

BEFORE THE SOUTH CAROLINA STATE BOARD OF MEDICAL EXAMINERS

In the Matter of:

JANET McBARRON, M.D.

Medical License #13882

(M-100-00) Respondent.

FINAL ORDER

This matter came before the State Board of Medical Examiners (the Board) on October 30, 2002 for hearing pursuant to the Notice and Complaint which was served upon the Respondent and filed with the Board. A quorum of Board members was present. The hearing was held pursuant to S.C. Code Ann. §§40-47-200 and 211 (1976), as amended, to determine whether sanctions should be imposed based upon the Memorandum of Agreement and Stipulations agreed upon by the Respondent and the State. Geoffrey R. Bonham, Esquire, represented the State. Stuart M. Andrews, Jr., Esquire, represented the Respondent.

The Respondent was charged with violation of S.C. Code Ann. §40-47-200(F)(7) (1976), as amended; and Regulations 81-60(B) (Supp. 2001) of the Rules and Regulations of the Board.

FINDINGS OF FACT

Based upon the preponderance of the evidence on the whole record, the Board finds the facts of the case to be as follows:

1. The Respondent is a physician duly licensed to practice medicine in South Carolina. Further, the Respondent's license to practice in the State of South Carolina is currently in an inactive status.

2. According to the Findings of Fact in a December 3, 1999 Consent Order of the Composite State Board of Medical Examiners of Georgia (hereinafter "the Georgia Board"), the Respondent allegedly failed to conform to the minimal standards of acceptable and prevailing medical practice in diagnosing and treating one (1) patient, by diagnosing and recommending unproven remedies to unknown callers in connection with her television broadcast, and by soliciting former patients and offering to dispense controlled substances without medical examination. A copy of the aforementioned Consent Order was attached to the Memorandum of Agreement and Stipulations and incorporated therein as Exhibit #2.

3. Based upon its findings and conclusions, the Georgia Board imposed disciplinary sanctions upon the Respondent's Georgia medical license, including but not limited to:

- a. Respondent's Georgia medical license was placed on probation for a period of not less than six (6) months from the date of the Consent Order.
- b. At the end of the first six (6) months of the probationary period, Respondent was to obtain a clinical audit of her medical records by an approved physician peer reviewer.
- c. The Consent Order and dissemination thereof served as a public reprimand to the Respondent for her alleged conduct.
- d. Respondent was fined in the amount of \$5,000.00.

4. On or about May 7, 2000, the Respondent submitted to the Board of Medical Examiners of South Carolina an Application for License Re-registration, 2000-2001. Notwithstanding the Georgia Consent Order, the Respondent's application contained the answer "No" to the following inquiry as set forth on the application: "Since you last registered with this Board, has any Order or other disciplinary action been rendered against you by any medical board or entity or have you been denied licensure by any other medical board?" A copy of the aforementioned Application was attached to the Memorandum of Agreement and Stipulations and incorporated therein as Exhibit #3.

5. On or about January 12, 2001, the Georgia Board issued an Order terminating the Respondent's probation, finding that "Respondent has complied with all the terms and conditions of the probation." A copy of the Order terminating the Respondent's probation was attached to the Memorandum of Agreement and Stipulations and incorporated therein as Exhibit #4.

6. The Respondent fully acknowledges wrongdoing, and admits that her response on the application was not correct, but offers by way of explanation that said incorrect response was unintentional in that the Respondent's certified public accountant prepared the 2000-2001 application for her signature, the Respondent neglected to advise him of the Georgia Board's action, and that she further neglected to review the application prior to execution. The Respondent, however, acknowledges that the accuracy of the answers on the application was and is her sole responsibility.

7. The Respondent did not otherwise report the Georgia Board's action to the South Carolina Board of Medical Examiners because her Georgia counsel advised her that it would be unnecessary to make such a report inasmuch as other states in which the Respondent was licensed, such as South Carolina, would learn of the Georgia Board's action through the National Practitioner Data Bank (NPDB).

8. The status of the Respondent's license to practice medicine in South Carolina is inactive. The Respondent has never engaged in the practice of medicine in South Carolina and has no intention of doing so.

9. The Respondent has also submitted additional documentation in her support, copies of which were attached to the Memorandum of Agreement and Stipulations and incorporated therein as Exhibit #5.

10. The Respondent, in the Memorandum of Agreement and Stipulations, and by testimony, admitted the facts as recited above, and that these acts presented grounds for a finding of misconduct under §40-47-200, supra, as alleged.

CONCLUSIONS OF LAW

Based upon careful consideration of the facts in this matter, the Board finds and concludes as a matter of law that:

1. The Board has jurisdiction in this matter and, upon finding that a licensee has violated any of the provisions of S.C. Code Ann. §40-47-200, supra, has the authority to order the revocation or suspension of a license to practice medicine or osteopathy, publicly or privately reprimand the holder of a license, or take other reasonable action short of revocation or suspension, such as requiring the licensee to undertake additional professional training subject to the direction and supervision of the Board or imposing restraint upon the medical or osteopathic practice of the licensee as circumstances warrant until the licensee demonstrates to the Board adequate professional competence. Additionally, the Board may require the licensee to pay a civil penalty of up to ten thousand dollars to the Board and the costs of the disciplinary action.

2. The Respondent has violated S.C. Code Ann. §40-47-200(F)(7) (1976), as amended in that she has violated the following Principle of Medical Ethics adopted by the Board:

(A) Regulation 81-60(B) (Supp. 2001) in that the Respondent failed to deal honestly with patients and colleagues when she supplied false information on her 2000-2001 Application for Re-registration that was submitted to the South Carolina State Board of Medical Examiners.

3. The sanction imposed is consistent with the purpose of these proceedings and has been made after weighing the public interest and the need for the continuing services of qualified medical doctors against the countervailing concern that society be protected from professional ineptitude and misconduct.

4. The sanction imposed is designed not to punish the physician, but to protect the life, health, and welfare of the people at large.

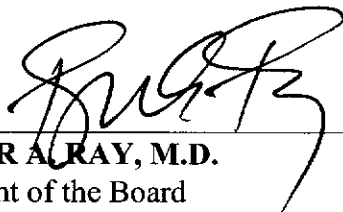
NOW, THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED that:

1. The Respondent shall be, and hereby is, **publicly reprimanded**.
2. The Respondent shall, within six (6) months of the date of this final order, pay a fine in the amount of Five Thousand and No/100 (\$5,000.00) Dollars. Said fine shall not be deemed paid until received by the Board.
3. This final order shall take effect immediately upon service of the order upon the Respondent or her counsel.

AND IT IS SO ORDERED.

STATE BOARD OF MEDICAL EXAMINERS

BY:



ROGER A. RAY, M.D.
President of the Board

December 5, 2002.