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STATE OF FLORIDA
BOARD OF MEDICINE

By:

Jhenise McKeown
Deputy Agency Clerk

DEPARTMENT OF HEALTH,

Petitioner,

vs.

DOH CASE NO.: 2004-37645

LICENSE NO.: ME0005331

BERNARD RACHLIN, M.D.,

Respondent.

_____ /

FINAL ORDER

THIS CAUSE came before the BOARD OF MEDICINE (Board) on June 2, 2006, in Orlando, Florida, for the purpose of considering Respondent's offer to voluntarily relinquish his license to practice medicine in the State of Florida. (Attached hereto as Exhibit A.) Said written offer of relinquishment specifically provides that Respondent agrees never again to apply for licensure as a physician in the State of Florida.

Upon consideration of the written offer of voluntary relinquishment, the charges, and the other documents of record, and being otherwise fully advised in the premises,

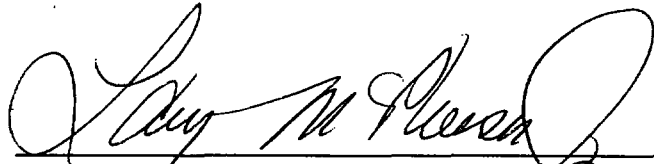
IT IS HEREBY ORDERED that Respondent's Voluntary Relinquishment of his license to practice medicine in the State of Florida is hereby ACCEPTED, and shall constitute discipline upon Respondent's license.

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

DONE AND ORDERED this 16 day of JUNE,

2006.

BOARD OF MEDICINE



Larry McPherson, Jr., Executive Director
for MAMMEN P. ZACHARIAH, M.D., Chair

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 BERNARD RACHLIN, M.D., 19333 W. Country Club Drive, Apt. 206, Aventura, Florida 33180-2487; to Michael D'Lugo, Esquire, Bank of America Center, Suite 1000, 390 North Orange Avenue, Orlando, Florida Orlando, Florida 32802-4940; and by interoffice delivery to John Terrel and Dana Baird, Department of Health, 4052 Bald Cypress Way, Bin #C-65, Tallahassee, Florida 32399-3265 this 19th day of June, 2006.



Deputy Agency Clerk

PRACTITIONER REGULATION
LEGALSTATE OF FLORIDA
DEPARTMENT OF HEALTH 2006 APR 17 AM 11:50DEPARTMENT OF HEALTH,
Petitioner,

v.

DOH Case No. 2004-37645

BERNARD RACHLIN, M.D.,
Respondent.VOLUNTARY RELINQUISHMENT OF LICENSE

Respondent BERNARD RACHLIN, M.D., license no. 5331, hereby voluntarily relinquishes Respondent's license to practice medicine in the State of Florida and states as follows:

1. Petitioner has received a complaint in this matter containing allegations that Respondent has violated Sections 458.331(1)(m) and (t), Florida Statutes.
2. Respondent's purpose in executing this Voluntary Relinquishment is to avoid further administrative action with respect to this cause. Respondent understands that acceptance by the Board of Medicine (hereinafter the Board) of this Voluntary Relinquishment shall be construed as disciplinary action against Respondent's license pursuant to Section 456.072(1)(f), Florida Statutes.
3. Respondent agrees to never reapply for licensure as a medical doctor in the State of Florida.
4. Respondent agrees to voluntarily cease practicing medicine immediately upon executing this Voluntary Relinquishment. Respondent further agrees to refrain from the practice of medicine until such time as this Voluntary Relinquishment is presented to the Board and the Board issues a written final order in this matter.

5. In order to expedite consideration and resolution of this action by the Board in a public meeting, Respondent, being fully advised of the consequences of so doing, hereby waives the statutory privilege of confidentiality of Section 456.073(10), Florida Statutes, regarding the complaint, the investigative report of the Department of Health, and all other information obtained pursuant to the Department's investigation in the above-styled action. Respondent also waives a determination of probable cause, by the Probable Cause Panel, or the Department when appropriate, pursuant to Section 456.073(4), Florida Statutes. By signing this waiver, Respondent understands that the record and complaint become public record and remain public record and that information is immediately accessible to the public. Section 456.073(10) Florida Statutes

6. Upon the Board's acceptance of this Voluntary Relinquishment, Respondent agrees to waive all rights to seek judicial review of, or to otherwise challenge or contest the validity of, this Voluntary Relinquishment and of the Final Order of the Board incorporating this Voluntary Relinquishment.

7. Petitioner and Respondent hereby agree that upon the Board's acceptance of this Voluntary Relinquishment, each party shall bear its own attorney's fees and costs related to the prosecution or defense of this matter.

8. Respondent authorizes the Board to review and examine all investigative file materials concerning Respondent in connection with the Board's consideration of this Voluntary Relinquishment. Respondent agrees that consideration of this Voluntary Relinquishment and other related materials by the Board shall not prejudice or preclude the

Board, or any of its members, from further participation, consideration, or resolution of these proceedings if the terms of this Voluntary Relinquishment are not accepted by the Board.

DATED this 16th day of March, 2006.

Bernard Rachlin MD
BERNARD RACHLIN, M.D.

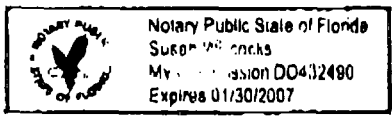
STATE OF FLORIDA
COUNTY OF:

Before me, personally appeared Bernard Rachlin, whose identity is known to me by DL (Florida) (type of identification) and who, under oath, acknowledges that his signature appears above. Sworn to and subscribed before me this 16 day of March, 2006.

Juan Wilson
NOTARY PUBLIC

My Commission Expires:

1-30-07.



STATE OF FLORIDA
DEPARTMENT OF HEALTH

FEB 03 2006

DEPARTMENT OF HEALTH,

PETITIONER,

v.

CASE NO. 2004-37645

BERNARD RACHLIN, M.D.,

RESPONDENT.

ADMINISTRATIVE COMPLAINT

COMES NOW, Petitioner, Department of Health, by and through its undersigned counsel, and files this Administrative Complaint before the Board of Medicine against Respondent, Bernard Rachlin, M.D., and in support thereof alleges:

1. Petitioner is the state department charged with regulating the practice of medicine pursuant to Section 20.43, Florida Statutes; Chapter 456, Florida Statutes; and Chapter 458, Florida Statutes.

2. At all times material to this Complaint, Respondent was a licensed physician within the State of Florida, having been issued license number ME 5331.

3. Respondent's address of record is P.O. Box 546315, Surfside, Florida 33154.

4. Respondent is not certified in any medical specialty area.

5. On or about October 6, 2004, T.S., a 24-year-old female, presented to Respondent's office for an abortion. At that time, T.S. informed Respondent that she had previously had two abortions in 2002. In fact, Respondent performed both of the 2002 abortions.

6. As part of her visit, Respondent required T.S. to complete a patient questionnaire. T.S. indicated that 37 days had passed since the first day of her last menstrual period, and she expected her menstrual period to start on September 30, 2004. T.S.'s record also revealed that T.S. was 5'3" tall and weighed 146 pounds at the time of the October 6, 2004, visit.

7. T.S.'s medical record contains no documentation of any physical examination. There is no documentation of an abdominal examination or a pelvic examination in T.S.'s medical record.

8. Respondent proceeded to perform a medical abortion. This procedure involved an intramuscular injection of 3.4 milliliters of 25 microgram/milliliter methotrexate. Respondent then sent T.S. home with a prescription for 1000 milligrams of misoprostol, which Respondent told her to place in her vagina seven days after the injection. Respondent also gave T.S. a prescription for 24 tablets of Tylenol #3.

9. Methotrexate is a legend drug, available only by prescription. Methotrexate is classified as an antimetabolite drug, which means it is capable of blocking the metabolism of cells. As a result of this effect, it has been found helpful in treating certain diseases associated with abnormally rapid cell growth, such as cancer of the breast and psoriasis. Recently, methotrexate has been shown to be effective in inducing miscarriage, for example in patients with ectopic pregnancy. This effect of methotrexate is attributed to its action of killing the rapidly growing cells of the placenta.

10. Misoprostol is a legend drug, available only by prescription. Misoprostol is chemically similar to prostaglandin, one of a number of hormone-like substances that participate in a wide range of body functions such as the contraction and relaxation of smooth muscle, the dilation and constriction of blood vessels, control of blood pressure, and modulation of inflammation. Misoprostol is most commonly used to reduce the risk of ulcers in patients taking certain medications. Misoprostol can also induce or augment uterine contractions.

11. The combination of methotrexate and misoprostol is known as medication abortion. The methotrexate inhibits the implantation process, and the misoprostol stimulates cervical softening and uterine contractions, resulting in the expulsion of uterine contents.

12. On or about October 13, 2004, T.S. filled the misoprostol prescription, received five pills, and inserted them as directed.

13. One-half hour after inserting the pills, T.S began to feel painful cramps. T.S.'s husband called Respondent, who advised him to give T.S. some of the codeine Respondent had prescribed at the office visit.

14. According to T.S., when the pain became bad in the afternoon of October 13, 2004, Respondent instructed her to come to the office for an examination and possible suction abortion.

15. T.S.'s medical records from Respondent reflect a visit on October 13, 2004. On examination, Respondent noted that T.S.'s abdomen was distended, there was no blood in the vagina, and the cervix was closed. Respondent's assessment was possible hematocolpus. Respondent administered 50 milligrams of Demerol intramuscularly. Respondent then sent T.S. to Jackson Memorial Hospital ("JMH") with a prescription for "pelvic sonogram STAT, ? hematometria, failed med abortion."

16. Hematocolpus is the accumulation of blood in the vagina due to an obstruction.

17. Hematometria is the accumulation of blood in the uterus due to an obstruction.

18. On or about October 13, 2004, T.S. presented to the emergency room at JMH. An ultrasound was performed, and T.S. was diagnosed with an intrauterine gestation at 37 weeks in active labor.

19. A full term pregnancy is 40 weeks.

20. On or about October 13, 2004, at approximately 10:49 p.m., T.S. had a normal vaginal delivery of a baby girl, weighing four pounds, thirteen ounces. The infant had a one-minute APGAR score of 6, a five-minute APGAR score of 8, and a 10-minute APGAR score of 9. The baby was sent to the neo-natal intensive care unit for respiratory distress, but was otherwise healthy, and recovered fully.

21. Respondent failed to meet the applicable standard of care by failing to perform the appropriate physical examination required for the estimation of fetal gestational age, which would have revealed that the pregnancy was more advanced than previously thought.

22. Respondent failed to meet the applicable standard of care when he attempted a medication abortion on a woman at 37 weeks gestation.

COUNT ONE

23. Petitioner realleges and incorporates paragraphs one (1) through twenty-two (22) as if fully set forth herein.

24. Section 458.331(1)(t), Florida Statutes (2004), provides that 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 constitutes grounds for disciplinary action by the Board of Medicine

25. 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 one or more of the following ways:

f. By failing to perform a more extensive physical examination to determine fetal gestational age; and

g. By administering the methotrexate/ misoprostol abortion medication to a woman at 37 weeks gestation.

26. Based on the foregoing, Respondent has violated Section 458.331(1)(t), Florida Statutes (2004), 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 in Respondent's treatment of patient T.S.

COUNT TWO

27. Petitioner realleges and incorporates paragraphs one (1) through twenty-two (22) as if fully set forth in this count.

28. Section 458.331(1)(m), Florida Statutes (2004), provides that 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 constitutes grounds for disciplinary action by the Board of Medicine.

29. Respondent failed to justify the course of treatment of T.S. in that he failed to document any physical examination for the October 6, 2004, visit, and he failed to document justification for attempting a medication abortion without a diagnosis of gestational age.

30. Based on the foregoing, Respondent has violated Section 458.331(1)(m), Florida Statutes (2004), by failing to keep legible, as defined by department rule in consultation with the board, medical records

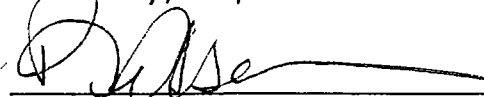
that identify the licensed physician or the physician extender and supervising physician by name and professional title who is or are responsible for rendering, ordering, supervising, or billing for each diagnostic or treatment procedure and that justify the course of treatment of the patient, including, but not limited to, patient histories; examination results; test results; records of drugs prescribed, dispensed, or administered; and reports of consultations and hospitalizations.

WHEREFORE, the Petitioner respectfully requests that the Board of Medicine enter an order imposing one or more of the following penalties: permanent revocation or suspension of Respondent's license, restriction of practice, imposition of an administrative fine, issuance of a reprimand, placement of the Respondent on probation, corrective action, refund of fees billed or collected, remedial education and/or any other relief that the Board deems appropriate.

SIGNED this 31st day of January, 2006.

FILED
DEPARTMENT OF HEALTH
DEPUTY CLERK
CLERK *Theresa McKinn*
DATE 2-3-06

M. Rony François, M.D., M.S.P.H., Ph.D.
Secretary, Department of Health


Patricia Nelson
Assistant General Counsel
DOH Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65
Tallahassee, FL 32399-3265

Florida Bar No. 325790
(850) 245-4640
(850) 245-4680 FAX

/PN

PCP: *January 31, 2006*
PCP Members:

Manuel Coto, M.D.

Monique Long, Member

NOTICE OF RIGHTS

Respondent has the right to request a hearing to be conducted in accordance with Section 120.569 and 120.57, Florida Statutes, to be represented by counsel or other qualified representative, to present evidence and argument, to call and cross-examine witnesses and to have subpoena and subpoena duces tecum issued on his or her behalf if a hearing is requested.

NOTICE REGARDING ASSESSMENT OF COSTS

Respondent is placed on notice that Petitioner has incurred costs related to the investigation and prosecution of this matter. Pursuant to Section 456.072(4), Florida Statutes, the Board shall assess costs related to the investigation and prosecution of a disciplinary matter, which may include attorney hours and costs, on the Respondent in addition to any other discipline imposed.