

**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

DEPARTMENT OF HEALTH,

PETITIONER,

v.

CASE NO. 2000-13518

PAUL WURST, M.D.,

RESPONDENT.

ADMINISTRATIVE COMPLAINT

COMES NOW Petitioner, Department of Health, by and through its undersigned counsel, and files this Administrative Complaint before the Board of Medicine against Respondent, Paul Wurst, M.D., and in support thereof alleges:

1. Petitioner is the state department charged with regulating the practice of medicine pursuant to Section 20.43, Florida Statutes; Chapter 456, Florida Statutes; and Chapter 458, Florida Statutes.
2. At all times material to this Complaint, Respondent was a licensed physician within the state of Florida and was issued license number ME 55057.

3. Respondent's address of record is 3646 Preserve Boulevard, Panama City, Florida 32408.

4. Respondent is board certified in psychiatry with a subspecialty in child and adolescent psychiatry.

5. Oxycontin is a legend drug as defined by Section 465.003(8), Florida Statutes, and contains oxycodone, a Schedule II controlled substance listed in Chapter 893, Florida Statutes. Oxycodone is a narcotic analgesic indicated for the relief of moderate to moderately severe pain and carries a high potential for abuse. Abuse of Oxycontin may lead to severe physical and psychological dependence.

6. Valium is a legend drug as defined by Section 465.003(8), 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. Limbitrol is a legend drug as defined by Section 465.003(8), Florida Statutes, and contains chlordiazepoxide, a Schedule IV controlled substance listed in Chapter 893, Florida Statutes. Chlordiazepoxide is a benzodiazepine (anti-anxiety drug) and muscle relaxant. Limbitrol is

indicated for the treatment of moderate to severe depression associated with moderate to severe anxiety. The abuse of chlordiazepoxide can lead to physical or psychological dependence.

8. Celexa is a legend drug as defined by Section 465.003(8), Florida Statutes. Celexa is indicated for the treatment of depression.

9. On or about June 2, 2000, Patient D.S., a 52 year-old male with a history of chronic back pain and depression, presented to Respondent at Life Management Center of Northwest Florida, Inc., in Panama City, Florida.

10. Patient D.S. stated that he had been previously hospitalized at Bay Medical Center in April of 2000 in Panama City, Florida, for suicidal ideation.

11. Patient D.S. stated on the adult psychological questionnaire that he was currently under the care of Dr. Schumate, and currently prescribed Oxycontin, Valium and Limbitrol.

12. Respondent determined that Patient D.S. was not suffering from hallucinations, delusions or illusions, and that he was not at imminent risk for suicide, homicide or violence.

13. The Respondent's assessment of suicide potential was without any substance and the assessment does not elaborate why Patient D.S. was not a suicide risk.

14. Respondent did not adequately document a psychiatric history. The Respondent cannot formulate a diagnosis without an adequate history.

15. The medical record lacks documentation to determine an appropriate treatment plan.

16. Respondent diagnosed Patient S.E. with depressive disorder and chronic pain syndrome, and prescribed him Celexa, #30, 20 mg., daily; Oxycontin, #120, 20 mg., 4 daily; Limbitrol 10/25 #60, 2 at hour of sleep; Valium, #120, 10 mg., 4 daily.

17. On or about June 5, 2000, Patient D.S. expired.

18. On or about June 7, 2000, an autopsy revealed that Patient D.S. expired due to Intoxication by Combined Effects of Benzodiazepines, Methadone, and Oxycodone.

COUNT ONE

19. Petitioner realleges and incorporates paragraphs one (1) through eighteen (18) as if fully set forth herein.

20. Section 458.331(1)(q), Florida Statutes (1999), provides a physician's license may be disciplined by the Board of Medicine based upon 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.

21. Respondent inappropriately prescribed Oxycontin, Valium, and Limbitrol to Patient D.S. without adequate justification and therefore not in the best interest of the patient or in the course of the physician's professional practice.

22. Based on the foregoing, Respondent has violated Section 458.331(1)(q), Florida Statutes, by prescribing, dispensing, administering, mixing, or otherwise preparing legend drugs, including all controlled substances, inappropriately or in excessive or inappropriate quantities, and

not in the best interest of the patient and not in the course of the physician's professional practice.

COUNT TWO

23. Petitioner realleges and incorporates paragraphs one (1) through eighteen (18) as if fully set forth herein.

24. Section 458.331(1)(m) Florida Statutes (1999), provides that the Board of Medicine may take disciplinary action against a licensed physician upon the physician's failure to keep legible medical records 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.

25. Respondent failed to keep medical records that justify the course of treatment of Patient D.S. by failing to document one or more of the following:

- a. An adequate medical history of Patient D.S.; and/or
- b. An adequate psychiatric history; and/or
- c. An appropriate treatment plan; and/or
- d. Documentation supporting a diagnosis; and/or

- e. A complete assessment of suicidal ideations and explanation of determination of suicide potential; and/or
- f. An adequate medical justification for prescribing Oxycontin, Valium, and Limbitrol to Patient D.S.

26. Based on the foregoing, Respondent has violated Section 458.331(1)(m), Florida Statutes, by failing to keep medical records that justify the course of treatment of the patient.


WHEREFORE, the Petitioner respectfully requests that the Board of Medicine enter an order imposing one or more of the following penalties: permanent revocation or suspension of Respondent's license, restriction of practice, imposition of an administrative fine, issuance of a reprimand, placement of the Respondent on probation, corrective action, refund of fees billed or collected, remedial education and/or any other relief that the Board deems appropriate.

SIGNED this 10th day of November

2003.

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

FILED
DEPARTMENT OF HEALTH
DEPUTY CLERK
CLERK Heather Coleman
DATE 11/13/03


Daniel M. Lake, Esquire
Assistant General Counsel
DOH Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65
Tallahassee, FL 32399-3265
Florida Bar # 381240
(850) 414-8126
(850) 414-1989 FAX

Reviewed and approved by: DM (initials) 9/26/03 (date)

PCP: November 7, 2003

PCP Members: Gustavo Leon, M.D. (Chairperson), Manuel Coto, M.D., and John Beebe

DOH v. Paul Wurst, M.D., Case No. 2000-13518

**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

PRACTITIONER REGULATION
LEGAL
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DEPARTMENT OF HEALTH,

Petitioner,

v.

DOH Case No. 2000-13518

PAUL HENRY WURST, M.D.

Respondent.

CONSENT AGREEMENT

Paul Wurst, 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 a state agency charged with regulating the practice of medicine pursuant to Section 20.43, Florida Statutes, and Chapter 456, 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 55057.

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, may constitute violations of Chapter 458, Florida Statutes, as alleged in the Administrative Complaint.

3. The parties agree that the Stipulated Disposition in this case is fair and appropriate.

STIPULATED DISPOSITION

1. **Letter Of Concern** - Respondent shall receive a Letter of Concern from the Board of Medicine.

2. **Fine** - The Board of Medicine shall impose an administrative fine of five thousand dollars (\$5,000.00), 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 RESPONDENT HAS NOT RECEIVED WRITTEN CONFIRMATION THAT THE FULL AMOUNT OF THE FINE HAS BEEN RECEIVED BY THE BOARD OFFICE WITHIN 45 DAYS OF THE FILING OF THE FINAL ORDER, RESPONDENT AGREES TO CEASE PRACTICE UNTIL SUCH WRITTEN CONFIRMATION IS RECEIVED BY RESPONDENT FROM THE BOARD.

3. **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 three thousand, seven hundred and seventy-seven dollars and ninety-three cents (\$3,777.93). 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 RESPONDENT HAS NOT RECEIVED WRITTEN CONFIRMATION THAT THE FULL AMOUNT OF THE COSTS NOTED ABOVE HAS BEEN RECEIVED BY THE BOARD OFFICE WITHIN 45 DAYS OF THE FILING OF THE FINAL ORDER, RESPONDENT AGREES TO CEASE PRACTICE UNTIL SUCH WRITTEN CONFIRMATION IS RECEIVED BY RESPONDENT FROM THE BOARD.

4. **Community Service** - Respondent shall perform fifty (50) hours of community service, within one year of the filing of the Final Order. Community Service shall be defined as the delivery of medical services directly to patients, or the delivery of other volunteer services in the community, without fee or cost to the patient or the entity, for the good of the people of the State of Florida. Community service shall be performed outside the physician'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 as required by the Probation Committee.

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5. **Continuing Medical Education – "Risk Management"** - Respondent shall complete eight (8) hours of Continuing Medical Education in "Risk Management" within one (1) year of the Final Order. Respondent may satisfy the completion of eight hours of continuing medical education in risk management by attending a subsequent Board of Medicine meeting within one year involving a full day of disciplinary presentations which shall constitute at least six hours of disciplinary presentations.

6. Upon consideration of the Board of Medicine at the time of presentation of this agreement the Board shall dismiss count two of the administrative complaint alleging violations of section 458.331(1)(m), Florida Statutes.

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

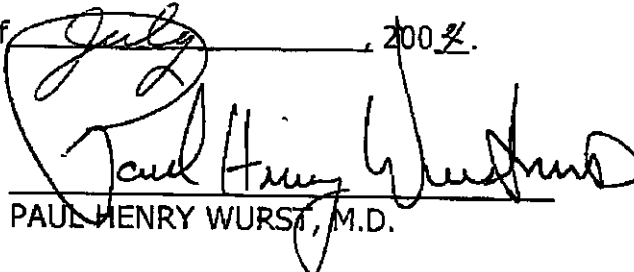


and/or the Department against Respondent for acts or omissions not specifically set forth in the Administrative Complaint attached as Exhibit A.

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 1st day of July, 2007.


PAUL HENRY WURST, M.D.

Before me, personally appeared Paul Henry Wurst, M.D., whose identity is known to me ~~by~~ personally (type of identification) and who, under oath, acknowledges that his/her signature appears above.

to

Sworn to and subscribed before me this 1st day of July
2004.

Helaine Norman
NOTARY PUBLIC

My Commission Expires:



Helaine Norman
My Commission DD201824
Expires April 7 2007

[A large, long, curved handwritten signature or scribble that spans across the middle of the page.]

to

APPROVED this 7th day of July, 2004.

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

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

By: Heather Coleman
Deputy Agency Clerk

STATE OF FLORIDA
BOARD OF MEDICINE

DEPARTMENT OF HEALTH,

Petitioner,

vs.

DOH CASE NO.: 2000-13518

LICENSE NO.: ME0055057

PAUL WURST, 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 August 6, 2004, in Tallahassee, 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,

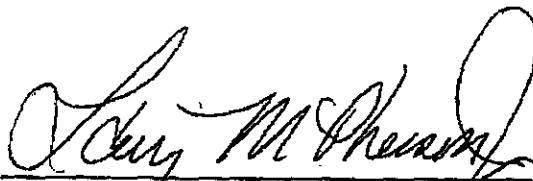
IT IS HEREBY ORDERED AND ADJUDGED that the Consent Agreement as submitted be and is hereby approved and adopted in toto and incorporated herein by reference. Accordingly, the parties shall adhere to and abide by all the terms and conditions of the Consent Agreement.

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

DONE AND ORDERED this 16 day of AUGUST,

2004.

BOARD OF MEDICINE



Larry McPherson, Jr., Executive Director
for Elisabeth Tucker, M.D., 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 PAUL WURST, M.D., 3646 Preserve Boulevard, Panama City Beach, Florida 32408; to Jon Pellett, Esquire, Barr, Murman, et al., 201 E. Kennedy Boulevard, Suite 1700, Tampa, Florida 33602; and by interoffice delivery to Denise O'Brien and Pamela Page, Department of Health, 4052 Bald Cypress Way, Bin #C-65, Tallahassee, Florida 32399-3253 this 17 day of August, 2004.



Deputy Agency Clerk