

SEP 10 1991

DOCKET NO. 92-388

BEFORE THE COMPOSITE STATE BOARD OF MEDICAL EXAMINERS 92-388

STATE OF GEORGIA

IN THE MATTER OF:

HERMAN MILLER, JR., M.D.
License No. 021026,

Respondent.

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DOCKET NO. 92-388

CONSENT ORDER

By agreement of the Composite State Board of Medical Examiners and Herman Miller, Jr., M.D., Respondent, the following disposition of this matter is entered pursuant to the provisions of the Georgia Administrative Procedure Act, codified as O.C.G.A. § 50-13-13(a)(4) (Ga. Laws 1964, pp. 338, 348, as amended).

FINDINGS OF FACT

1.

The Respondent is licensed to practice medicine in the states of Georgia and Florida and was so licensed at all times relevant to the matters asserted herein.

2.

On or about February 18, 1991, the Respondent had disciplinary action taken against him by means of a Final Order of the Florida Department of Professional Regulation, Board of Medicine, D.P.R. Case No. 89-002212. Said action was based upon findings that the Respondent was deficient in his diagnosis, treatment and recordkeeping with respect to an abortion patient.

3.

The Respondent waives any further findings of fact with respect to the above matter. However, the Respondent shall be allowed to submit a supplemental statement for the investigative file in explanation and mitigation of the matters stated herein as part of the investigative file, for consideration by the Board prior to its review of this Consent Order

CONCLUSIONS OF LAW

The action taken by the Florida Board and Respondent's conduct constitute sufficient grounds for the imposition of sanctions upon his license to practice medicine in the State of Georgia under O.C.G.A. Chs. 1 and 34, T. 43, as amended. The Respondent hereby waives any further conclusions of law with respect to the above-styled matter.

ORDER

The Composite State Board of Medical Examiners, having considered the particular facts and circumstances of this case, hereby orders, and the Respondent hereby agrees, to the following terms of discipline:

1.

The Respondent's license shall be placed on probation for a period of two (2) years, to commence on the effective date of the Florida Order of February 18, 1991, and to run concurrently with the probation imposed upon the Respondent by the Florida Board, with the following conditions of probation:

(a) During said period of probation, the Respondent shall comply with and be subject to all conditions of probation and restrictions imposed by the Florida Board. In any case where reports or other documentation are required to be submitted to the Florida Board, the Respondent shall also supply a copy of said reports to the Composite State Board of Medical Examiners of Georgia, and the Respondent waives any confidentiality or privilege which might preclude release of such reports to the Georgia Board.

(b) Should the Florida Board enter an order setting aside the Respondent's probation and revoking his license to practice medicine in the State of Florida, the Respondent's license to practice medicine in Georgia shall stand automatically suspended, effective on the date of such order, pending proceedings for revocation, and if the license is revoked, the Board may determine that the license shall not be subject to restoration.

(c) The Respondent shall advise the Board of any change in his residence and/or office address or of any change in the status of his Florida license or of any other licenses held by Respondent. So long as Respondent remains on probation in the State of Florida, or otherwise subject to the terms of this Consent Order, Respondent shall not resume practice in the State of Georgia without obtaining the prior written approval of the Georgia Board. Should the Respondent

desire to be engaged in or return to the practice of medicine in the State of Georgia during such time, Respondent shall notify the Board of his desire to resume the practice of medicine in the State of Georgia at least 60 days prior to the contemplated date of return. At such time, the Composite State Board of Medical Examiners shall have the right to modify this Order and impose such additional conditions or restrictions as it may deem necessary for the protection of the public. Respondent shall take all necessary steps, including payment of applicable fees, to maintain current licensure status in the State of Georgia, unless otherwise authorized by the Board.

(d) The Respondent shall supply a copy of this Consent Order, once approved and docketed, and within 10 days from receipt of the docketed copy by Respondent, to each hospital or other institution in Georgia where Respondent maintains staff privileges of any kind, and to any person with whom Respondent is associated in practice, including other physicians and physician's assistant(s) or to any person or entity for whom Respondent is employed as a physician in the State of Georgia. Respondent shall also be required to disclose the existence of and provide a copy of this Consent Order to such individuals or entities in connection with any future application for institutional

appointment, associated practice, utilization of a physician's assistant, or employment as a physician while this Consent Order is in effect. By executing this Consent Order, Respondent specifically consents to any such individuals or entities reporting to the Board information which would affect Respondent's ability to practice medicine with reasonable skill and safety to patients, notwithstanding any privilege provided by state or federal law.

(e) The Respondent shall abide by all State and Federal laws regulating the practice of medicine or relating to drugs, the Rules and Regulations of the Composite State Board of Medical Examiners, the terms of any order issued by another lawful licensing authority or consent agreement entered between Respondent and another lawful licensing authority and the terms of this Consent Order and probation. If the Respondent shall fail to abide by such laws, rules, terms or orders, or if it should appear from monitoring reports submitted to the Board that the Respondent is otherwise unable to practice medicine with reasonable skill and safety to patients, the Respondent's license shall be subject to further discipline, including revocation, upon substantiation thereof after notice and hearing, and if revoked the Board in its discretion may determine that the license should be permanently revoked and not subject to reinstatement.

(f) Upon successful completion of the probationary period imposed by the Florida Board of Medical Examiners, Respondent shall immediately notify the Board of such action and provide supporting documentation. At any time thereafter, Respondent may petition for termination of probation under this Consent Order by certifying under oath before a notary public that the Respondent has complied with all conditions of probation imposed by this Consent Order. The Composite State Board of Medical Examiners shall be authorized to review and evaluate the practice of the Respondent prior to lifting the probation. At such time, the Board shall be authorized to restore all rights and privileges incident to the license of the Respondent, unless the Board has received information that the Respondent has not complied with the terms of probation or has otherwise failed to comply with the laws and rules regulating the practice of medicine. Should the Board determine that reasonable cause exists for maintaining Respondent's license on a probationary status, the Board shall notify Respondent of its intent to extend the probationary period, and Respondent may respond to such notification in writing or request an appearance before the Board or its representative as in a non-contested case. In any event, this Consent Order shall remain in effect pending a final determination by the Board and notification that the probationary period has terminated.

2.

This Consent Order and dissemination thereof shall also serve as a public reprimand to the Respondent for Respondent's conduct in Florida.

3.

In addition to and in conjunction with any other sanction contained herein, Respondent shall pay administrative costs of \$500.00, payable by certified check to the Board, no later than 90 days from the effective date of this Consent Order.

4.

Respondent, Herman Miller, Jr. M.D., acknowledges that Respondent has read this Consent Order and that Respondent understands its contents. Respondent understands that Respondent has the right to a hearing in this matter, and Respondent freely, knowingly and voluntarily waives such right by entering into this Consent Order. Respondent understands that this Consent Order will not become effective until approved by the Composite State Board of Medical Examiners and docketed by the Joint Secretary, State Examining Boards. Respondent further understands and agrees that a representative of the Department of Law may be present during presentation of this Consent Order to the Board, and that the Board shall have the authority to review the investigative file and all relevant evidence in considering this Consent Order. Respondent further understands that this Consent Order, once approved, shall constitute a public order of the

Board, which may be disseminated as a disciplinary action of the Board. A copy of this Consent Order shall be provided to the National Practitioner Data Bank, as required by federal law. However, if the Consent Order is not approved, it shall not constitute an admission against interest in this proceeding, or prejudice the right of the Board to adjudicate this matter. Respondent consents to the terms and conditions contained herein.

Approved, this 3rd day of Sept., 1992.

COMPOSITE STATE BOARD OF MEDICAL EXAMINERS

BY: W. Gordon Irwin
W. GORDON IRWIN, D.O.
President

(BOARD SEAL)

ATTEST: William G. Miller
WILLIAM G. MILLER, JR.
Joint Secretary
State Examining Boards

Consented to:

Herman Miller, Jr.
HERMAN MILLER, JR., M.D.
Respondent

Sworn to and subscribed
before me, this 29th day
of July, 1992.

James W. Williams
NOTARY PUBLIC
My commission expires:

NOTARY PUBLIC STATE OF FLORIDA
MY COMMISSION EXP. DEC. 22, 1993
BONDED THRU GENERAL INS. UND.