

FILED

August 22, 2003

**NEW JERSEY STATE BOARD
OF MEDICAL EXAMINERS**

STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF MEDICAL EXAMINERS

IN THE MATTER OF)
)
)
JOSE E. DIMAYWGA, M.D.)
)
)

ORDER ACCEPTING SURRENDER

This matter was opened before the New Jersey State Board of **Medical** Examiners upon the **request** of Jose **E.** Dimayuga, M.D. to **surrender** his license to **practice** medicine in the State of **New** Jersey. Dr. Dimayuga **has** represented to the Board that he does not wish to continue his license in an inactive status, as he would like his name stricken from **the** roster of physicians licensed to practice medicine in New Jersey. It is expressly noted that Dr. Dimayuga wishes to surrender his medical **license because** of the sister-state action **that** followed the discipline imposed on **him by** the Florida Department of Health on or about September 20, 2000. As a result of the Florida action, Dr. Dimayuga **surrendered** his **medical license** in New York State and New **Jersey** reprimanded him based upon the Florida disciplinary action. Then he was further cited by the Florida Department of Health for failing to provide notice of the **New** York and New Jersey actions. Therefore, **he seeks** to surrender his New Jersey license to prevent the recurrence of the series of events **that** arose out of the original discipline taken by the Florida Department of **Health**.

The Board being satisfied that **the** entry of this Order in **which** Dr. Dimayuga surrenders his **license** to practice medicine in **New Jersey** is without any admissions of wrongdoing **by** Dr. Dimayuga, and that the entry **of** the within **Order** is in the public **interest**,

IT IS ON THIS 22nd DAY OF AUGUST, 2003,

ORDERED AND AGREED:

1. The Board hereby **accepts the** surrender of the **license of** Jose E. Dimayuga, M.D., **effective on** the entry date of the within Order. Dr. Dimayuga shall not engage in any practice of **medicine** in New Jersey **after that date.**

2. Dr. Dimayuga shall return his **original** New Jersey **license** and current biennial registration to **the New Jersey State Board of Medical Examiners, Post Office Box 183, Trenton, New Jersey 08625-0183,** upon his receipt of a filed **copy** of this Order.

NEW JERSEY STATE BOARD OF MEDICAL EXAMINERS

By: David M. Wallace M.D.
David M. Wallace, M.D.
President

I have read and understand the within Order and agree to its **terms!** Consent is hereby given to enter this Order

Jose E. Dimayuga, M.D. 7/18/03 10 months!

3/1/00

STATE OF FLORIDA
BOARD OF MEDICINE

Final Order No. DOH-00-1731-S-MOA
FILED DATE - 9/20/2000
Department of Health
By: Vicki R. Kenon
Deputy Agency Clerk

DEPARTMENT OF HEALTH,

Petitioner,

vs.

CASE NO.: 98-02886
LICENSE NO,: ME0051507

JOSE DIMAYUGA, 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 August 4, 2000, in Tampa, 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 amendments:

1. In addition to the fine set forth in Paragraph 3 of the Stipulated Disposition, Respondent shall pay the costs related to this case in the amount of \$1335.46, within one (1) year from the date this

Final Order is filed.

2. The requirement for the University of Florida (UF) CARES evaluation set forth in Paragraph 5 of the Stipulated Disposition shall include compliance with any and all recommendations of the UF CARES evaluation.

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 amendments 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 5th day of September, 2000.

BOARD OF MEDICINE

for Janyah Williams
GEORGES A. EL-BAHRI, 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 Jose Dimayuga, M.D., 320 N. Clyde Morris Boulevard, Daytona Beach, Florida 32114; to Kevin T. O'Hara, Esquire, First Sanford Tower, 312 West First Street, Suite 600, Sanford, Florida 32771; and by interoffice delivery to Kathryn L. Kasprzak, Chief Medical Attorney, Agency for Health Care

Administration, and Simone Marstiller, Senior Attorney - Appeals, Agency
for Health Care Administration, 2727 Mahan Drive, Tallahassee, Florida
32308-5403, on or before 5:00 p.m., this _____ day of
_____, 2000.

STATE OF FLORIDA
DEPARTMENT OF HEALTH

DEPARTMENT OF HEALTH,

Petitioner,

v.

AHCA Case No. 1998.02886

JOSE DIMAYUGA, M.D.,
Respondent.

CONSENT AGREEMENT

Jose Dimayuga, 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 455, 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 0051507

2. Respondent was charged by an 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 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.

STIPULATED CONCLUSIONS OF LAW

1. Respondent admits that, in his capacity as a licensed physician, he is subject to the provisions of Chapters 455 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. Respondent shall not in the future violate Chapters 455, 458 and 893, Florida Statutes, or the rules promulgated pursuant thereto. Prior to signing this agreement, Respondent read Chapters 455, 458, and 893, Florida Statutes, and the Rules of the Board of Medicine, at Section 64B8, Florida Administrative Code.

2. REPRIMAND. The Respondent shall receive a reprimand from the Board of Medicine.

3. FINE. The Board shall impose an administrative fine in the amount of \$ 5, 000 against the Respondent, The me shall be paid by the Respondent to the Board of Medicine within ONE YEAR of its imposition by Find Order of the Board. **THE RESPONDENT ACKNOWLEDGES THAT THE TIMELY PAYMENT OF THE FINE IS HIS/HER 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 ONE YEAR 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 F OF THIS CONSENT AGREEMENT FOR BOARD ADDRESS AND STANDARD TERMS).**

4. CONTINUING MEDICAL EDUCATION. Respondent shall attend five hours of Category I Continuing Medical Education courses per year in the area of risk management and five hours in the area of Respondent's practice. Respondent shall submit a written plan to the Chairman of the Probation Committee for course approval prior to the completion of said courses. In addition, Respondent shall submit documentation of completion of these courses in his required reports. These hours shall be in addition to those hours required for renewal of licensure. Unless otherwise approved by the Board or the Chairman of the Probation Committee, said courses shall consist of a formal live lecture format.

5. UNIVERSITY OF FLORIDA COMPREHENSIVE ASSESSMENT AND REMEDIAL EDUCATION SERVICES. Within six (6) months of the filing of the Final Order in this matter, Respondent shall complete the University of Florida Comprehensive Assessment and Remedial Education Services course.

STANDARD PROVISIONS

This Consent Agreement shall be governed by the attached "Standard Terms Applicable to Consent Agreements," Exhibit B, which is incorporated as if fully set forth herein.

1. It is expressly understood that this Agreement is subject to the approval of the Board and the Department. 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 shall appear before the Board at the meeting of the Board where this Agreement is considered. Respondent, in conjunction with the consideration of this Agreement by the Board, shall respond to questions under oath from the Board, Board Staff or Department Staff. Respondent shall be prepared to explain the circumstances involved in this matter and what measures have been taken to prevent a recurrence. However, Respondent shall offer no evidence, testimony or argument that disputes or contravenes any stipulated fact or conclusion of law.

3. Should this Agreement be rejected, no statement made in furtherance of this Agreement by the Respondent may be used as direct evidence against the Respondent in any proceeding; however, such statements may be used by the Petitioner for impeachment purposes.

4. Respondent and the Department fully understand that this joint Agreement 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 herein.

5. 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.

6. Upon the Board's adoption of this Agreement, the parties hereby agree that with the exception of costs 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 Department in connection with this matter.

7. 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 Joint 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.

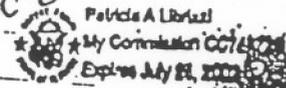
SIGNED this 26th day of June 1999.

Jose Dimasyuga, M.D.

Before me, personally appeared Jose Dimasyuga, whose identity is known to me by (Personally Known) (type of identification) and who, under oath, acknowledges that his/her signature appears above.

Sworn to and subscribed before me this 26th day of June 1999. 2000.

Patricia A. Librizzi
NOTARY PUBLIC



My Commission Expires:

APPROVED this 29th day of June, 1999.

Robert G. Brooks, M.D.
Secretary, Department of Health

By: Larry G. McPherson, Jr.
Chief Attorney
Medical Section

**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. LAWS AND RULES EXAMINATION. Unless otherwise directed by the consent agreement, the Respondent shall take and obtain a score of at least 70% correct on the Laws and Rules Examination within six months of the Final Order. The Respondent shall notify the Agency at least one week prior to the date he/she wishes to take the examination to schedule a time for the examination at one of the Agency's Investigative Offices. The Respondent may take the examination as many times as needed to obtain a passing score of 70%. Contact Donna S. Brown, (850) 487-9672, at the Agency for Health Care Administration, to schedule a time for the examination, or to answer any questions.~~

D. 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

E. 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.

F. BOARD ADDRESS. Unless otherwise directed by the Board office, all fines, reports, correspondence and inquiries shall be sent to: Board of Medicine, Client Services Unit, 2020 Capital Circle SE, Bin # C03, Tallahassee, Florida 32399-3253, Attn: Medical Compliance Officer.

G. PROBATION TERMS. If probation was imposed by the Final Order of the Board, the following provisions are applicable.

I. DEFINITIONS:

a. INDIRECT SUPERVISION is supervision by a monitoring physician (monitor), physicians assistant, respiratory care practitioner, as set forth in the Consent Agreement, whose responsibilities are set by the Board. Indirect supervision does not require that the monitor practice on the same premises as the Respondent, however, the monitor shall practice within a reasonable geographic proximity to Respondent, which shall be within 20 miles unless otherwise provided by the Board and

shall be readily available for consultation. The monitor shall be Board-certified in the Respondent's specialty area unless otherwise provided by the Board.

b. DIRECT SUPERVISION is supervision by a supervising physician (supervisor), physician assistant, respiratory care practitioner, as set forth in the Consent Agreement, whose responsibilities are set by the Board. Direct supervision requires that the supervisor and Respondent work in the same office. The supervisor shall be board-certified in the Respondent's specialty area unless otherwise provided by the Board.

c. PROBATION COMMITTEE or "committee" are members of the Board of Medicine designated by the Chairman of the Board to serve as the Probation Committee.

2. REQUIRED SUPERVISION.

a. If the terms of the consent agreement include indirect monitoring of the licensee's practice (MONITORING) or ~~direct~~ monitoring of the licensee's practice (SUPERVISION), the Respondent shall not practice medicine without an approved monitor/supervisor, as specified by the Consent Agreement, unless otherwise ordered by the Board.

b. The monitor/supervisor must be a licensee under Chapter 458, Florida Statutes, in good standing and without restriction or limitation on his license. In addition, the Board or Committee may reject any proposed monitor/supervisor on the basis that he has previously been subject to any disciplinary action against his medical license in this or my other jurisdiction, is currently under investigation, or is the subject of a pending disciplinary action. The monitor/supervisor must be actively engaged in the same

or similar specialty area unless otherwise provided by the Board or Committee and be practicing within a reasonable distance of the Respondent's practice, a distance of no more than twenty (20) miles unless otherwise specifically provided for in the consent agreement. The Board or Committee may also reject any proposed monitor/supervisor for good cause shown.

c. MECHANISM FOR APPROVAL OF MONITOR/SUPERVISOR:

(1) TEMPORARY APPROVAL. The Board confers authority on the Chairman of the Board's Probation Committee to temporarily approve Respondent's monitor/supervisor. To obtain this temporary approval, Respondent shall submit to the Chairman of the Probation Committee the name and curriculum vitae of the proposed monitor/supervisor at the time this agreement is considered by the Board. Once a Final Order adopting this Agreement is filed, Respondent shall not practice medicine without an approved monitor/supervisor. Temporary approval shall only remain in effect until the next meeting of the Probation Committee.

(2) FORMAL APPROVAL. Respondent shall have the monitor/supervisor with him at his first probation appearance before the Probation Committee. Prior to consideration of the monitor/supervisor by the Committee, the Respondent shall provide to the monitor/supervisor a copy of the Administrative Complaint and Final Order in this case. Respondent shall submit a current curriculum vitae and a description of current practice from the proposed monitor/supervisor to the Board office no later than fourteen days before the Respondent's first scheduled probation appearance. Respondent's monitor/supervisor shall also appear before the Probation Committee at such

other times as directed by the Committee. It shall be Respondent's responsibility to ensure that the appearance of his monitor/supervisor as directed. Failure of the monitor/supervisor to appear as directed shall constitute a violation of the terms of this Stipulation and shall subject the Respondent to disciplinary action.

d. CHANGE IN MONITOR/SUPERVISOR. In the event that Respondent's monitor/supervisor is unable or unwilling to fulfill his responsibilities as a monitor/supervisor as described above, then the Respondent shall immediately advise the Board of this fact. Respondent shall immediately submit to the Chairman of the Board's Probation Committee the name of a temporary monitor/supervisor for consideration. Respondent shall not practice pending approval of this temporary monitor/supervisor by the Chairman of the Probation Committee. Furthermore, Respondent shall make arrangements with his temporary monitor/supervisor to appear before the Probation Committee at its next regularly scheduled meeting for consideration of the monitor/supervisor by the Committee. Respondent shall only practice under the auspices of the temporary monitor/supervisor (approved by the Chairman) until the next regularly scheduled meeting of the Probation Committee whereat the issue of the Committee's approval of the Respondent's new monitor/supervisor shall be addressed.

3. 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.)
)
JOSE DIMAYUGA, M.D.,)
)
RESPONDENT.)
_____)

CASE NO. 1998-02886

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 Jose Dimayuga, 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 455, Florida Statutes, and Chapter 458, Florida Statutes. Pursuant to the authority 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 0051507. Respondent's last known address is 320 N. Clyde Morris Blvd., Daytona Beach, Florida 32114.
3. Respondent is Board Certified in General Surgery.

4. On or about January 2, 1996, Patient D.M. a thirty-three (33) year-old male, was admitted to Halifax Medical Center with complaints of severe abdominal pain, nausea, and vomiting.

5. After an examination, Stephen Levine, M.D. diagnosed patient D.M., as suffering from an acute interabdominal process, and noted further that Patient D.M. was suffering from possible acute chronic renal failure.

6. Dr. Levine elected to delay diagnostic procedures to confirm the diagnosis, and elected to forego immediate surgical intervention.

7. On or about January 5, 1996, Patient underwent a CT scan to determine if Patient D.M.'s appendix had ruptured. The CT scan was suspicious for appendiceal perforation.

8. At or about 6:45 p.m. on January 8, 1996, Patient D.M. underwent a laparoscopic appendectomy, performed by Dr. Levine. The perforated appendix was removed and multiple interabdominal abscesses were drained. Patient D.M. was sent to recovery at or about 9:30 p.m. on January 8, 1996.

9. At or about 11:40 p.m. on January 8, 1996, Patient D.M. was and transferred to the surgical intensive care unit.

10. At or about 12:50 a.m. on January 9, 1996, Respondent, who was on call for Dr. Levine, was called by the attending nurse. Respondent was advised that Patient D.M. had a decreasing blood pressure and rising heart rate and respiration. Respondent ordered an increase in the intravenous fluids given to Patient D.M. Respondent chose not to visit Patient D.M. when

11. At or about 2:20 a.m. on January 9, 1996, Respondent was called by the attending nurse and informed of Patient D.M.'s continued decrease in blood pressure and rise in heart rate

and respiration. Respondent ordered another increase in the intravenous fluids. Respondent chose not to visit Patient B.M. when called at or about 2:20 am.

12. At or about 4:30 a.m. on January 9, 1996, Respondent was called and informed of Patient D.M.'s blood pressure and heart rate. Respondent ordered another increase in Patient D.M.'s intravenous fluids and a blood test to determine Patient D.M.'s Potassium level. Respondent chose not to visit Patient D.M. when called at or about 4:30 a.m.

13. At or about 4:50 am. on January 9, 1996, Respondent was called and informed of Patient D.M.'s respiratory status, heart rate, temperature, and blood pressure. Respondent was also informed that Patient D.M. had a very slow capillary refill rate and was lethargic and not responsive to verbal stimuli. Respondent requested that Dr. Purandare, a nephrologist, be contacted and updated on Patient D.M.'s condition Respondent ordered a portable chest x-ray. Respondent chose not to visit Patient D.M. when called at or about 4:50 am.

14. At or about 4:55 a.m. on or about January 9, 1996, Dr. Purandare was contacted. Dr. Purandare advised that Dr. Singh was covering for him and Dr. Singh would come in to see Patient D.M.

15. At or about 5:24 a.m. on January 9, 1996, Respondent was again contacted and updated as to Patient D.M.'s worsening condition. Respondent chose not to visit Patient D.M. when called.

16. At or about 5:45 a.m. on January 9, 1996, Patient D.M. went into respiratory arrest. CPR was started and an emergency code was called.

17. At or about 6:12 a.m. on January 9, 1996, Patient D.M. was pronounced dead. Autopsy demonstrated a major retroperitoneal hematoma that was likely caused by the surgical procedure.

18. Respondent failed to render appropriate care to Patient D.M. by failing to respond when called on multiple occasions.

19. Respondent failed to respond in a timely manner to treat Patient D.M. Respondent should have responded timely when contacted on multiple occasions regarding Patient D.M.'s deteriorating condition.

20. Based on the foregoing, Respondent 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.

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 455.624(4), Florida Statutes, and/or my other relief that the Board deem appropriate.

SIGNED this 16 day of August, 1999.

Robert G. Brooks, M.D., Secretary

FILED
DEPARTMENT OF HEALTH
DEPUTY CLERK
CLERK Stephanie Q. Dixon
DATE 8/17/99

[Signature]
Larry G. McPherson, Jr.
Chief Medical Attorney

COUNSEL FOR DEPARTMENT:

Larry G. McPherson, Jr.
Chief Medical **Attorney**
Agency for Health Care Administration
P. O. Box 14229
Tallahassee, Florida 32317-4229
Florida Bar # 788643
RPC/blt

PCP: **August 11, 1999.**
PCP Members: **Skinner, Glotfelty, Cherney**

**DIRECTIVES APPLICABLE TO ANY MEDICAL BOARD LICENSEE
WHO IS DISCIPLINED OR WHOSE SURRENDER OF LICENSURE
HAS BEEN ACCEPTED**

APPROVED BY THE BOARD ON MAY 10, 2000

All licensees who are the subject of a disciplinary order of the Board are required to provide the information required on the Addendum to these Directives. The information provided will be maintained separately and will not be part of the public document filed with the Board. Failure to provide the information required may result in further disciplinary action for failing to cooperate with the Board, as required by N.J.A.C. 13:45C-1 et seq. Paragraphs 1 through 4 below shall apply when a license is suspended or revoked or permanently surrendered, with or without prejudice. Paragraph 5 applies to licensees who are the subject of an order which, while permitting continued practice, contains a probation or monitoring requirement.

1. Document Return and Agency Notification

The licensee shall promptly forward to the Board office at Post Office Box 183, 140 East Front Street, 2nd floor, Trenton, New Jersey 08625-0183, the original license, current biennial registration and, if applicable, the original CDS registration. In addition, if the licensee holds a Drug Enforcement Agency (DEA) registration, he or she shall promptly advise the DEA of the licensure action. (With respect to suspensions of a finite term, at the conclusion of the term, the licensee may contact the Board office for the return of the documents previously surrendered to the Board. In addition, at the conclusion of the term, the licensee should contact the DEA to advise of the resumption of practice and to ascertain the impact of that change upon his/her DEA registration.)

2. Practice Cessation

The licensee shall cease and desist from engaging in the practice of medicine in this State. This prohibition not only bars a licensee from rendering professional services, but also from providing an opinion as to professional practice or its application, or representing him/herself as being eligible to practice. (Although the licensee need not affirmatively advise patients or others of the revocation, suspension or surrender, the licensee must truthfully disclose his/her licensure status in response to inquiry.) The disciplined licensee is also prohibited from occupying, sharing or using office space in which another licensee provides health care services. The disciplined licensee may contract for, accept payment from another licensee for or rent at fair market value office premises and/or equipment. In no case may the disciplined licensee authorize, allow or condone the use of his/her provider number by any health care practice or any other licensee or health care provider. (In situations where the licensee has been suspended for less than one year, the licensee may accept payment from another professional who is using his/her office during the period that the licensee is suspended, for the payment of salaries for office staff employed at the time of the Board action.)

A licensee whose license has been revoked, suspended for one (1) year or more or permanently surrendered must remove signs and take affirmative action to stop advertisements by which his/her eligibility to practice is represented. The licensee must also take steps to remove his/her name from professional listings, telephone directories, professional stationery, or billings. If the licensee's name is utilized in a group practice title, it shall be deleted. Prescription pads bearing the licensee's name shall be destroyed. A destruction report form obtained from the Office of Drug Control (973-504-6558) must be filed. If no other licensee is providing services at the location, all medications must be removed and returned to the manufacturer, if possible, destroyed or safeguarded. (In situations where a license has been suspended for less than one year, prescription pads and medications need not be destroyed but must be secured in a locked place for safekeeping.)

3. Practice Income Prohibitions/Divestiture of Equity Interest in Professional Service Corporations and Limited Liability Companies

A licensee shall not charge, receive or share in any fee for professional services rendered by him/herself or others while barred from engaging in the professional practice. The licensee may be compensated for the reasonable value of services lawfully rendered and disbursements incurred on a patient's behalf prior to the effective date of the Board action.

A licensee who is a shareholder in a professional service corporation organized to engage in the professional practice, whose license is revoked, surrendered or suspended for a term of one (1) year or more shall be deemed to be disqualified from the practice within the meaning of the Professional Service Corporation Act. (N.S.S.A. 14A:17-11). A disqualified licensee shall divest him/herself of all financial interest in the professional service corporation pursuant to N.J.S.A. 14A:17-13(c). A licensee who is a member of a limited liability company organized pursuant to N.J.S.A. 42:1-44, shall divest him/herself of all financial interest. Such divestiture shall occur within 90 days following the the entry of the Order rendering the licensee disqualified to participate in the applicable form of ownership. Upon divestiture, a licensee shall forward to the Board a copy of documentation forwarded to the Secretary of State, Commercial Reporting Division, demonstrating that the interest has been terminated. If the licensee is the sole shareholder in a professional service corporation, the corporation must be dissolved within 90 days of the licensee's disqualification.

4. Medical Records

If, as a result of the Board's action, a practice is closed or transferred to another location, the licensee shall ensure that during the three (3) month period following the effective date of the disciplinary order, a message will be delivered to patients calling the former office premises, advising where records may be obtained. The message should inform patients of the names and telephone numbers of the licensee (or his/her attorney) assuming custody of the records. The same information shall also be disseminated by means of a notice to be published at least once per month for three (3) months in a newspaper of

general circulation in the geographic vicinity in which the practice was conducted. At the end of the three month period, the licensee shall file with the Board the name and telephone number of the contact person who will have access to medical records of former patients. Any change in that individual or his/her telephone number shall be promptly reported to the Board. When a patient or his/her representative requests a copy of his/her medical record or asks that record be forwarded to another health care provider, the licensee shall promptly provide the record without charge to the patient.

5. Probation/Monitoring Conditions

With respect to any licensee who is the subject of any Order imposing a probation or monitoring requirement or a stay of an active suspension, in whole or in part, which is conditioned upon compliance with a probation or monitoring requirement, the licensee shall fully cooperate with the Board and its designated representatives, including the Enforcement Bureau of the Division of Consumer Affairs, in ongoing monitoring of the licensee's status and practice. Such monitoring shall be at the expense of the disciplined practitioner.

(a) Monitoring of practice conditions may include, but is not limited to, inspection of the professional premises and equipment, and inspection and copying of patient records (confidentiality of patient identity shall be protected by the Board) to verify compliance with the Board Order and accepted standards of practice.

(b) Monitoring of status conditions for an impaired practitioner may include, but is not limited to, practitioner cooperation in providing releases permitting unrestricted access to records and other information to the extent permitted by law from any treatment facility, other treating practitioner, support group or other individual/facility involved in the education, treatment, monitoring or oversight of the practitioner, or maintained by a rehabilitation program for Impaired practitioners. If bodily substance monitoring has been ordered, the practitioner shall fully cooperate by responding to a demand for breath, blood, urine or other sample in a timely manner and providing the designated sample.

Jose E. Dimayuga, M.D.
License No. MA 50855

ADDENDUM

Any licensee who is the subject of an order of the Board suspending, revoking or otherwise conditioning the license, shall provide the following information at the time that the order is signed, if it is entered by consent, or immediately after service of a fully executed order entered after a hearing. The information required here is necessary for the Board to fulfill its reporting obligations:

Social Security Number': _____

List the Name and Address of any and all Health Care Facilities with which you are affiliated:

List the Names and Address of any and all Health Maintenance Organizations with which you are affiliated:

Provide the names and addresses of every person with whom you are associated in your professional practice: (You may attach a blank sheet of stationery bearing this information).

¹ Pursuant to 45 CFR-Subtitle A Section 61.7 and 45 CFR Subtitle A Section 60.8, the Board is required to obtain your Social Security Number and/or federal taxpayer identification number in order to discharge its responsibility to report adverse actions to the National Practitioner Data Bank and the HIP Data Bank.

**NOTICE OF REPORTING PRACTICES OF BOARD
REGARDING DISCIPLINARY ACTIONS**

Pursuant to N.J.S.A. 52:14B-3(3), all orders of the New Jersey State Board of Medical Examiners are available for public inspection. Should any inquiry be made concerning the status of a licensee, the inquirer will be informed of the existence of the order and a copy will be provided if requested. All evidentiary hearings, proceedings, motions or other applications which are conducted as public hearings and the record, including the transcript and documents marked in evidence, are available for public inspection, upon request.

Pursuant to 45 CFR Subtitle A 60.8, the Board is obligated to report to the National Practitioners Data Bank any action relating to a physician which is based on reasons relating to professional competence or professional conduct:

- (1) Which revokes or suspends (or otherwise restricts) a license,
- (2) Which censures, reprimands or places on probation,
- (3) Under which a license is surrendered.

Pursuant to 45 CFR Section 61.7, the Board is obligated to report to the Healthcare Integrity and Protection (HIP) Data Bank, any formal or official actions, such as revocation or suspension of a license (and the length of any such suspension), reprimand, censure or probation or any other loss of license or the right to apply for, or renew, a license of the provider, supplier, or practitioner, whether by operation of law, voluntary surrender, non-renewability, or otherwise, or any other negative action or finding by such Federal or State agency that is publicly available information.

Pursuant to N.J.S.A. 45:9-19.13, if the Board refuses to issue, suspends, revokes or otherwise places conditions on a license or permit, it is obligated to notify each licensed health care facility and health maintenance organization with which a licensee is affiliated and every other board licensee in this state with whom he or she is directly associated in private medical practice.

In accordance with an agreement with the Federation of State Medical Boards of the United States, a list of all disciplinary orders are provided to that organization on a monthly basis.

Within the month following entry of an order, a summary of the order will appear on the public agenda for the next monthly Board meeting and is forwarded to those members of the public requesting a copy. In addition, the same summary will appear in the minutes of that Board meeting, which are also made available to those requesting a copy.

Within the month following entry of an order, a summary of the order will appear in a Monthly Disciplinary Action Listing which is made available to those members of the public requesting a copy.

On a periodic basis the Board disseminates to its licensees a newsletter which includes a brief description of all of the orders entered by the Board.

From time to time, the Press Office of the Division of Consumer Affairs may issue releases including the summaries of the content of public orders.

Nothing herein is intended in any way to limit the Board, the Division or the Attorney General from disclosing any public document.