

PL50

BEFORE THE BOARD OF MEDICINE

FILED

Department of Professional Regulation  
AGENCY CLERK

DEPARTMENT OF PROFESSIONAL  
REGULATION,

CLERK Melinda H. Wagner

Petitioner,

DATE 8-9-88

vs.

WILLIAM WHITMAN, M.D.,

DPR CASE NO. 0068934  
LICENSE NO. ME 0036079

Respondent.

FINAL ORDER

THIS MATTER came before the Board of Medicine (Board) pursuant to Section 120.57(3), Florida Statutes, on August 6, 1988, in Palm Beach, Florida, for consideration of a Stipulation (attached hereto as Exhibit A) entered into between the parties in the above-styled case. Upon consideration of the Stipulation, 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 Stipulation 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 of the terms and conditions of the Stipulation.

This Order takes effect upon filing with the Clerk of the Department.

Disposition: Arnold A. Pollock, 86-2427  
Hearing Officer

*[Handwritten scribbles]*

DONE AND ORDERED this 6<sup>th</sup> day of August, 1988.

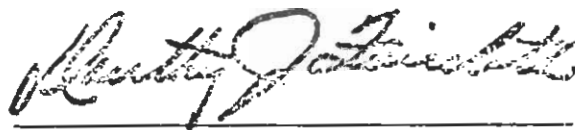
BOARD OF MEDICINE



EMILIO D. ECHEVARRIA, M.D.  
CHAIRMAN

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Final Order has been provided by certified mail to William Whitman, M.D., 3949 Evans Avenue, Ft. Myers, Florida 33901; Bruce M. Stanley, Attorney at Law, Post Office Box 280, Ft. Myers, Florida 33390-0280 and by interoffice delivery to Julie Gallagher, Attorney at Law, Department of Professional Regulation, 130 North Monroe Street, Tallahassee, Florida 32399-0750, at or before 5:00 P.M., this 9 day of August, 1988.



STATE OF FLORIDA  
DEPARTMENT OF PROFESSIONAL REGULATION  
BOARD OF MEDICINE

DEPARTMENT OF PROFESSIONAL REGULATION,	)	
	)	
	)	
Petitioner,	)	
	)	
vs.	)	DOAH CASE NO. 87-2427
	)	DPR CASE NO. 068934
	)	
WILLIAM WHITMAN, M.D.,	)	
	)	
Respondent.	)	
_____	)	

STIPULATION

The Petitioner, the Department of Professional Regulation, and the Respondent, Dr. William Whitman, do hereby stipulate to the following:

STIPULATED FACTS

1. At all times relevant hereto Respondent was a licensed medical doctor in the State of Florida having been issued license number ME 0037296.

2. On April 30, 1987, Petitioner filed a three count Administrative Complaint against the Respondent that charged him with violations of Chapter 458, Florida Statutes. Respondent was properly served with the Administrative Complaint and a true and correct copy of the Administrative Complaint is attached hereto and incorporated by reference as Exhibit A.

3. Petitioner amends the Administrative Complaint to strike paragraphs 9, 13 and 15 and voluntarily dismisses Count One of the Administrative Complaint.

4. Respondent filed an answer to the Administrative Complaint denying the material allegations of the Complaint. However, in order to avoid further administrative proceedings and possible disciplinary action, Respondent enters into this stipulation.

STIPULATED CONCLUSIONS OF LAW

1. Respondent, in his capacity as licensed medical doctor, admits that in such capacity he is subject to the provisions of Chapters 455 and 458, Florida Statutes, and the jurisdiction of the Department and the Board.

STIPULATED DISPOSITION

1. Respondent shall not violate the provisions of Chapter 455 or 458, Florida Statutes, or the rules promulgated thereunder.

2. Within one year of the date the Final Order in this cause is filed, Respondent shall successfully complete the three-day continuing medical education course offered at or by the University of South Florida Medical School that pertains to the use and proper prescribing of controlled substances in the practice of medicine. If Respondent is unable to complete this course within one year, he shall notify the Board in writing of this fact, detail the reasons why he was unable to complete the course, and request an extension of time from the Board.

The Board shall have discretion to determine whether an extension is warranted. If the continuing medical education course described in the stipulation is discontinued or otherwise not offered within the time permitted by the stipulation, Respondent may request permission from the Board to substitute another course. The Board shall have discretion to determine whether the proposed substitute course is comparable to the course outlined in this stipulation.

3. Respondent agrees to abide by all terms and conditions of this stipulation. It is expressly understood that a violation of the terms of the stipulation shall be considered a violation of Chapter 458, Florida Statutes, for which disciplinary action may be initiated.

4. Respondent shall appear before the Board when it considers this stipulation and shall, under oath, answer questions posed by Board members, counsel for the Board and counsel for Petitioner. The parties agree, however, that should this stipulation be rejected by the Board, no statements made by the Respondent before the Board, when it considers this stipulation, shall be used against the Respondent in any subsequent proceedings that pertain to the Administrative Complaint filed in this cause.

5. It is expressly understood that this stipulation is subject to approval of the Board and the Department and has no force and effect until an Order adopting the stipulation is entered by the Board.

6. This stipulation is executed by the Respondent for the purpose of avoiding further administrative action. In this regard, Respondent authorizes the Board to review and examine all investigative file materials and all information gathered during discovery prior to, or in conjunction with consideration of this stipulation. Furthermore, should this stipulation be rejected by the Board, Respondent agrees that consideration of this stipulation and other documents by the Board shall not unfairly or illegally prejudice the Board from further participation in these proceedings. In the event the Board rejects the stipulation and a proceeding pursuant to Section 120.57, Florida Statutes, is held which results in a finding that Respondent is guilty of the alleged charges, Respondent hereby waives any defense to entry of a Final Order by the Board based upon the Board's consideration of this stipulation.

7. Respondent and the Department agree that this stipulation and subsequent Final Order that incorporates same does not preclude additional proceedings by the Board or the Department against the Respondent for acts or omissions not set forth in the Administrative Complaint filed in this cause. The parties agree, however, that this stipulation and subsequent

Final Order incorporating same does preclude additional proceedings by the Board or the Department for acts or omissions that pertain to the care and treatment of Jacqueline Fagan.

8. Upon the Board's adoption of the stipulation, 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 stipulation and the Final Order of the Board that incorporates the stipulation.

9. It is expressly understood between the parties that this stipulation is entered into in an effort to resolve a disputed matter. Should the disposition of this matter proposed herein be rejected by the Board, no action taken by Petitioner and Respondent in furtherance of this stipulation, including but not limited to appearance and testimony before the Board shall be taken as an admission by either party in subsequent proceedings.

SIGNED this 10<sup>th</sup> day of June, 1988.

William Whitman  
WILLIAM WHITMAN, M.D.

SWORN AND SUBSCRIBED before me this 10<sup>th</sup> day of June, 1988.

Cora G. Moore  
Notary Public  
State of Florida at Large

My Commission Expires: Notary Public, State of Florida  
My Commission Expires Dec. 15, 1991  
Bonded Third Trust Fidelity Insurance Co.

APPROVED this 15 day of July, 1988.

LAWRENCE A. GONZALEZ  
DA S/K  
BY: Douglas A. Shropshire  
Chief Section Attorney

STATE OF FLORIDA  
DEPARTMENT OF PROFESSIONAL REGULATION  
BOARD OF MEDICINE

DEPARTMENT OF PROFESSIONAL  
REGULATION,

Petitioner,

vs.

CASE NUMBER: 0068934

WILLIAM WHITMAN, M.D.,

Respondent.

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ADMINISTRATIVE COMPLAINT

COMES NOW, the Petitioner, Department of Professional Regulation, hereinafter referred to as "Petitioner," and files this Administrative Complaint before the Board of Medicine against WILLIAM WHITMAN, M.D., hereinafter referred to as "Respondent", and alleges:

1. Petitioner is the state agency charged with regulating the practice of medicine pursuant to Section 20.30, Florida Statutes; Chapter 455, Florida Statutes; and Chapter 458, Florida Statutes.

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 0036079. Respondent's last known address is 3949 Evans Avenue, Ft. Myers, Florida 33901.

3. Between on or about December 19~~8~~<sup>4</sup> and on or about January 1986, Respondent was the treating physician for patient J.F.

4. Respondent originally diagnosed patient J.F.'s symptoms as an adjustment disorder associated with marital problems, work injury and unsuccessful surgery with a depressive reaction.

5. Patient J.F. was initially prescribed starting doses of anti-anxiety drugs, particularly Ativan, Centrax, Halcion and Xanax. Subsequently, Respondent diagnosed patient J.F. as being Benzodiazepine dependent. Ativan, Centrax, Halcion and Xanax are all in the Benzodiazepine family.

6. Ativan, Centrax, Halcion and Xanax are the brand names for drugs containing a scheduled controlled substance pursuant to Chapter 893, Florida Statutes.

7. Respondent inappropriately and/or excessively prescribed and switched patient J.F. from one medication (Ativan, Centrax, Halcion or Xanax) to another without allowing any one of the drugs a long enough period of time to work.

8. Respondent failed to treat patient J.F.'s depression more vigorously, that is to prescribe one anti-anxiety drug over an adequate period of time, during which the dosage would be increased up to an optimum patient response.

9. Alternatively, Respondent failed to obtain some psychological testing to gauge patient J.F.'s depression and then to prescribe anti-depressant immediately.

10. Elavil, Asendin, Nardil and Sinequan are all anti-depressant drugs which often take six weeks or longer to be therapeutically effective.

11. Respondent inappropriately and/or excessively prescribed Elavil, Asendin, Nardil and Sinequan to patient J.F. in that the Respondent would often inappropriately switch the patient from one medication to another in a matter of days simply because the patient complained of being "light-headed".

12. Respondent prescribed Desyrel to patient J.F. in less than therapeutic doses, which made it impossible for the Respondent to know whether it would have been effective if given in therapeutic quantities.

13. Respondent failed to record and/or obtain readings of the patient's blood pressure and pulse during the treatment period.

14. During the two year treatment period, in which at least fourteen different kinds of medications were prescribed to patient J.F., Respondent failed to obtain consultation with a competent physician regarding the treatment of patient J.F.

15. Respondent failed to keep written medical records justifying the course of treatment of patient J.F., including but



not limited to patient histories, examination results and test results.

16. 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 regards to patient J.F.

COUNT ONE

17. Petitioner realleges paragraphs one through sixteen above as if fully set forth herein this Count One.

18. Based on the foregoing, Respondent violated Section 458.331(1)(n), Florida Statutes, by failing to keep written medical records justifying the course of treatment the patient, including but not limited to patient histories, examinations results and test results.

COUNT TWO

19. Petitioner realleges paragraphs one through sixteen above as if fully set forth herein this Count Two.

20. 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 substances, other than in the course of the physician's professional practice. ]

COUNT THREE

21. Petitioner realleges paragraphs one through sixteen above as if fully set forth herein this Count Three.

22. Based on the foregoing, Respondent violated Section 458.331(1)(t), Florida Statutes, by gross or repeated malpractice or the failure 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.

WHEREFORE, the Petitioner respectfully requests the Board of Medicine to enter an order imposing one or more of the following penalties: 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, and/or any other relief that the Board deems appropriate.

SIGNED this 30 day of April, 1987.

*Van B. Poole*  
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VAN B. POOLE, Secretary  
Department of Professional  
Regulation

COUNSEL FOR DEPARTMENT:

Leslie Brookmeyer  
Senior Attorney  
Department of Professional  
Regulation  
130 North Monroe Street  
Tallahassee, Florida 32399-0750  
(904) 488-0062

LBJA/11  
2-21-87

PCP: O'Bryan/Santelices/Cooper  
04/27/87

FILED  
DEPARTMENT OF PROFESSIONAL REGULATION  
*Melinda H. Wagner*  
CLERK  
DATE May 1, 1987