BEFORE THE BOARD OF MEDICAL EXAMINERS

FILED
Department of Professional Regulation
BOARD CLERK
CLERK
DATE 1/15/85

DEPARTMENT OF PROFESSIONAL REGULATION,

Petitioner,

vs.

ALI A. AZIMA, M.D.,

DPR CASE NOS. 0034574, 0014227, 0014657, 0014312, 0018786
DOAH CASE NO. 83-1205, 83-2589
LICENSE NO. ME 20485

Respondent.

FINAL ORDER OF THE
BOARD OF MEDICAL EXAMINERS

This cause came before the Board of Medical Examiners (Board) pursuant to Section 120.57(1)(b)(9), Florida Statutes, on December 1, 1984, in Miami, Florida for the purpose of considering the hearing officer's Recommended Order (a copy of which is attached hereto) in the above-styled cause. Petitioner, Department of Professional Regulation, was represented by William M. Furlow, Esquire; Respondent was present and represented by Bernard H. Dempsey, Jr., Esquire and Richard Lee Barrett.

Upon review of the recommended order, the argument of the parties, and after a review of the complete record in this case, the Board makes the following findings and conclusions.

FINDINGS OF FACT

1. The exceptions to the recommended Order filed by Respondent are rejected in that they would require the Board to reweigh the evidence presented. This the Board may not do. Wagner v. Department of Professional Regulation, 405 So.2d 471. In addition, the Board finds no reason to believe the hearing officer failed to consider any of the evidence presented.

2. The hearing officer's findings of fact are approved and adopted in toto and are incorporated by reference herein.

3. There is competent substantial evidence in the record to support the Board's findings of fact.

CONCLUSIONS OF LAW

1. The Board has jurisdiction of this matter pursuant to the provision of Section 120.57(2), Florida Statutes, and Chapter 458, Florida Statutes.

2. The hearing officer's conclusions of law are approved and adopted in toto and are incorporated by reference herein.

3. There is competent substantial evidence in the record to support the Board's conclusions of law.

DISPOSITION

Upon a review of the complete record in this case, the Board determines that the penalty recommended by the hearing officer be altered. WHEREFORE,

IT IS HEREBY ORDERED AND ADJUDGED that:

1. Respondent's license to practice medicine in Florida shall be suspended for a period of one year, with the specific provision that in six months Respondent may request that the Board stay the second six months of the suspension.

2. Upon the termination or stay of the suspension, Respondent's license to practice medicine in Florida shall be placed on probation for a period of three years, subject to the term and condition that Respondent make semi-annual appearances before the Board.

3. During the periods of suspension and probation,

Respondent shall earn fifty (50) hours of Category 1 continuing medical education annually. This Order takes effect upon filing.

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 thirty 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 9 day of January, 1985.

BOARD OF MEDICAL EXAMINERS

Richard J. Feinstein, 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 Ali A. Azima, M.D., 542 Olean Blvd., Port Charlotte, Florida 33952 and Bernard H. Dempsey, Jr., Esquire and Richard Lee Barrett, Esquire, Suite 500, Day Building, 605 E. Robinson Street, Orlando, Florida 32801; by regular United States mail to Diane D. Tremor, Hearing Officer, Division of Administrative Hearings, Oakland Building, 2009 Apalachee Parkway, Tallahassee, Florida, 32301; and by hand delivery to William M. Furlow, Esquire, Department of Professional Regulation, 130 North Monroe Street, Tallahassee, Florida 32301, at 5pm this 16th day of January, 1985.

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

DEPARTMENT OF PROFESSIONAL REGULATION, BOARD OF MEDICAL EXAMINERS, Petitioner,	)	
v.	)	CASE NOS. 83-1205 83-2589
ALI AZIMA, M.D., Respondent.	)	

RECOMMENDED ORDER

Pursuant to notice, an administrative hearing was held before Diane D. Tremor, Hearing Officer with the Division of Administrative Hearings, on February 7 and 8, 1984, in Ft. Myers, Florida. The issue for determination in these consolidated proceedings is whether respondent's license as a medical doctor should be revoked, suspended or otherwise disciplined for the reasons set forth in the Administrative Complaints filed on March 15, 1983 (Case No. 83-1205) and August 2, 1983 (Case No. 83-2589).

APPEARANCES

For Petitioner: J. Riley Davis, Esquire
Taylor, Brion, Buker & Greene
225 South Adams Street
Tallahassee, Fl. 32301

For Respondent: Stephen Marc Slepin, Esquire
Slepin, Slepin, Lambert & Waas
1114 East Park Avenue
Tallahassee, Fl. 32301

and

Ellis S. Rubin, Esquire
265 NE 26 Terrace
Miami, Fl. 33137

INTRODUCTION

By Administrative Complaints filed on March 15, 1983, and August 2, 1983, respondent Ali A. Azima, M.D. is charged with violating Section 458.331(1)(t), Florida Statutes, with regard to his medical treatment of five patients. The charges regarding one of the patients (Count IV of the Complaint filed on March 15, 1983) were voluntarily dismissed, with prejudice, at the commencement of

the final hearing, as was Count II of the Complaint filed on August 2, 1983. Count I of the Complaint filed on March 15, 1983, alleges that respondent performed a termination of pregnancy procedure on [redacted] and failed to obtain a patient medical history, including a determination of the patient's Rh factor, failed to send the tissue specimen to a pathologist and failed to recognize that he, in fact, had not terminated the pregnancy, resulting in the patient having to undergo emergency surgery for termination of an ectopic pregnancy. Count II of the same Complaint, in summary form, alleges that respondent inserted an intrauterine contraceptive device (IUD) into patient [redacted] without ascertaining that she was not pregnant. It is further alleged that respondent failed to take vital signs and perform blood work. It is alleged that when patient [redacted] returned on two subsequent occasions, respondent advised her, without performing any examination, that she was not pregnant when, in fact, she was twelve weeks pregnant. As a result, patient [redacted] was forced to undergo a termination procedure with an IUD in place. Count III alleges that respondent, in preparing to perform a termination of pregnancy procedure on [redacted] utilized alcohol which caused a severe burn of the patient's cervix and vaginal area and failed to take the patient's vital signs, check her Rh factor and provide psychological counseling. Count I of the Complaint filed on August 2, 1983, charges that in performing a termination of pregnancy procedure on patient [redacted], respondent failed to check her Rh factor, failed to obtain her past medical history and failed to send a tissue specimen to a pathologist for evaluation. It is alleged that each of the factual charges are a violation of Section 458.331(1)(t), Florida Statutes, in that they constitute the commission of 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 circum-

stances.

In support of the charges against respondent, petitioner presented the testimony of patients [redacted], [redacted] formerly [redacted] and, by way of deposition, [redacted] Craig B. Sibley, M.D., Constantine Yankopolus, M.D., Randall Paul Cowdin, M.D., and Philip F. Waterman, II, M.D., all of whom were accepted as experts in the fields of obstetrics and gynecology, testified for the petitioner, as did Theodore M. Purcell, an investigator for the Department of Professional Regulation. Objection to the deposition of patient [redacted] was sustained. Petitioner's Exhibits A through D and F through H were received into evidence.

Respondent testified on his own behalf and also presented the testimony of George Chiu, the Director of Medical Information at Ft. Myers Community Hospital, and Anne Wilke, the Executive Secretary for the Lee County Medical Association. Respondent's Exhibits 1 through 3 were received into evidence.

Subsequent to the hearing, the parties submitted proposed findings of fact and proposed conclusions of law. To the extent that the parties' proposed findings of fact are not incorporated into this Recommended Order, they are rejected as not being supported by competent substantial evidence adduced at the hearing, irrelevant or immaterial to the issues in dispute or as constituting legal argument as opposed to factual findings.

FINDINGS OF FACT

Upon consideration of the oral and documentary evidence adduced at the hearing, as well as certain stipulations of fact, the following relevant facts are found:

(1) The respondent Ali Azima was born in Iran and graduated from the Medical College at Tehran University, where he received his M.D. degree in 1961. He is Board-certified as an obstetrician-gynecologist. His experience includes the delivery of approximately 5,000 to 6,000 babies, the performance of

approximately 3,500 termination of pregnancy procedures and the provision of about 1,000 intrauterine contraceptive devices to patients. At all times relevant to the charges in these proceedings, respondent was licensed by the Board of Medical Examiners in the State of Florida. Prior to the instant charges, respondent has had no Administrative Complaints filed against him.

(2) On February 18, 1981, [redacted] (now [redacted]) was admitted to the emergency room of Ft. Myers Community Hospital with severe abdominal pain. On that occasion, she learned that she was pregnant. On February 19, 1981, she went to the Southwest Florida Women's Clinic in Ft. Myers, operated by the respondent, for the purpose of terminating her pregnancy. Upon her arrival at the Clinic, she was asked to pay the requested fee and to complete two forms, a form entitled "Consent for Abortion, Anesthesia and Other Medical Services" and a form entitled "Patient Registration Record." The only medical information requested on these forms, in addition to height, weight and eye and hair color, regarded allergies to foods or medication, medication currently being taken and past operations or serious illnesses. For the latter question, Ms. [redacted] answered "rheumatic fever." Respondent spoke to her for a few moments prior to the procedure, and performed a quick pelvic examination. He then performed the procedure for termination of the pregnancy, gave her some medication and instructed her to come back the following week for a follow-up examination. Respondent did not send any tissue specimen obtained from the procedure to a pathologist for examination nor did he administer Rhogam to the patient subsequent to the procedure.

(3) According to Ms. [redacted] neither respondent nor his staff performed any blood work or determined her vital signs before or after the abortion procedure, nor did anyone inquire of her as to her blood type or Rh factor. She knew that her Rh factor was negative, but did not volunteer this information to respondent because she did not realize that a negative Rh factor was important

for purposes of a termination of pregnancy procedure. Respondent's medical records for Ms. [redacted] do not indicate that blood was drawn from her or that her Rh factor was determined or known. While the record does indicate that a physical examination was "normal," no further information is provided.

(4) Ms. [redacted] did not desire to return to respondent for her follow-up appointment. Instead, she made an appointment with Dr. Randall Cowdin for the same day she was supposed to see the respondent, February 26, 1981. On that occasion, Ms. [redacted] was given a complete physical examination and her blood type was drawn. Upon learning that she had not been administered Rhogam following her termination procedure by respondent, Dr. Cowdin gave her an injection of Mini-Rhogam on February 26, 1981. Approximately one week later, on March 5, 1981, Ms. [redacted] returned to Dr. Cowdin's office with complaints of severe right lower quadrant abdominal pain, with some nausea and vomiting. Dr. Cowdin determined that she was bleeding internally due to a ruptured right ectopic pregnancy, and immediately admitted her to the hospital. Emergency surgery was performed, resulting in the removal of the patient's right Fallopian tube and ovary.

(5) Ectopic or tubal pregnancies are difficult to diagnose. However, had a specimen of the tissue extracted from Ms. [redacted] as a result of the procedure performed by respondent been carefully examined, it would have revealed that the products of conception had not been obtained from the patient's uterus as a result of that procedure. This finding would have at least raised the suspicion of an ectopic pregnancy. It would be extremely rare for a woman to have both an ectopic and a normal pregnancy at the same time. The chances for such an event are one out of 30,000.

(6) When performing abortions, four other physicians in the Ft. Myers area routinely send a tissue specimen to a pathology laboratory for examination. The purposes for this are to detect abnormalities, to determine if the patient was indeed pregnant and to determine the existence of an ectopic pregnancy. It is the

respondent's practice to examine the tissue himself, having had some residency training in pathology and feeling competent to perform such an examination. If he has any doubts, he then sends a tissue specimen to a pathologist for further examination.

(7) It is extremely important to do a blood screening on a patient undergoing a termination of pregnancy proceeding. A determination of the hemoglobin level is significant in order to assess the risk of a procedure performed in a non-hospital setting and to prepare for the possibility of anemia after the procedure. The Rh factor needs to be determined so that Rhogam may be administered to the Rh negative patient. This injection combats antibodies and prevents sensitization or isoimmunization problems in the event of future pregnancies or future transfusions where the patient could again come into contact with Rh positive blood cells. The performance of a procedure to terminate a pregnancy without a determination of the patient's hemoglobin level and Rh factor constitutes medical treatment which falls below an acceptable standard of care.

(8) The patient medical records for #5 [redacted] indicate that she first went to the Southwest Florida Women's Clinic, Inc. on December 1, 1977, and Dr. Azima performed a termination of pregnancy procedure. Her "Patient Information Sheet" lists her blood type and Rh to be "A+." On her follow-up exam, an IUD was inserted. This device was removed in December of 1980. On February 23, 1981, [redacted] again went to respondent's Clinic. She completed a "Consent for Abortion, Anesthesia and Other Medical Services" form, told respondent that her last menstrual period had been about six weeks ago and that she was experiencing breast tenderness and nausea. A pregnancy test was performed on her, and the results were negative. Respondent performed a physical exam, noting on her record "Normal," and a pelvic exam, noting "Normal, uterus is not enlarged." Respondent then inserted a Copper 7 IUD, and instructed Ms. [redacted] to return in one week. Ms. [redacted] did return on March 5, 1981, still complaining of breast soreness and slight nausea. Respondent performed

another physical exam, noting "Normal," and a pelvic examination, noting "String is not visible, uterus sounded and IUD is in situ." The medical records do not indicate that she was given another pregnancy test on March 5, but respondent testified that she was and that such was written in the "pregnancy test book," a document not offered for admission into evidence. The records dated February 23 and March 5, 1981, do not indicate that blood work was done or that vital signs were taken. Ms. [redacted] was instructed to return on March 14, 1981, but did not do so.

(9) On April 27, 1981, [redacted] went to the offices of Yankopolus, Waterman and Cowdin, each of whom specializes in obstetrics and gynecology. The record dictated by Dr. Yankopolus indicates that Mrs. [redacted] told him that respondent had examined her the week before. She also told Dr. Yankopolus that she was having trouble with her IUD and was not feeling quite right, having symptoms of pregnancy. Dr. Yankopolus examined her, did not see the IUD string and determined that she was approximately 12 weeks pregnant. Fetal heart tones, which can be detected at $9\frac{1}{2}$ to 10 weeks of pregnancy, were heard. Dr. Yankopolus did no tests to determine if the IUD was still present, but did explain to Ms. [redacted] the dangers of possible miscarriage and infection from the presence of the IUD during pregnancy. It was noted that Ms. [redacted] "will consider all of the alternatives." On May 1, 1981, Ms. [redacted] presented herself to Dr. Waterman "for termination of pregnancy with a Copper 7 in place." After an examination, Dr. Waterman estimated that she was then "12-14 weeks size," and Dr. Cowdin concurred. This meant that conception occurred 10-12 weeks prior to the May 1st examination. Dr. Waterman performed the termination of pregnancy procedure. While his medical records for May 1, 1981, do not specifically state that he removed the IUD during the termination procedure, Dr. Waterman recalls that he did. A later notation on her medical records indicates that on March 30, 1982,

Ms. [redacted] stated "she specifically remembers my removing it."

(10) Prior to the insertion of an intrauterine contraceptive device, the most important factor to determine is that the patient is not pregnant. An IUD can be the source of infection, thus endangering the mother and the baby during pregnancy. The safest and most appropriate time to insert an IUD is during the woman's normal menstrual period. While there are exceptions to this method, especially when the physician knows and trusts the patient, it falls below an acceptable level of care for a physician to insert an IUD when the patient has not had a menstrual period for six weeks, has symptoms of pregnancy and has been engaging in unprotected intercourse.

(11) [redacted], a registered nurse, went to respondent's office on March 5, 1981, for the purpose of undergoing a termination of pregnancy procedure. She completed the consent form and "Patient Registration Record" and spoke briefly with the respondent regarding some questions she had as to the procedure. Prior to the beginning of the procedure, no vital signs were taken and no blood work was performed. Respondent's medical record for Ms. [redacted] simply indicates that the physical examination was "Normal." After respondent inserted the speculum, he requested his assistant to bring him Betadine, an antiseptic. The assistant informed him they were out of Betadine, and respondent replied, "use alcohol." Thereafter, patient [redacted] felt a severe burning and was feeling very uncomfortable with the whole procedure. She informed respondent that she was not going to have the procedure, respondent removed the speculum and left the room, she dressed, received a refund of her fee and left. The burning sensation abated quickly. The following day, patient [redacted] received a termination of pregnancy procedure at another clinic. Respondent admits that he told his assistant that alcohol could be used, but denies using any alcohol on patient [redacted]. He further states that he did not perform the blood work because he did not perform the abortion.

(12) [redacted] first underwent a termination of pregnancy procedure performed by respondent in January of 1981. At that time, she completed a "Patient Registration Form," which inquired as to her height, weight, eye and hair color, allergies, prior operations or illnesses and current medications. She returned for another procedure on December 23, 1982, which was performed by the respondent. She received no counseling prior to the performance of this procedure, but did sign a consent form and a form explaining the procedure and risks for abortion. No further written information was obtained from her. While patient Baker does not recall that a physical examination or blood work was performed prior to the performance of the termination procedure, respondent's medical records for this patient indicate that a physical and pelvic examination were performed, that a blood pressure reading was taken and that the patient's "Rh is positive." Respondent did not send a tissue sample of the products of conception to a pathologist for further examination.

(13) Other physicians specializing in obstetrics and gynecology in the Ft. Myers area make it a routine practice to counsel abortion patients prior to the performance of the procedure. During the counseling session, the risks of the procedure involved are examined and other options for the management of an unwanted pregnancy are explored. Sufficient time is afforded between the counseling session and the performance of the termination procedure for patient reflection. The physical examination performed by these physicians includes the taking of vital signs, blood pressure, blood tests and a check of the abdomen, heart and lungs. Subsequent to the procedure, the products of conception are sent to a pathology laboratory for examination and the results are made a part of the patient's medical records.

CONCLUSIONS OF LAW

The Board of Medical Examiners is authorized to take disciplinary action against a licensee found guilty of

"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. The Board shall give great weight to the provisions of s. 768.45 when enforcing this paragraph." Section 458.331(1)(t), Florida Statutes.

For the purposes of evaluating the evidence in this case, the undersigned concludes that the experts presented by the petitioner possess sufficient training, experience and knowledge to provide expert testimony as to the acceptable standard of care in this cause, in accordance with Section 768.45, Florida Statutes.

With regard to patient [redacted], it is concluded that respondent violated Section 458.331(1)(t), Florida Statutes, by failing to determine her Rh factor and hemoglobin level and by failing to take appropriate steps to recognize that he had not, in fact, terminated her pregnancy. The evidence establishes that, for purposes of a termination proceeding, a determination as to whether a pregnant woman's Rh factor is negative is necessary so that medication may be administered to protect the mother and baby in the event of a future pregnancy or to protect the mother in the event of a future transfusion. The hemoglobin level is an important factor to determine before any surgical procedure, particularly in an out-patient, non-hospital setting. While respondent cannot be faulted for failing to initially recognize, prior to the termination procedure, that Ms. [redacted] was experiencing an ectopic pregnancy, the actual performance of the procedure provided him the opportunity to make such a diagnosis. His failure to either recognize this in examining the products of the termination procedure or in sending a tissue specimen to a pathologist for examination constitutes a failure to practice medicine with that degree of care and skill which is recognized by reasonably prudent similar physicians as being acceptable under similar conditions and circumstances.

Respondent inserted an intrauterine contraceptive device into patient [redacted] on her initial visit even though she

had come to his office for an abortion, was several weeks late in her menstrual period and complained of symptoms of pregnancy. The most important factor to determine prior to inserting an IUD is that the patient is not pregnant. The presence of an IUD during pregnancy can cause infection which endangers both the mother and the baby. The evidence was not clear as to the type of pregnancy test given to patient [redacted], but it is known that some tests are more reliable than others and that the degree of reliability is somewhat dependent upon the length of the pregnancy. To have inserted a contraceptive device at a time when the patient was not in her menstrual period, had not had a period in six weeks and was, indeed, complaining of symptoms of pregnancy fell below an acceptable standard of care, skill and treatment. The evidence did not establish that the taking of vital signs or the performance of blood work were necessary prior to the insertion of an IUD, or that the patient was 12 weeks pregnant when she last saw the respondent, as alleged in the Administrative Complaint.

The evidence with regard to patient [redacted] does not sufficiently establish that alcohol was used on her so as to cause burns to the cervix or vaginal area. While the medical records for patient [redacted] do not indicate that either her vital signs or her Rh factor were determined prior to the beginning of the termination procedure, it was not sufficiently established that these determinations could not, with safety, have been made during or immediately after the procedure. Inasmuch as Ms. [redacted] refused the completion of the procedure, it cannot be determined that respondent would not have made these determinations or otherwise failed to provide an acceptable level of care, skill or treatment to this patient.

The record does not support the charges against respondent with respect to the failure to determine the past medical history or the Rh factor of patient [redacted]. While the patient's medical history is somewhat brief, it does appear in her record as does her Rh factor. Respondent did fail to send a tissue

specimen to a pathologist subsequent to the termination procedure and such failure, as in the case of [redacted], constitutes a failure to practice medicine within an acceptable level of care, skill and treatment.

It appears from the testimony of patients [redacted] and [redacted] that none were offered psychological or emotional counseling from respondent prior to beginning their abortion procedures. While they were provided information as to the procedure itself and the possible risks therefrom, Respondent did not counsel or advise them as to other alternatives for an unwanted pregnancy. It would seem that such advice and counseling would be helpful and beneficial to the patient, and other physicians performing abortions in the Ft. Myers area do provide such counseling to their patients. However, it was not sufficiently proven by the petitioner that the failure to advise and counsel patients as to alternatives to abortion procedures or to otherwise provide psychological or emotional counseling constitutes a failure to practice medicine within an acceptable level of care, skill or treatment.

In conclusion, it is found that respondent is guilty of violating Section 458.331(1)(t), Florida Statutes, in that he failed to send tissue specimens to a pathologist for examination after performing termination of pregnancy procedures on patients [redacted] and [redacted] failed to determine the Rh factor of patient Sellers and did insert an IUD into patient Schmidt without taking adequate precautions to ensure that the patient was not pregnant at the time of insertion. The remaining charges in the two Complaints were not sufficiently established by competent substantial evidence, and should be dismissed.

RECOMMENDATION

Based upon the findings of fact and conclusions of law recited herein, it is RECOMMENDED that respondent be found guilty of violations of Section 458.331(1)(t), Florida Statutes, and that his license to practice medicine in Florida be suspended for a

period of one (1) year.

Respectfully submitted and entered this 24th day of July, 1984, in Tallahassee, Florida.

Diane D. Tremor

DIANE D. TREMOR, Hearing Officer
Division of Administrative Hearings
The Oakland Building
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Tallahassee, Fl. 32301
(904) 488-9675

Filed with the Clerk of the Division of Administrative Hearings this 24th day of July, 1984.

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STATE OF FLORIDA
DEPARTMENT OF PROFESSIONAL REGULATION

DEPARTMENT OF PROFESSIONAL REGULATION, Petitioner, vs. ALI A. AZIMA, M.D., Respondent.	)	CASE NO. 0034574

ADMINISTRATIVE COMPLAINT

COMES NOW the Department of Professional Regulation, hereinafter referred to as "Petitioner," and files this Administrative Complaint against Ali A. Azima, M.D., hereinafter referred to as "Respondent," and alleges:

1. Petitioner seeks to revoke, suspend or take other disciplinary action against Respondent as licensee and against his license as a medical doctor under the laws of the State of Florida.

2. Respondent is a licensed medical doctor having been issued license number ME 0020485.

3. Respondent's last known address is Southwest Florida Woman's Clinic, 6522 Northside Circle, North Ft. Myers, Florida 33903.

COUNT ONE

4. On or about December 23, 1982, Subject performed a termination of pregnancy on [redacted] DB

5. In the course of the treatment, Respondent failed to check the Rh factor of [redacted] DB

6. Further, in the course of the treatment, Respondent failed to inquire of or obtain the past medical history of [redacted] D B

7. Following the termination of pregnancy procedure, Respondent failed to send tissue specimen to a pathologist for evaluation.

8. A reasonably prudent similar physician acting under similar conditions and circumstances would have performed the courses of treatment described in paragraphs 5, 6 and 7 above. Respondent did not.

9. Based upon the foregoing, Respondent has violated Section 458.331(1)(t), Florida Statutes, by committing gross or repeated malpractice or 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

10. Petitioner realleges as if fully set forth herein the allegations of fact contained in Count One above.

11. On or about December 23, 1982, Respondent dispensed a medication, later identified as Tetracycline, to RB [redacted] in a plain paper envelope.

12. Respondent failed to affix to the original container the date of delivery, the name and address of the practitioner, and a concise warning that it is a crime to transfer the controlled substance to any person other than the patient for whom prescribed.

13. Based upon the foregoing, Respondent has violated Section 893.05(2), Florida Statutes, by dispensing an improperly labelled substance to a patient. By virtue of this statutory violation, Respondent has violated Section 458.331(1)(h), Florida Statutes, by failing to perform any statutory or legal obligation placed upon a licensed physician.

SIGNED this 27 day of July, 1983.

FILED
DEPARTMENT OF PROFESSIONAL REGULATION
Melinda K Hood
CLERK
DATE August 2, 1983

Fred Roche
FRED ROCHE
Secretary

JWL/SRG/lw
5/25/83

COUNSEL FOR DEPARTMENT:

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JWL/SRG/lw
5/25/83

STATE OF FLORIDA
DEPARTMENT OF PROFESSIONAL REGULATION

DEPARTMENT OF PROFESSIONAL REGULATION,

Petitioner,

vs.

CASE NOS.: 0014227, 0014657, 0014312, 0018786

ALI AZIMA, M.D.,

Respondent.
_____/

ADMINISTRATIVE COMPLAINT

COMES NOW, the Department of Professional Regulation, hereinafter referred to as "Petitioner", and files this Administrative Complaint against Ali Azima, hereinafter referred to as "Respondent", and alleges:

1. Petitioner seeks to suspend, revoke or take other disciplinary action against the Respondent as licensee and against his license as a medical doctor under the laws of the State of Florida.

2. Respondent is a medical doctor, having been issued license number ME 20485.

3. The last known address of the Respondent is c/o Southwest Florida Women's Clinic, Inc., Pondella Professional Building, 6522 Northside Circle, Suite 5, North Fort Myers, Florida 33903.

COUNT I

4. On or about February 19, 1981, Respondent performed a termination of pregnancy procedure on [redacted] CS

5. Prior to performing the procedure, Respondent failed to obtain a patient medical history, including a check of the patient's Rh factor.

6. Following the pregnancy termination, Respondent failed to send the tissue specimen to a pathologist.

7. Further, Respondent failed to recognize that he, in fact, had not terminated the pregnancy.

8. A reasonably prudent similar physician acting under similar conditions and circumstances would have obtained a patient's complete history prior to performing the termination procedure, made certain that the pregnancy had been terminated, and forwarded tissue specimen to the pathology laboratory. Respondent did not.

9. As a result of Respondent's negligence, [redacted] was required to undergo emergency surgery for termination of an ectopic pregnancy.

10. Based on the foregoing, Respondent has committed gross or repeated malpractice, or 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 violation of Section 458.331(1)(t), Florida Statutes.

COUNT II

11. On or about February 23, 1981, Respondent inserted an intra-uterine contraceptive device commonly referred to as an IUD into Holli Schmidt.

12. Prior to inserting the IUD, Respondent failed to inquire whether Schmidt had engaged in sexual relations since her last menstrual period and inserted the device without considering recent intercourse or the date of [redacted] last menstrual period.

13. Further, Respondent failed to take vital signs or perform any blood work to determine [redacted] Rh factor.

14. [redacted] returned to Respondent on two subsequent occasions complaining of symptoms indicating pregnancy. Without performing any examination, Respondent advised [redacted] that she was not pregnant, when in fact, she was twelve (12) weeks pregnant.

15. A reasonably prudent physician acting under similar conditions and circumstances would have performed an examination prior to inserting the IUD, would have inserted the device during or near [redacted] menstrual period, and would have examined Schmidt prior to advising her that she was not pregnant. Respondent did not.

16. As a result of Respondent's negligence, [redacted] was forced to undergo a termination procedure with an IUD in place.

17. Based upon the foregoing, Respondent has committed gross or repeated malpractice, or 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 violation of Section 458.331(1)(t), Florida Statute

COUNT THREE

18. On or about March 16, 1981, [redacted] went to Respondent for an abortion.

19. Respondent inserted a speculum into [redacted] which had been cleansed with alcohol, and cleansed the perineum and the inside of the vagina with alcohol causing a severe burn of the cervix and vaginal area.

20. Further Respondent failed to take [redacted] vital signs, check [redacted] for Rh factor, or provide psychological counseling.

21. A reasonably prudent physician acting under similar conditions and circumstances would have cleansed the vagina with bedatine or an antiseptic other than alcohol, would have taken vital signs, performed blood tests and provided psychological counseling. Respondent did not.

22. Based upon the foregoing, Respondent has committed gross or repeated malpractice, or 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 violation of Section 458.331(1)(t), Florida Statutes.

COUNT FOUR

23. On or about October 15, 1981, Respondent performed an abortion or termination of pregnancy procedure on [redacted]

24. Respondent, without examination, or patient's consent, placed a rubber glove on his hand, put his hand in [redacted]'s vagina and removed a fetus of approximately twelve (12) weeks in size and placed it on a night stand beside her and in her view. Respondent subsequently pulled off the glove, which was bloody, and threw it on the floor asking the patient if she was "satisfied".

25. A reasonably prudent physician acting under similar conditions and circumstances would have counseled the patient, examined her and performed the abortion in the usual surgical procedure in a surgical setting. Respondent did not.

26. Based upon the foregoing, Respondent has committed gross or repeated malpractice, or 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 violation of Section 458.331(1)(t), Florida Statutes.

SIGNED this 14th day of March, 1983.

Fred Roche, Secretary
DEPARTMENT OF PROFESSIONAL REGULATION

Counsel for the Department:

Spiro T. Kypreos
Staff Attorney
DEPARTMENT OF PROFESSIONAL REGULATION
130 North Monroe Street
Tallahassee, Florida 32301
904/488-0062

STK/SRG/cg

FILED
DEPARTMENT OF PROFESSIONAL REGULATION
CLERK
DATE

BEFORE THE BOARD OF MEDICINE

DEPARTMENT OF
PROFESSIONAL REGULATION
PETITIONER

DOAH CASE NO. 83-1205, 83-2589
DPR CASE NO. 0034574, 0014227
0014657, 0014312
0018786

Ali A. Azima, M.D.

RESPONDENT

ORDER OF TERMINATION

Upon review of the terms and conditions of the final order of the Board of Medicine rendered **March 15, 1985** the documentation offered on behalf of Respondent, and being otherwise fully advised in the premises, it is hereby **ORDERED AND ADJUDGED:**

That Respondent completed his period of probation on **March 14, 1989** and has complied with all terms of the Final Order rendered **March 15, 1985.**

DONE AND ORDERED this 23 day of Jan, 1989.

BOARD OF MEDICINE

Fuad S. Ashkar, M.D., Chairman,
Board of Medicine

FILED
Department of Professional Regulation
AGENCY CLERK

CLERK _____

DATE 3-27-89

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Final Order has been provided by certified mail to Ali A. Azima, M.D., 21178 Ocean Blvd. #3, Port Charlotte, FL at or before 5:00 p.m., this 28 day of March, 1989.

Executive Director, Board of
Medicine