

**STATE OF FLORIDA  
DEPARTMENT OF HEALTH**

**DEPARTMENT OF HEALTH,**

**Petitioner,**

**v.**

**CASE NO. 2008-13443**

**JOHNATHAN C. GREENFIELD, M.D.,**

**Respondent.**

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**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, Johnathan C. Greenfield, 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, having been issued license number ME 81326.

3. Respondent's address of record is 2151 45th Street, Suite 108, West Palm Beach, Florida 33407.

4. On or about March 2, 2006, Patient M.R., a then fifty-seven year old female, presented to Meditox of Palm Beach (Meditox), for treatment of addiction to Lortab. At all times material to this complaint M.R. resided in Wisconsin.

5. An "intake" process was conducted for Patient M.R. on or about February 24, 2006, although M.R. hadn't presented to Meditox at this time.

6. On or about February 24, 2006, the following medications were prescribed and ordered from Schaefer Drugs (Schaefer), by Dr. P.B.: Subutex 2mg tablets #21, Prochlorperazine 10mg tablets #14, Promethazine 50mg tablets #14, Clonidine HCL 0.1mg tablets #14, Ambien 10mg tablets #7, Lorazepam 1 mg tablet #7, Trimethobenzamide 200 mg #3.

7. Subutex is the brand name for buprenorphine, and is prescribed to treat pain. According to Section 893.03(5), Florida Statutes, buprenorphine is a Schedule V controlled substance that has a low potential for abuse relative to the substances in Schedule IV and has a currently accepted medical use in treatment in the United States, and

abuse of buprenorphine may lead to limited physical or psychological dependence relative to the substances in Schedule IV.

8. Prochlorperazine is an antipsychotic and antiemetic drug used to treat schizophrenia and to combat nausea and vomiting.

9. Promethazine is a legend drug used in the treatment of motion sickness, prevention and control of nausea and vomiting associated with certain types of anesthesia and surgery, and as an adjunct to analgesics for the control of postoperative pain, preoperative, postoperative, and obstetric sedation.

10. Clonidine, generic for Catapres, is an agonist drug originally prescribed to treat hypertension. It has now been approved for use during opioid detoxification due to its ability to combat rapid heartbeat and hypertension, common during the first few days of withdrawal.

11. Ambien contains zolpidem tartrate, a legend drug. Zolpidem tartrate is a hypnotic agent used to promote and preserve deep sleep.

12. Lorazepam is a Schedule IV controlled substance that has a low potential for abuse relative to the substances in Schedule III and has a currently accepted medical use in treatment in the United States, and

abuse of the substance may lead to limited physical or psychological dependence relative to the substances in Schedule III.

13. Trimethobenzamide, generic for Tigan, is a legend drug, used to treat nausea and vomiting. Trimethobenzamide may increase the side effects of other drugs that cause drowsiness, including antidepressants, alcohol, antihistamines, sedatives (used to treat insomnia), pain relievers, anxiety medicines, muscle relaxants, and any other drugs that produce feelings of sleepiness or relaxation.

14. Patient M.R. was provided the above referenced medications during her physical visit on or about March 2, 2006, at which time it is asserted that she was seen by Dr. M.A.; the drugs were prescribed by Dr. P.B. This was the first and only time that Patient M.R. ever physically presented to Meditox.

15. M.R. sought treatment for addiction to Lortab. Lortab, which contains hydrocodone, is a schedule II controlled substance under Chapter 893, Florida Statutes. A substance in schedule II has a high potential for abuse and has a currently accepted, but severely restricted medical use in treatment. Abuse of this substance may lead to severe psychological or physical dependence.

16. At the time M.R. presented to Meditox, she was taking twelve (12) Lortab 10/500mg tablets daily to treat chronic pain disorder, restless leg syndrome, and/or removed disc jaw. A brief mental examination of M.R., which contained four lines of text, was taken by Dr. M.A.

17. Neither Respondent nor any other doctor at Meditox ever conducted a physical examination of M.R. There was no laboratory testing ordered or performed or any previous medical records obtained for Patient M.R.

18. There is no indication in the medical records that Respondent ever treated or had a patient-physician relationship with M.R. for any time periods material to this complaint.

19. Neither Respondent nor any other doctor at Meditox determined if M.R. did suffer from chronic pain issues that were intractable in nature or to determine her past treatment.

20. M.R. was provided and signed Patient Education forms that provided that all patients must be seen by Dr. M.A. within 42 days and that maintenance patients are seen every 90 days or that no prescriptions for Subutex will be prescribed by Doctor. There were to be no exceptions to this policy.

21. On or about January 1, 2007, M.R. was prescribed Subutex 8mg #90 by Respondent.

22. On or about February 16, 2007, M.R. was prescribed Subutex 8mg #90 by Respondent.

23. On or about February 16, 2007, M.R. was prescribed Lasix 40 mg tablets #7. Lasix is commonly used diuretic used to treat hypertension and edema.

24. On or about April 3, 2007, M.R. was prescribed Subutex 8mg #90 by Respondent.

25. On or about May 16, 2007, M.R. was prescribed Subutex 8mg #90 by Respondent.

26. On or about June 18, 2007, M.R. was prescribed Subutex 8mg #90 by Respondent.

27. On or about August 15, 2007, M.R. was prescribed Subutex 8mg #90 by Respondent.

28. On or about September 17, 2007, M.R. was prescribed Subutex 8mg #90, Lasix 20 mg #7, and potassium chloride 10meq tablets by Respondent.

29. On or about October 22, 2007, M.R. was prescribed Subutex 8mg #90 and Lasix 20mg #5 by Respondent.

30. On or about November 19, 2007, M.R. was prescribed Subutex 8mg #90 by Respondent.

31. On or about December 24, 2007, M.R. was prescribed Subutex 8mg #90 by Respondent.

32. On or about December 26, 2007, M.R. was prescribed Lasix (furosemide) 20mg #5 and potassium chloride 10meq #10 tablets by Respondent.

33. On or about February 8, 2008, M.R. was prescribed Subutex 8mg #90, Lasix (furosemide) 20mg #5, and potassium chloride 10meq #10 by Respondent.

34. M.R.'s medical record includes patient education materials that state that M.R. would not be prescribed any medications without being seen, and that the length of detoxification treatment should range from four (4) to six (6) weeks.

35. M.R. was provided prescriptions from March 2006 through May 2008, a total of twenty-six (26) months.

36. M.R. did not have physical contact with Respondent or any other physician at Meditox after her initial visit. M.R. did not speak with Respondent or any other physician at Meditox after her initial visit.

37. M.R. corresponded with various staff members including but not limited to T.B., an administrative assistant and E. (last name unknown), a case manager for Meditox.

38. Correspondence regarding M.R.'s condition was relayed to E. and/or T.B. M.R.'s prescriptions were called in to pharmacies by T.B., and then delivered to M.R. via Federal Express.

39. Although M.R. presented to Meditox for detoxification treatment from opioid analgesics, she was subsequently treated for chronic pain issues and was provided prescription medications allegedly for this treatment.

40. M.R. presented to Meditox taking at or around 120mg of hydrocodone daily. M.R.'s prescription for Subutex started at 5 mg daily and escalated to 32mg daily by May 2008.

41. M.R.'s dosage of Subutex amounted to 1920 mg of morphine daily. This amount was more than ten times the amount of opioid



analgesics that M.R. was taking when she first presented to Meditox for opioid dependency detoxification.

42. Prescriptions for Subutex provided by Respondent made M.R. even more opioid dependent though she initially presented for detoxification treatment.

43. The billing records for Patient M.R. reflect that she was charged five hundred dollars (\$500.00) for medication management visits less than fifteen minutes each time her prescriptions were called in by Meditox staff.

44. Patient M.R. never visited Meditox for medication management, and never saw or spoke with a physician for any time period. The billing records do not contain adequate descriptions of treatment provided to M.R. nor do they justify the course of treatment.

45. Respondent asserts that he served in a supervisory capacity for M.R.'s attending physicians at Meditox but that he did not treat M.R. Prescriptions records for M.R. reflect that prescriptions for Subutex, Lasix, and potassium chloride were written and/or authorized by Respondent.

46. Respondent did not inform M.R. that Subutex should not be used for management of acute pain, and did not obtain or correct the lack of clinical examinations to establish the etiology of M.R.'s pain.

47. The record does not contain information as to why Respondent was supervising physicians at Meditox or what his supervisory duties were; there is no information that explains why Respondent prescribed medications for M.R.

48. Respondent did not attempt to correct the deficient treatment that M.R. was being provided by Dr. M.A. and/or Dr. P.B.

49. Respondent did not properly supervise office staff members, whose information he utilized when prescribing medications to M.R.

### **COUNT ONE**

50. Petitioner realleges and fully incorporates paragraphs one (1) through forty-nine (49) as if fully stated herein.

51. Section 458.331(1)(t), Florida Statutes (2005-2007), subjects a doctor to discipline for committing medical malpractice as defined in Section 456.50, Florida Statutes (2005-2007). Section 456.50, Florida Statutes (2005-2007), defines medical malpractice as the failure to practice medicine in accordance with the level of care, skill, and treatment recognized in general law related to health care licensure.

52. Level of care, skill, and treatment recognized in general law related to health care licensure means the standard of care specified in

Section 766.102, Florida Statutes (2005-2007). Section 766.102(1), Florida Statutes (2005-2007), defines the standard of care to mean “. . . The prevailing professional standard of care for a given health care provider shall be that level of care, skill, and treatment which, in light of all relevant surrounding circumstances, is recognized as acceptable and appropriate by reasonably prudent similar health care providers. . . .”

53. Respondent failed to meet the prevailing standard of care in regard to Patient M.R. in one or more of the following ways:

- a) by failing to perform a physical examination of M.R. prior to prescribing medications;
- b) by failing to properly work up and follow-up Patient M.R.;
- c) by failing to properly monitor the effects of the drug, Subutex on Patient M.R.;
- d) by failing to obtain prior medical records and/or history for M.R.;
- e) by failing to perform any laboratory studies and/or diagnostic studies in the treatment of Patient M.R.;
- f) by treating Patient M.R. for a chronic pain condition with Subutex;

- g) by continuing to increase M.R.'s dosage of Subutex without a medical justification for doing so;
- h) by increasing opioid analgesic treatment in Patient M.R. in the course of treating her for opioid dependency detoxification;
- i) by treating Patient M.R. and prescribing medications for her without any physical contact;
- j) by treating Patient M.R. without maintaining a patient-physician relationship with her;
- k) by treating Patient M.R. with inappropriate and/or excessive amounts of controlled substances;
- l) by allowing unlicensed staff members to assess M.R.'s physical condition and be the only point of contact for M.R.

54. Based on the foregoing Respondent has violated Section 458.331(1)(t), Florida Statutes (2005-2007), by committing medical malpractice.

## **COUNT TWO**

55. Petitioner realleges and fully incorporates paragraphs one (1) through forty-nine (49) as if fully stated herein.

56. Section 458.331(1)(q), Florida Statutes (2005-2007), provides that 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 is grounds for disciplinary action by the board and/or Department. 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.

57. Respondent prescribed Subutex, a controlled substance, in an inappropriate and/or excessive manner to Patient M.R., which is outside the scope of Respondent's professional practice.

58. Based on the foregoing, Respondent has violated Section 458.331(1)(q), Florida Statutes (2005-2007), by prescribing controlled substances other than in the course of his professional practice.

### **COUNT THREE**

59. Petitioner realleges and fully incorporates paragraphs one (1) through forty-nine (49) as if fully stated herein.

60. Section 458.331(1)(m), Florida Statutes (2005-2007), provides that 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 is grounds for disciplinary action by the board and/or department.

61. Respondent failed to maintain complete medical records for Patient M.R. in one or more of the following ways:

- a) by using similar or identical language to characterize M.R.'s medical condition and medical directions and/or advice that was provided to M.R.;

- b) by failing to contain information justifying the prescribing of Subutex, Lasix, and/or potassium chloride to M.R.;
- c) by failing to document a complete physical examination and/or mental health examination of M.R.;
- d) by failing to justify billing M.R. for medication management visits of less than fifteen minutes, when M.R. never visited or spoke to a physician;
- e) by failing to contain information justifying the entire course of treatment provided to M.R.

62. Based on the foregoing, Respondent has violated Section 458.331(1)(m), Florida Statutes (2005-2007), by failing to maintain complete medical records for Patient M.R.

#### **COUNT FOUR**

63. Petitioner realleges and fully incorporates paragraphs one (1) through forty-nine (49) as if fully stated herein.

64. Section 458.331(w), Florida Statutes (2005-2007), provides that delegating professional responsibilities to a person when the licensee delegating such responsibilities knows or has reason to know that such

person is not qualified by training, experience, or licensure to perform them is grounds for disciplinary action by the board and/or Department.

65. Respondent delegated professional responsibilities, such as refilling prescriptions for Subutex, interpreting M.R.'s medical status through phone calls, and/or having sole contact with Patient M.R., to office staff members including but not limited to T.B. and/or E., when he knew or should have known they were not qualified by training or experience to perform such duties.

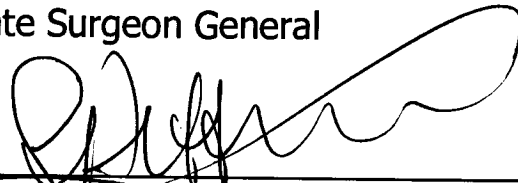
66. Based on the foregoing, Respondent has violated Section 458.331(1)(w), Florida Statutes (2005-2007).



**WHEREFORE**, Petitioner respectfully requests that the Board of Medicine enter an order imposing one or more of the following penalties: 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 25<sup>th</sup> day of March, 2011.

State Surgeon General



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**FILED**

DEPARTMENT OF HEALTH  
DEPUTY CLERK

CLERK: Melissa Nalwa

DATE: 3-28-2011

PCP: March 25, 2011

PCP Members: El-Bahri, J. Rosenberg, Mullins

### **NOTICE OF RIGHTS**

**Respondent has the right to request a hearing to be conducted in accordance with Section 120.569 and 120.57, Florida Statutes, to be represented by counsel or other qualified representative, to present evidence and argument, to call and cross-examine witnesses and to have subpoena and subpoena duces tecum issued on his or her behalf if a hearing is requested.**

### **NOTICE REGARDING ASSESSMENT OF COSTS**

**Respondent is placed on notice that Petitioner has incurred costs related to the investigation and prosecution of this matter. Pursuant to Section 456.072(4), Florida Statutes, the Board shall assess costs related to the investigation and prosecution of a disciplinary matter, which may include attorney hours and costs, on the Respondent in addition to any other discipline imposed.**