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Department of Professional Regulation
AGENCY CLERK

DEPARTMENT OF PROFESSIONAL REGULATION
BOARD OF MEDICINE

Stacy Cope

CLERK _____

DATE 4/20/89

DEPARTMENT OF PROFESSIONAL
REGULATION,

Petitioner,

-vs-

DPR CASE NUMBER: 0086521
LICENSE NUMBER: ME 0009271

DOUGLAS G. MCCREE, M.D.,

Respondent.

FINAL ORDER

THIS MATTER came before the Board of Medicine (Board) pursuant to Section 120.57(3), Florida Statutes, on April 7, 1989, in Miami, 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, the Board rejected the Stipulation proposed and offered an amendment at the hearing, which amendment was accepted without objection by the parties.

IT IS HEREBY ORDERED AND ADJUDGED that the Stipulation as submitted be and hereby is approved and adopted in toto and incorporated by reference herein with the following:

1. Paragraph 6 of the Stipulated Disposition is amended to require that during the first three months after the entry of this Final Order, Respondent shall practice medicine only in connection with his performance of structured uncompensated community service related to medical care.

After the first three months, Respondent shall continue to perform such community service until a total of one thousand (1000) hours have been provided. Respondent must submit a structured plan for the delivery of the community service and said plan must be approved by the Board's Probation Committee. Respondent must provide periodic affidavits documenting the performance of community service in accordance with the approved plan, the frequency of which shall be set forth in the structured plan.

2. Pursuant to Paragraph 5 of the Stipulated Disposition, no period of suspension is imposed.

Accordingly, the parties shall adhere to and abide by the terms and conditions of the Stipulation as amended.

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

DONE AND ORDERED this 13 day of April, 1989.

BOARD OF MEDICINE


MARGARET C.S. SKINNER, M.D.
VICE CHAIRMAN

CONFIDENTIAL

STATE OF FLORIDA
DEPARTMENT OF PROFESSIONAL REGULATION

DEPARTMENT OF PROFESSIONAL
REGULATION,

Petitioner,

vs.

DOUGLAS GENE MCCREE, M.D.,

Respondent.

DPR CASE NO: 0086521

STIPULATION

DOUGLAS GENE MCCREE, M.D., hereinafter referred to as "Respondent", and the Department of Professional Regulation, hereinafter referred to as "Department", hereby stipulate and agree to the following joint stipulation and Final Order of the Board of Medicine hereinafter referred to as "Board", incorporating this Stipulation and agreement in the above-styled cause.

STIPULATED FACTS

1. For all times pertinent herein, Respondent was a licensed medical doctor in the State of Florida, having been issued license number ME 009271.
2. Respondent was charged by an Amended Administrative Complaint filed by the Department and properly served upon Respondent with violations of Chapter 458, Florida Statutes, and the rules enacted pursuant thereto. A true and correct copy of the Amended Administrative Complaint is attached hereto and incorporated by reference as Exhibit "A".

CONFIDENTIAL

3. Respondent neither admits nor denies the matters of fact alleged in the attached Amended Administrative Complaint attached hereto as Exhibit "A".

STIPULATED CONCLUSIONS OF LAW

1. Respondent, in his capacity as a licensed physician, 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.

2. Respondent neither admits nor denies that the facts set forth in the foregoing Stipulated Facts, if proven, constitute violations of Chapter 458, Florida Statutes, as alleged in the Administrative Complaint.

STIPULATED DISPOSITION

1. Respondent shall not in the future violate the provisions of Chapters 455 and 458, Florida Statutes, or the rules promulgated pursuant thereto.

2. Respondent is hereby reprimanded.

3. The Respondent shall be fined Five Thousand Dollars (\$5,000.00) which shall be paid by the Respondent to the Executive Director of the Board of Medicine within sixty (60) days of the filing of the Board's Final Order in this cause.

4. Respondent shall be present at the time of the Board's consideration of this Stipulation and shall, under oath, respond to questions posed by Board Members, counsel for the Board, board staff and counsel for Petitioner.

5. The Board may, in its discretion, suspend Respondent's license to practice medicine in Florida for a period of time not to exceed one (1) year. Said suspension, if any, shall commence sixty (60) days following the entry of a Final Order in this cause.

6. In the event that Respondent's license is not suspended, within four years following the entry of a Final Order in this cause, Respondent shall perform one thousand (1,000) hours of uncompensated community service related to indigent medical care at a minimum of 250 hours per year. Affidavits detailing the community service performed shall be filed with the Board yearly.

7. Respondent and the Department fully understand that this joint Stipulation and subsequent Final Order incorporating same will in no way preclude additional proceedings by the Board and/or the Department against the Respondent for acts or omissions not specifically set forth in the Administrative Complaint attached as Exhibit "A" issued in this cause.

8. Respondent shall appear before the Board at the meeting whereat this Stipulation is considered. Respondent, in conjunction with the consideration of this Stipulation by the Board, shall respond to questions under oath from the Board, Board Staff or Department Staff.

9. Upon the Board's adoption of this 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 joint

Stipulation of facts, conclusions of law and imposition of discipline, and the Final Order of the Board incorporating said Stipulation.

10. Upon the Board's adoption of this Stipulation, the parties agree that each party will bear his own attorney's fees and costs resulting from prosecution and/or defense of this proceeding.

11. It is expressly understood that this Stipulation is subject to the approval of the Board and the Department. In this regard, the foregoing paragraphs (and only the foregoing paragraphs) of the Stipulated Facts, Stipulated Conclusion of Law, and Stipulated Disposition shall have no force and effect unless a Final Order is entered incorporating the terms of this Stipulation, by the Board.

12. This Stipulation 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 Stipulation. Furthermore, should this joint Stipulation not be accepted by the Board, it is agreed that presentation to and consideration of this Stipulation 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 10th day of March, 1989.

Douglas Gene McCree M.D.
DOUGLAS GENE MCCREE, M.D.
Respondent *William J. ...*

APPROVED this 13th day of March, 1989.

LAWRENCE A. GONZALEZ,
Secretary

[Signature]
By:

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Order has been provided by certified mail to Douglas McCree, M.D., 700 2nd Avenue North, Lakeview Medical Plaza, Naples, Florida 33940 and Wilson Jerry Foster, Attorney at Law, 227 East Virginia Street, Tallahassee, Florida 32301, and by interoffice delivery to John Alexander, Attorney at Law, Department of Professional Regulation, 130 North Monroe Street, Tallahassee, Florida 32399-0750, at or before 5:00 P.M., this 20 day of April, 1989.



STATE OF FLORIDA
DEPARTMENT OF PROFESSIONAL REGULATION
BOARD OF MEDICINE

DEPARTMENT OF PROFESSIONAL
REGULATION,

Petitioner,

vs.

CASE NO. 0086521

DOUGLAS G. MCCREE, M.D.

Respondent.

AMENDED 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 Douglas G. McCree, 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 0009271. Respondent's last known address is 700 - 2nd Ave., North, Lakeview Medical Plaza, Naples, Florida 33940.

3. From on or about January 1972 to on or about October, 1985, the Respondent was the treating physician of patient T.B.

4. Respondent treated patient T.B. in his office on the following dates for the listed complaints including but not limited to:

January 17, 1972	Recheck of cyst found by another physician in New Jersey
July 20, 1974	Physical Exam
December 1, 1975	Check for Bad Cramping
December 15, 1976	Physical Exam
June 6, 1977	Bad Cramps due to pregnancy
March 20, 1978	Post-Partum Exam
May 4, 1979	Physical Exam
April 8, 1980	Physical Exam
April 20, 1981	Physical Exam
March 5, 1982	Physical Exam
January 1, 1983	Consult
March 31, 1983	Physical Exam
September 20, 1983	Pregnancy Test - Negative
April 27, 1984	Physical Exam
May 28, 1985	Physical Exam
September 5, 1985	Infection
October 26, 1985	Recheck of infection

5. From on or about July 27, 1983 to on or about March 5, 1986, Respondent was engaged with patient T.B. in a sexual relationship. Sexual activity occurred but was not limited to the following dates:

July 27, 1983	November 8, 1984
August 12, 1983	August 12, 1985
October 20, 1983	
August 21, 1984	

January 17,	1972	Recheck of cyst found by another physician in New Jersey
July 20,	1974	Physical Exam
December 1,	1975	Check for Bad Cramping
December 15,	1976	Physical Exam
June 6,	1977	Bad Cramps due to pregnancy
March 20,	1978	Post-Partum Exam
May 4,	1979	Physical Exam
April 8,	1980	Physical Exam
April 20,	1981	Physical Exam
March 5,	1982	Physical Exam
January 1,	1983	Consult
March 31,	1983	Physical Exam
September 20,	1983	Pregnancy Test - Negative
April 27,	1984	Physical Exam
May 28,	1985	Physical Exam
September 5,	1985	Infection
October 26,	1985	Recheck of infection

5. From on or about July 27, 1983 to on or about March 5, 1986, Respondent was engaged with patient T.B. in a sexual relationship. Sexual activity occurred but was not limited to the following dates:

July 27, 1983
 August 12, 1983
 October 20, 1983
 August 21, 1984
 November 8, 1984
 August 12, 1985
 March 5, 1986

COUNT ONE

6. Petitioner realleges and incorporates by reference those allegations contained in paragraphs one (1) through five (5) as set forth above.

7. Respondent used the physician-patient relationship to induce or to attempt to induce, to engage or to attempt to engage patient T.B. in sexual activity.

8. Based on the foregoing, Respondent violated Section 458.331(1)(x) Florida Statutes by violating Section 458.329 Florida Statutes by engaging in sexual misconduct in the practice of medicine. Sexual misconduct in the practice of medicine means violation of the physician-patient relationship through which the physician uses said relationship to induce or attempt to induce the patient to engage or attempt to engage the patient, in sexual activity outside the scope of the practice or the scope of generally accepted examination or treatment of the patient. Sexual misconduct in the practice of medicine is prohibited.

COUNT TWO

9. Petitioner realleges and incorporates by reference the allegation contained in paragraphs one (1) through five (5), and seven (7) as set forth above.

10. By having sexual relations with patient T.B. within the patient-physician relationship, the Respondent exercised influence within a patient-physician relationship for purposes of engaging a patient in sexual activity.

11. Based on the foregoing, Respondent is in violation of Section 458.331(1)(j), Florida Statutes, in that he exercised

influence within a patient-physician relationship for purposes of engaging a patient in sexual activity. A patient shall be presumed to be incapable of giving free, full, and informed consent to sexual activity with his physician.

COUNT THREE

12. Petitioner realleges and incorporates by reference the allegations contained in paragraphs one (1) through five (5), seven (7), and ten (10) as set forth above.

13. The Respondent engaged in sexual activity with patient T.B. while patient T.B. was under his care as a practicing physician. This activity falls below the standard of care, skill, and treatment which is recognized by a reasonably prudent similar physician as being acceptable under similar conditions and circumstances.

14. Based on the foregoing, Respondent is in violation of 458.331(1)(t), Florida Statutes, 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 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 1st day of November, 1988.

FILED

Department of Professional Regulation
AGENCY CLERK

Shoul Cope

CLERK

DATE 11/2/88
COUNSEL FOR DEPARTMENT:

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Larry Gonzalez
Secretary

Stephanie A. Daniel

By: Stephanie A. Daniel
Chief Medical Attorney