

STATE OF FLORIDA  
DEPARTMENT OF PROFESSIONAL REGULATION  
BOARD OF MEDICAL EXAMINERS

DEPARTMENT OF PROFESSIONAL  
REGULATION,

Petitioner,

vs.

CASE NUMBER: 0071147

LOUIS O. BYRNE, M.D.,

Respondent.

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ADMINISTRATIVE COMPLAINT

COMES NOW the Petitioner, the Department of Professional Regulation, hereinafter referred to as the "Petitioner", and files this Administrative Complaint before the Board of Medical Examiners, against LOUIS O. BYRNE, M.D., hereinafter referred to as the "Respondent", and alleges:

1. Petitioner, the Department of Professional Regulation, 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 0020531. Respondent's last known address is 6101 Webb Road, Suite #209, Tampa, Florida 33615.

3. Between in or about November, 1985, and in or about December, 1985, Respondent was the treating physician for patient J.G. Patient J.G. complained of back pains and gave a history of Dilaudid Addiction. At the time of the initial visit, patient J.G. requested detoxification treatment from the Respondent on an out-patient basis.

4. Dilaudid is a brand name for a drug containing a scheduled controlled substance, pursuant to Chapter 893, Florida Statutes. Furthermore, Dilaudid is a narcotic drug.

5. During the above-referenced treatment period, Respondent issued prescriptions for Dilaudid to patient J.G. for detoxification treatment purposes in violation of Title 21 Code of Federal Regulations, Section 1306.04(c), which states that a prescription may not be issued for the dispensing of narcotic drugs listed in any schedule for detoxification treatment or maintenance treatment.

6. Between in or about November, 1985, and in or about December, 1985, Respondent inappropriately and/or excessively prescribed Dilaudid to patient J.G. Furthermore, the prescriptions were not issued for a medically justifiable purpose.

7. Respondent failed to keep adequate written medical records justifying the course of treatment of patient J.G.

8. Respondent failed to practice medicine with that level of care, skill and treatment which a reasonably prudent similar physician recognizes as acceptable under similar conditions and circumstances, in his treatment of patient J.G.

9. At all times material hereto, Respondent was not registered with the Drug Enforcement Administration to provide detoxification treatment.

10. Respondent practiced or offered to practice beyond the scope permitted by law in regards to Respondent's prescriptions for Dilaudid to patient J.G. for detoxification treatment.

11. Between in or about May, 1985, and in or about December, 1985, Respondent was the treating physician for patient P.T. At the initial visit, patient P.T. requested detoxification treatment from the Respondent on an out-patient basis, for Dilaudid addiction.

12. During the above-referenced treatment period, Respondent issued prescriptions for Dilaudid to patient P.T. for detoxification treatment purposes, in violation of Title 21 Code of Federal Regulations, Section 1306.04(c), which states that a prescription may not be issued for the dispensing of narcotic drugs listed in any schedule for detoxification treatment or

maintenance treatment.

13. Between in or about May, 1985, and in or about December, 1985, Respondent inappropriately and/or excessively prescribed Dilaudid to patient P.T. Furthermore, the prescriptions were not issued for a medically justifiable purpose.

14. Respondent failed to keep adequate written medical records justifying the course of treatment of patient P.T.

15. Respondent failed to practice medicine with that level of care, skill and treatment which a reasonably prudent similar physician recognizes as acceptable under similar conditions and circumstances, in his treatment of patient P.T.

16. Respondent practiced or offered to practice beyond the scope permitted by law in regards to Respondent's prescriptions for Dilaudid to patient P.T. for detoxification treatment.

COUNT ONE

17. Petitioner realleges paragraphs 1 through 5, 11 and 12 above as if fully set forth herein this Count One.

18. Based on the foregoing allegations, Respondent violated Section 458.331(1)(h), Florida Statutes, by failing to perform any statutory or legal obligation, specifically by violating Title 21 Code of Federal Regulation, Section 1306.04(c).

COUNT TWO

19. Petitioner realleges paragraphs 1 through 5, 7, 11, 12 and 14 above as if fully set forth herein this Count Two.

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

COUNT THREE

21. Petitioner realleges paragraphs 1 through 4, 6, 11 and 13 above as if fully set forth herein this Count Three.

22. Based on the foregoing allegations, 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. 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 intent.

#### COUNT FOUR

23. Petitioner realleges paragraphs 1 through 6, 8, 11 through 13 and 15 above as if fully set forth herein this Count Four.

24. Based on the foregoing allegations, 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.

#### COUNT FIVE



25. Petitioner realleges paragraphs 1 through 5, 9 through 12 and 16 above as if fully set forth herein this Count Five.

26. Based on the foregoing allegations, Respondent violated Section 458.331(1)(v), Florida Statutes, by practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities which the licensee knows or has reason to know that he is not competent to perform.

WHEREFORE, the Petitioner respectfully requests that the Board of Medical Examiners 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 3 day of October, 1986.

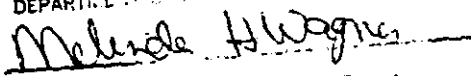
  
FRED ROCHE, Secretary  
Department of Professional  
Regulation 

COUNSEL FOR DEPARTMENT:

Stephanie A. Daniel  
Senior Attorney  
Department of Professional  
Regulation  
130 North Monroe Street  
Tallahassee, Florida 32301  
(904) 488-0062

SAD/SCC/bg  
08/15/86

PCP/Echevarria & O'Bryan  
09/25/86

FILED  
DEPARTMENT OF  
  
CLERK  
DATE October 8, 1986

BEFORE THE BOARD OF MEDICINE

**FILED**

Department of Professional Regulation  
BOARD CLERK

CLERK

DATE

*Joyce Woods*  
4-16-87

EX: Legal Board

DEPARTMENT OF PROFESSIONAL  
REGULATION,

Petitioner,

vs.

LUIS O. BYRNE, M.D.,

Respondent.

DPR CASE NO. 0071147  
LICENSE NO. ME 0020531

FINAL ORDER

THIS CAUSE came before the Board of Medicine (Board) pursuant to Section 120.57(2), Florida Statutes, on April 3, 1987, in Tampa, Florida, for consideration of the Administrative Complaint (attached hereto as Exhibit A) in the above-styled cause. At the hearing, Petitioner was represented by Bruce D. Lamb, Esquire; Respondent was present and represented by Michael L. Kenney, Esquire. The facts are not in dispute.

Upon consideration, it is ORDERED:

1. The allegations of fact set forth in the Administrative Complaint are approved and adopted and incorporated herein by reference as the findings of fact by the Board.
2. The conclusions of law alleged and set forth in the Administrative Complaint are approved and adopted and incorporated herein by reference as the conclusions of law by the Board.
3. The violations set forth warrant disciplinary action by the Board. THEREFORE,

IT IS HEREBY ORDERED AND ADJUDGED:

1. Respondent's license to practice medicine is REPRIMANDED.
2. Respondent shall pay an administrative fine in the amount of \$1000 to the Executive Director within 30 days of the date this Final Order is filed.

3. Respondent's license to practice medicine in the State of Florida is placed on PROBATION for a period of One (1) year, subject to the following terms and conditions:

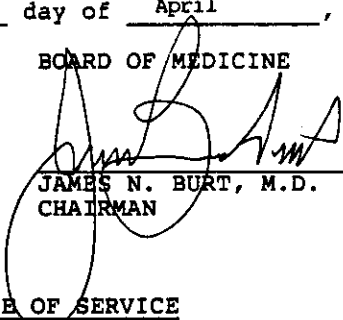
a. Respondent shall not prescribe, dispense, or administer any Schedule II controlled substances.

b. Respondent shall obtain 30 hours of Category I Continuing Medical Education (CME) in prescription drug abuse and document compliance with this requirement. The 17 hour course taken in February 1987 shall be accepted if it is shown to be Category I and in the subject area specified. The CME required herein shall be in addition to any CME required for license renewal.

Pursuant to Section 120.59, Florida Statutes, the parties are hereby notified that they may appeal this Final Order by filing one copy of a notice of appeal with the clerk of the agency and by filing the filing fee and one copy of a notice of appeal with the District Court of Appeal within 30 days of the date this order is filed, as provided in Chapter 120, Florida Statutes, and the Florida Rules of Appellate Procedure.

DONE AND ORDERED this 13 day of April, 1987.

BOARD OF MEDICINE

  
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JAMES N. BURT, 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 Luis O. Byrne, M.D., 6101 Webb Road, Suite 209, Tampa, Florida 33615 and Michael L. Kenney, Esquire, 208 South MacDill Avenue, Tampa, Florida 33609 and by hand delivery to Ray Shope, Esquire, Department of Professional Regulation, 130 North Monroe Street, Tallahassee, Florida 32399-0750, at or before 5:00 P.M., this 16 day of April, 1987.

  
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Anthony J. Faircloth