

CB

STATE OF FLORIDA
BOARD OF MEDICINE

Final Order No. DOH-02-0631- S -MOA
FILED DATE - 5/6/02
Department of Health
By: Vicki R. Kerson
Deputy Agency Clerk

DEPARTMENT OF HEALTH,

Petitioner,

vs.

CASE NO.: 2000-07215
LICENSE NO.: ME0050768

PAULSON A. KOTTURAN, 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 April 5, 2002, in Ft. Lauderdale, Florida, for consideration of a Consent Agreement (attached hereto as Exhibit A) entered into between the parties in the above-styled cause. Upon consideration of the Consent Agreement, the documents submitted in support thereof, the arguments of the parties, and being otherwise advised in the premises, the Board rejected the Consent Agreement and offered a Counter Consent Agreement which was accepted on the record by the parties. The Counter Consent Agreement incorporates the original Consent Agreement with the following amendment:

Within one (1) year from the date this Final Order is filed, Respondent shall document the completion of 25 hours of community service. Community service shall consist of the delivery of medical

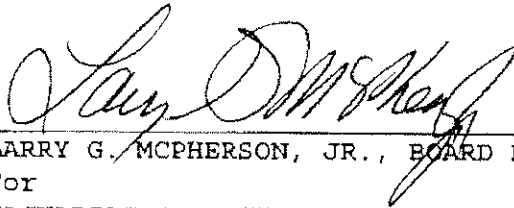
services directly to patients, without fee or cost to the patient, for the good of the people of the State of Florida. Affidavits detailing the completion of community service requirements shall be filed with the Board's Probationer's Committee.

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

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

DONE AND ORDERED this 1 day of MAY, 2002.

BOARD OF MEDICINE



LARRY G. MCPHERSON, JR., BOARD DIRECTOR
For
ZACHARIAH P. ZACHARIAH, M.D.
CHAIRMAN

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 Paulson A. Kotturan,

M.D., 1861 West Hillsboro Boulevard, Deerfield Beach, Florida 33442;
to Kenneth Metzger, Esquire, Tilton & Metzger, P.A., 1435 East
Piedmont Drive, Suite 210, Tallahassee, Florida 32312; and by
interoffice delivery to Nancy M. Snurkowski, Chief - Practitioner
Regulation, and Lisa Pease, Senior Attorney - Appeals, Agency for
Health Care Administration, 2727 Mahan Drive, Tallahassee, Florida
32308-5403, on or before 5:00 p.m., this 6th day of
May, 2002.

Kim White

**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

DEPARTMENT OF HEALTH,

Petitioner,

v.

AHCA Case No. 2000-07215

PAULSON A. KOTTURAN, M. D.

Respondent.

RECEIVED
DEPARTMENT OF HEALTH
JAN 17 2002

CONSENT AGREEMENT

PAULSON A. KOTTURAN, 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.

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.

STIPULATED FACTS

1. At all times material hereto, Respondent was a licensed physician in the State of Florida having been issued license number ME 0050768.

2. The Department, through its agent, the Agency for Health Care Administration, received a complaint against Respondent alleging a violation of Chapter 458, Florida Statutes, and the rules enacted 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 set forth in the Administrative Complaint, if proven, would constitute violations of Chapter 458, Florida Statutes, as alleged in the Administrative Complaint.

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

STIPULATED DISPOSITION

1. **FUTURE CONDUCT.** The Respondent shall not in the future violate chapters 456, 458 and 893, Florida Statutes, or the rules promulgated pursuant thereto. Prior to signing this agreement, the Respondent shall read Chapters 456, 458, 893 and the Rules of the Board of Medicine, at Section 64B, Florida Administrative Code.

2. **FINE.** Respondent shall pay an administrative fine in the amount of **\$4,000** to the Board. Respondent shall pay this fine within **three (3) months** of its imposition by Final Order of the Board. **THE RESPONDENT ACKNOWLEDGES THAT THE TIMELY PAYMENT OF THE FINE IS HIS LEGAL OBLIGATION AND RESPONSIBILITY AND THE RESPONDENT AGREES TO CEASE PRACTICING IF THE FINE IS NOT PAID AS AGREED TO IN THIS CONSENT AGREEMENT, SPECIFICALLY: IF THE RESPONDENT HAS NOT RECEIVED WRITTEN CONFIRMATION THAT THE FULL AMOUNT OF THE FINE HAS BEEN RECEIVED BY THE BOARD OFFICE WITHIN SIX (6) MONTHS OF THE FILING OF THIS FINAL ORDER, THE RESPONDENT AGREES TO CEASE PRACTICE UNTIL SUCH WRITTEN CONFIRMATION IS RECEIVED BY THE RESPONDENT FROM THE BOARD. (SEE EXHIBIT B, PARAGRAPH I OF THIS CONSENT AGREEMENT FOR BOARD ADDRESS AND STANDARD TERMS).**

3. **COST OF INVESTIGATION AND PROSECUTION.** Respondent shall pay costs of investigation and prosecution in the amount of **\$2,387.81**. Respondent shall pay the costs of investigation and prosecution within three (3) months of its imposition by Final Order of the Board.

4. **CONTINUING MEDICAL EDUCATION.** Respondent shall complete the FMA Record Keeping course within one (1) year.

5. **REPRIMAND.** Respondent shall receive a Reprimand from the Board of Medicine.

STANDARD PROVISIONS

1. It is expressly understood that this Agreement is subject to the approval of the Board and the Agency. In this regard, the foregoing paragraphs (and only the foregoing paragraphs) shall have no force and effect unless a Final Order incorporating the terms of this Agreement is entered by the Board.

2. Respondent is required to appear before the Board at the meeting of the Board where this Agreement is considered.

3. Respondent and the Agency fully understand that this agreement and subsequent Final Order incorporating same will in no way preclude additional proceedings against Respondent for acts or omissions not specifically set forth in the Administrative Complaint attached as Exhibit "A" herein.

4. 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.

5. Upon the Board's adoption of this Agreement, the parties hereby agree that, except as noted above, each party will bear his 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 Agency in connection with this matter.


6. This agreement is executed by the Respondent for the purpose of avoiding further administrative action with respect to this cause. 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. 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.

SIGNED this 28 day of January, 2002.

Paulson Kotturan
PAULSON A. KOTTURAN, M. D.

Before me, personally appeared PAULSON A. KOTTURAN, whose identity is known to me by DRIVER LICENSE (type of identification) and who, under oath, acknowledges that his/her signature appears above.

Sworn to and subscribed before me this 28 day of JANUARY, 2002.

 Chatlene H Stiller
My Commission CC946499
Expires July 13, 2004

Chatlene H. Stiller
NOTARY PUBLIC

My Commission Expires:
7-13-2004

APPROVED this 18th day of February, 2002

Robert G. Brooks, M.D., Secretary

[Signature]

By: Nancy M. Snurkowski
Chief Attorney - Practitioner Regulation
Medical Section

RECEIVED - LEGAL
02 FEB 13 PM 3:14

RECEIVED
LEGAL

EXHIBIT B**STANDARD TERMS APPLICABLE TO CONSENT AGREEMENTS**

The following are the standard terms applicable to all consent agreements, including supervision and monitoring provisions applicable to licensees on probation.

A. PAYMENT OF FINES. Unless otherwise directed by the consent agreement, all fines shall be paid by check or money order and sent to the Board address set forth in paragraph F, below. The Board office does not have the authority to change the terms of payment of any fine imposed by the Board.

B. COMMUNITY SERVICE AND CONTINUING EDUCATION UNITS. Unless otherwise directed by the consent agreement, all community service requirements, continuing education units/courses must be completed, and documentation of such completion submitted to the Board of Medicine at the address set forth below in paragraph F, **WITHIN ONE YEAR OF THE DATE OF THE FINAL ORDER.**

C. 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. Furthermore, if the Respondent's license is on probation, the Respondent shall notify the Board within ten (10) days in the event that Respondent leaves the active practice of medicine in Florida.

D. COSTS. Pursuant to Section 458.331(2), Florida Statutes, the Respondent shall pay all costs necessary to comply with the terms of this Consent Agreement. Such costs include, but are not limited to, the costs of preparation of Investigative Reports detailing compliance with the terms of the Consent Agreement,

obtaining supervision or monitoring of the practice, the cost of quality assurance reviews, and the Board's administrative costs directly associated with Respondent's probation.

E. BOARD ADDRESS. Unless otherwise directed by the Board office, all fines, reports, correspondence and inquiries shall be sent to: **Department of Health, HMQAMS/Client Services Unit, P.O. Box 6320, Tallahassee, Florida 32314-6320, Attn: Medical Compliance Officer**. Unless otherwise directed by the Board office, all other correspondence shall be sent to **Department of Health, HMQAS/Client Services/BIN# CD1, 4052 Bald Cypress Way, Tallahassee, Florida 32399-3251, Attn: Medical Compliance Officer**.

F. CONTINUITY OF PRACTICE

a. TOLLING PROVISIONS. In the event the Respondent leaves the State of Florida for a period of thirty days or more or otherwise does not or may 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 the monitor/supervisor, and required reports from the monitor/supervisor shall be tolled.

(3) The provisions regarding preparation of investigative reports detailing compliance with this Stipulation shall be tolled.

(4) Any provisions regarding community service shall be tolled.

b. ACTIVE PRACTICE. In the event that Respondent leaves the active practice of medicine for a period of one year or more, the Probation Committee may require Respondent to appear before the Probation Committee and demonstrate his ability to practice medicine with skill and safety to patients prior to resuming the practice of medicine or respiratory therapy in this State.

STATE OF FLORIDA
DEPARTMENT OF HEALTH

DEPARTMENT OF HEALTH,)
)
 PETITIONER,)
)
 v.) CASE NO. 2000-07215
)
 PAULSON A. KOTTURAN, M.D.,)
)
 RESPONDENT.)
 _____)

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 Paulson A. Kotturan, 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 0050768. Respondent's last known address is 1861 West Hillsboro Boulevard, Deerfield Beach, Florida 33442.

3. Respondent specializes in family medicine but is not board certified.
4. On or about February 14, 2000, Patient A.W. was admitted by the Respondent to the North Broward Medical Center with complaints of shortness of breath and chest pain.
5. On or about February 14, 2000, the Respondent conducted a physical examination of Patient A.W.
6. On or about February 20, 2000, Kim Stephenson, R.N., notified the Respondent that he had not examined Patient A.W. on that date.
7. On or about February 21, 2000, Nurse Stephenson notified the Respondent that he had not examined Patient A.W. on that date.
8. On or about February 22, 2000, Nurse Stephenson notified the Respondent that he had not examined Patient A.W. on that date.
9. Respondent was required to evaluate Patient A.W. every day during his hospitalization, but did not so until February 22, 2000.
10. On or about February 22, 2000, the Respondent arrived at the nurse's station where Nurse Stephenson was present.
11. On or about February 22, 2000, the Respondent wrote progress notes for Patient A.W. for the previous six days and back-dated them February 15, 2000, through February 21, 2000.
12. Respondent had not examined Patient A.W. on each of the days from February 15, 2000, to February 21, 2000.

COUNT ONE – Failure to Meet Standard of Care

13. Petitioner re-alleges and incorporates paragraphs one (1) through twelve (12), as if fully set forth herein this Count One.

14. 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 that the Respondent wrote and back-dated progress notes for Patient A.W. for the dates of February 15, 2000, through February 21, 2000, when he had not seen the patient on those dates.

15. Based on the foregoing, Respondent has violated Section 458.331(1)(t), Florida Statutes, by failing 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 TWO – Inadequate Medical Records

16. Petitioner realleges and incorporates paragraphs one (1) through twelve (12), and fourteen (14) as if fully set forth herein this Count Two.

17. Respondent failed to keep written medical records justifying the course of treatment of Patient A.W., in that the Respondent wrote and back-dated progress notes for Patient A.W. for the dates of February 15, 2000, through February 21, 2000, when he had not seen the patient on those dates.

18. Based on the foregoing, Respondent violated Section 458.331(1)(m), Florida Statutes, by 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.

COUNT THREE – Making a False Report

19. Petitioner realleges and incorporates paragraphs one (1) through twelve (12), fourteen (14), and seventeen (17), as if fully set forth herein this Count Three.

20. Respondent made or filed a report which he knew to be false, in that the Respondent wrote and back-dated progress notes for Patient A.W. for the dates of February 15, 2000, through February 21, 2000, when he had not seen the patient on those dates.

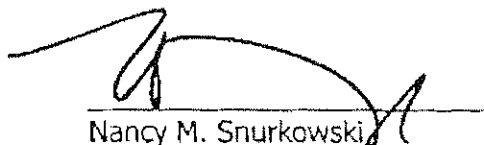
21. Based on the foregoing, Respondent violated Section 458.331(1)(h), Florida Statutes, by making or filing a report which the licensee knows to be false, intentionally or negligently failing to file a report or record required by state or federal law, willfully impeding or obstructing such filing or inducing another person to do so.

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 4th day of October, 2001.

John O. Agwunobi, MD, MBA
Acting Secretary



Nancy M. Snurkowski
Chief Attorney, Practitioner Regulation

COUNSEL FOR DEPARTMENT:

Kim M. Kluck
Senior Attorney
Agency for Health Care Administration
P. O. Box 14229
Tallahassee, Florida 32317-4229
Florida Bar # 0040967
KMK
PCP: September 28, 2001
PCP Members: Georges El-Bahri, M.D.
Laurie Davies, M.D.
Monique Long

FILED
DEPARTMENT OF HEALTH
DEPUTY CLERK
CLERK Nicki R. Kanon
DATE 10/5/01