

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BEFORE THE STATE BOARD OF MEDICINE

PROTHONOTARY

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BUREAU OF PROFESSIONAL
AND
OCCUPATIONAL AFFAIRS

Commonwealth of Pennsylvania, :
Bureau of Professional and :
Occupational Affairs :
: Docket No. 0489-49-97
vs. : File No. 94-49-01884
: :
Harold Eugene Buttram, M.D., :
Respondent :

CONSENT AGREEMENT AND ORDER

The Commonwealth and Respondent stipulate as follows in settlement of the above-captioned case.

1. This matter is before the State Board of Medicine pursuant to the Medical Practice Act, Act of December 20, 1985, P.L. 457, No. 112, as amended ("Act"), 63 P.S. §422.1 et seq.

2. At all relevant and material times, Harold Eugene Buttram ("Respondent") held a license to practice medicine in the Commonwealth of Pennsylvania, License No. MD-011389-E.

3. The Respondent admits that the following facts are true:

a. Respondent's license is current through December 31, 1998 and may be renewed thereafter upon the filing of the appropriate documentation and payment of the necessary fees.

b. Respondent's last known address on file with the Board is 92 Main Street, Blooming Glen, PA 18911.

His present address is P.O. Box 60, Blooming Glen, PA 18911.

c. On June 10, 1994, a civil complaint was filed in the United States District Court by the United States Attorney General's office. The complaint alleged that Respondent had violated the Federal Medicare Statute (42 U.S.C.A. §1395 *et seq.*) and the Pennsylvania Healthcare Practitioners Medicare Fee Control Act (35 P.S. §449.31 *et seq.*).

d. The civil complaint contained allegations that Respondent committed balance billing when he provided services to the beneficiary, submitted the bill to the carrier, was paid by Medicare, and billed and collected from the beneficiary an amount in excess of the limiting charge and the Medicare approved amount.

e. On June 17, 1994, Respondent and the U.S. Attorney General's office filed a Consent Order in which Respondent recognized that Medicare beneficiaries who had been treated by him had been billed, charged and/or paid an amount in excess of what is allowable by Federal and State law.

f. In the Consent Agreement, Respondent asserted that he did not intentionally, knowingly, or willfully charge and/or collect this excess amount from Medicare beneficiaries.

g. The Consent Agreement specifically states that "[it] shall not be construed as an admission of any liability or wrongdoing on the part of the [Respondent]".

h. The Respondent was required to pay \$49,112.40 reimbursements to the overcharged beneficiaries and a penalty of \$10,000 to the United States of America.

i. Respondent maintains that the overcharging was the result of failure to understand Medicare billing procedures by his billing staff.

j. Respondent has been under continual internal Medicare review subsequent to the execution of the Consent Agreement and no problems have been found.

k. The conduct described above are violative of the Medicare Fee Control Act.

l. There was no investigation conducted by the Commonwealth of Pennsylvania, therefore, costs of investigation are not warranted.

4. The actions of Respondent, described above, violated the Act at 63 P.S. §422.41(4) in that Respondent's conduct as described by the Consent Agreement between the Respondent and the U.S. Attorney General comprise a violation of the Medicare Fee Control Act. Therefore, Respondent violated a statute which imposes a standard for the practice of medicine in this Commonwealth and, therefore, is guilty of unprofessional conduct under the Board's regulations at 49 Pa. Code §16.61(a)(2).

5. The participants consent to issuance of the following Order in settlement of this matter:

a. Respondent violated the Act at 63 P.S. §422.41(4) in that Respondent's conduct as described by the Consent Agreement between the Respondent and the U.S. Attorney General comprise a violation of the Medicare Fee Control Act. Therefore, Respondent violated a statute which imposes a standard for the practice of medicine in this Commonwealth and, therefore, is guilty of unprofessional conduct under the Board's regulations at 49 Pa. Code §16.61(a)(2).

b. Respondent's license to practice medicine and surgery in the Commonwealth of Pennsylvania is **REPRIMANDED.**

5. Respondent acknowledges receipt and service of an Order to Show Cause in this matter. Respondent knowingly and voluntarily waives the right to an administrative hearing in this matter, and to the following rights related to that hearing: to be represented by counsel at the hearing; the right to present witnesses and testimony in defense or in mitigation of any sanction that may be imposed for a violation; to cross-examine witnesses and to challenge evidence presented by the Commonwealth; to present legal arguments by means of a brief; and to take an appeal from any final adverse decision.

6. This Consent Agreement is between the Commonwealth and Respondent only. Except as otherwise noted, this Agreement is to

have no legal effect unless and until the Office of General Counsel approves the contents as to form and legality and the Board issues the stipulated Order.

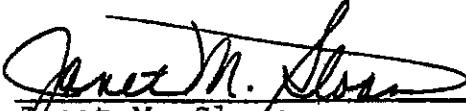
7. Should the Board not approve this Consent Agreement, presentation to and consideration of this Consent Agreement and other documents and matters by the Board shall not prejudice the Board or any of its members from further participation in the adjudication of this matter. The participants waive any objection to a Board member's consideration of this Agreement in the event that the member participated in a prior decision to prosecute this matter. This paragraph is binding on the participants even if the Board does not approve this Consent Agreement.

8. Respondent agrees, as a condition of entering into this Consent Agreement, not to seek modification at a later date of the Stipulated Order adopting and implementing this Consent Agreement without first obtaining the express written concurrence of the Prosecution Division.

9. This agreement contains the whole agreement between the participants. There are no other terms, obligations, covenants, representations, statements or conditions, or otherwise, of any kind whatsoever concerning this agreement.

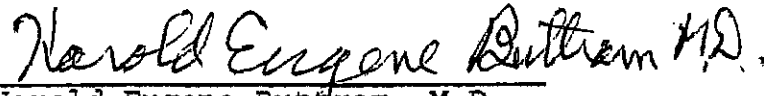
10. Respondent verifies that the facts and statements set forth in this Agreement are true and correct to the best of Respondent's knowledge, information and belief. Respondent understands that statements in this Agreement are made subject to

the criminal penalties of 18 Pa.C.S. §4904 relating to unsworn
falsification to authorities.



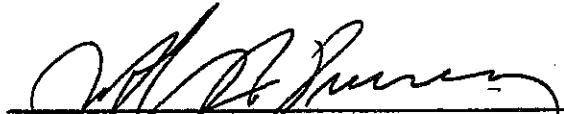
Janet M. Sloan
Prosecuting Attorney
Bureau of Professional and
Occupational Affairs

DATED: 4/20/98



Harold Eugene Buttram, M.D.
Respondent

DATED: April 9, 1998



Jeffrey A. Durney, Esquire
Attorney for Respondent

DATED: 4/14/98

ORDER

AND NOW, this 23rd day of June, 1998, the State

Board of Medicine adopts and approves the foregoing Consent Agreement and incorporates the terms of paragraph 5, which shall constitute the Board's Order and is now issued in resolution of this matter.

This Order shall take effect immediately.


BY ORDER:

BUREAU OF PROFESSIONAL AND
OCCUPATIONAL AFFAIRS

STATE BOARD OF MEDICINE



Dorothy Childress
Commissioner



Daniel B. Kimball, Jr., M.D.
Chairman

File No. 94-49-01884

Date of Mailing: July 1, 1998

For the Commonwealth:

Janet M. Sloan, Esquire
P. O. Box 2649
Harrisburg, PA 17105-2649

For Respondent:

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Tailman, Hudders & Sorrentino,
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JMS