M. and N.M.

18. Patient E.M. and her daughter Patient N.M. were seen together by the Respondent at his office for family psychotherapy. They were also seen by Haley Sloman. On no occasion was Patient N.M. seen by the Respondent during school hours. However, the Respondent submitted claims to Medicaid for individual appointments with Patient N.M. on August 28, September 3, 10, 18, 28, October 9, and 15, 1998.

Patients S.B., D.C. and P.A.

19. Patient S.B. is the mother of Patients D.C. and P.A. Patients D.C. and P.A. saw the Respondent and Haley Sloman once or twice a month together. From January of 1997, to December of 1998, the Respondent submitted 256 claims for individual visits for Patients D.C. and P.A.

20. Patients D.C. and P.A. were never seen before or during school hours. The Respondent's appointment book indicates that Patient D.C. was at the Respondent's office on July 6, 13, 20, August 7, 13, September 4, 11, 18, and October 1, 8, and 16, 1998, and that Patient P.A. was in the Respondent's office on September 3, 11, 16, October 1, 8, and 16, 1998.

COUNT ONE – Fraudulent Representations

21. Petitioner realleges and incorporates paragraphs one (1) through twenty (20), as if fully set forth herein this Count One.

22. Respondent made deceptive, untrue, or fraudulent representations in or related to the practice of medicine, in that between January of 1997 and December of 1998, the Respondent fraudulently billed Florida's Medicaid Program in one or more of the following ways:

- a. Respondent billed for office visits which never occurred;
- b. Respondent billed for individual visits when the patients/recipients were seen in group visits; and/or
- c. Respondent billed for treatment when the patients/recipients were treated by someone other than the Respondent.

23. Based on the foregoing, Respondent has 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.

COUNT TWO – Filing False Report

24. Petitioner realleges and incorporates paragraphs one (1) through twenty (20), and twenty-two (22), as if fully set forth herein this Count Two.

25. Respondent filed a report which he knew to be false, in that between January of 1997 and December of 1998, the Respondent fraudulently billed Florida's Medicaid Program in one or more of the following ways:

- a. Respondent billed for office visits which never occurred;
- b. Respondent billed for individual visits when the patients/recipients were seen in group visits; and/or

c. Respondent billed for treatment when the patients/recipients were treated by someone other than the Respondent.

26. Based on the foregoing, Respondent has 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 records 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.

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 456.072(4), Florida Statutes, and/or any other relief that the Board deems appropriate.

SIGNED this 24th day of August, 2002.

John O. Agwunobi, M.D., Secretary

FILED
DEPARTMENT OF HEALTH
DEPUTY CLERK
CLERK Vicki R. Kenon
DATE 8/28/02


Nancy M. Snurkowski
Chief Attorney, Practitioner Regulation