

JUN 05 1998

BEFORE THE COMPOSITE STATE BOARD OF MEDICAL EXAMINERS
STATE OF GEORGIA

DOCKET NUMBER

93-701

IN THE MATTER OF:

DOCKET NO. 93-701

Marcia Byrd, M.D.
License No. 023141

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ORDER TERMINATING PROBATION

The Respondent having demonstrated compliance with the Consent Order previously entered in this matter on March 4, 1994 and the Board being possessed of no information which would warrant extension thereof under the terms of the Order, such Order is hereby terminated.

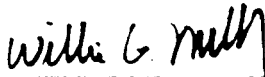
This 5th day of June, 1998.

COMPOSITE STATE BOARD OF MEDICAL EXAMINERS



Sheila Smith, M.D.
Board President

ATTEST:



William G. Miller, Jr., Joint Secretary
STATE EXAMINING BOARD

(BOARD SEAL)

OCT 06 1995

DOCKET NUMBER

93-701

BEFORE THE COMPOSITE STATE BOARD OF MEDICAL EXAMINERS
STATE OF GEORGIA

IN THE MATTER:
MARCIA VIRGINIA BYRD, M.D.

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DOCKET NO. 93-701

LICENSE NO. 023141

ORDER MODIFYING TERMS

The Consent Order docketed March 4, 1994, is hereby modified as follows:

Respondent shall be allowed to possess a DEA Registration for use of Schedules III, IV and V only.

This 5th day of October, 1995.

COMPOSITE STATE BOARD OF MEDICAL EXAMINERS

LARRY E. BRIGHTWELL, M.D.
PRESIDENT

ATTEST:

William G. Miller
WILLIAM G. MILLER, JR., JOINT SECRETARY
STATE EXAMINING BOARDS

FILED IN OFFICE
Joint Secretary
State Examiners Board

DEC 20 1993

DOCKET NUMBER

BEFORE THE COMPOSITE STATE BOARD OF MEDICAL EXAMINERS 93-701

STATE OF GEORGIA

IN THE MATTER OF:

MARCIA VIRGINIA BYRD, M.D.,
License No. 023141,

Respondent.

DOCKET NO. 93-701

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INTERIM CONSENT ORDER

By agreement of the Composite State Board of Medical Examiners and Marcia Virginia Byrd, 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).

FINDINGS OF FACT

1.

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

2.

On or about October 6, 1993, Respondent submitted to a 72 hour inpatient evaluation for possible chemical dependency at Ridgeview Institute. At the conclusion of that evaluation, it was recommended that Respondent enter treatment for chemical dependence. Respondent entered treatment at Charter Peachford Hospital on Monday, October 25, 1993.

3.

Prior to submitting to an evaluation, Respondent admitted to agents of the Board and the Drug Enforcement Administration that she had been diverting Demerol and Talwin for her personal use for approximately three years. Respondent voluntarily stopped using Demerol and Talwin in March, 1993. On or about October 5, 1993, Respondent voluntarily surrendered her DEA registration.

4.

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 for consideration by the Board prior to its review of this Consent Order.

CONCLUSIONS OF LAW

The Respondent's condition constitutes sufficient grounds for corrective action 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 conditions and restrictions:

1.

The Respondent agrees not to engage in the practice of medicine until further order of the Board. If Respondent

engages in the practice of medicine prior to obtaining written authorization from the Board, her license shall be subject to discipline, including suspension or revocation, upon substantiation thereof. Respondent may petition to resume the practice of medicine upon supplying to the Board the following:

(a) Certification of Monitoring Physician. Respondent shall obtain a monitoring physician approved by the Board who shall monitor her progress in recovery, as further outlined in paragraphs 2(f) and (g) below. As part of her petition to resume the practice of medicine, Respondent shall provide certification by her monitoring physician that Respondent has successfully completed treatment and has been discharged into aftercare and that, in the opinion of the monitoring physician, Respondent is able to resume the practice of medicine with reasonable skill and safety to patients.

(b) Plan of Practice. Respondent shall submit for Board approval a written practice plan outlining Respondent's plan to return to the practice of medicine in an environment acceptable to the Board. Respondent shall designate a supervising ("workplace") physician in accordance with Paragraph 2(f) below.

(c) Aftercare Contract. Respondent shall submit a copy of her aftercare contract to the Board.

(d) Personal Interview. The Board may require Respondent to appear for an interview before the Board prior to allowing her to return to practice. The Board, in its discretion, may deny Respondent's petition to resume the practice of medicine

if it determines that Respondent requires further evaluation or treatment. If the Board issues an order allowing Respondent to resume the practice of medicine, the Board shall have the discretion to impose upon her license any additional conditions or restrictions which the Board may deem appropriate.

(e) Temporary Approval. If Respondent has complied in all respects with the requirements set forth in paragraphs 1(a) through 1(c) above, Respondent may request temporary approval to return to practice through the Medical Coordinator for the Board. Provided, however, that such approval shall only be temporary and shall be subject to final approval by the Board at its next meeting. The Board may still require a personal appearance prior to approving Respondent's request to return to practice. If the Medical Coordinator has any question or concern about Respondent's ability to return to practice, including any questions about the proposed plan of practice, he shall refer Respondent's request to the full Board for review and shall not grant temporary approval.

2.

In addition to the provisions set forth in paragraph 1 above, Respondent's license shall be placed on probation to commence on the effective date of this Consent Order, until discharged by the Board in accordance with paragraph 2(1) below, with the following terms and conditions of probation:

(a) Treatment/Aftercare. The Respondent shall remain in treatment or aftercare with therapists acceptable to the Board. Upon completion of treatment, Respondent shall execute

a continuing aftercare contract acceptable to the Board and provide the Board with a copy of said contract. The Respondent shall abide by the terms of such agreement.

(b) Participation in Support Group. The Respondent shall affiliate with and regularly participate in meetings of Alcoholics Anonymous, Narcotics Anonymous, Caduceus Club or another similar support group acceptable to the Board in accordance with her aftercare contract or as otherwise required by the Board.

(c) Abstain from Mood Altering Substances. The Respondent shall completely abstain from the consumption of mood altering substances, including alcohol, except as prescribed by a duly licensed practitioner for a legitimate purpose. Any such treatment shall be reported by Respondent to the monitoring physician, if different from the treating physician, and the treating and/or monitoring physician shall report such treatment and prescribing to the Board in writing. If such treatment entails the use of narcotic or other potentially addictive substances, a consultation with a board approved addictionologist shall be obtained at the direction of the medical coordinator.

(d) Random Drug/Alcohol Screens. The Board or its representative or Respondent's supervising or monitoring physicians shall have the authority at any time to order the Respondent to undergo random witnessed and immediate drug/alcohol urine, biological fluid, blood, or hair screen analysis at the Respondent's expense. Proper chain of custody

shall be maintained and positive results shall be confirmed by such means as may be required to ensure the validity of such screening.

(e) Further evaluation. At any time during the period of probation, the Board shall also have the authority to order the Respondent to undergo a physical or mental evaluation by physicians designated by the Board. Respondent shall execute such releases as may be required for the Board to obtain the results of such evaluations.

(f) Supervision and Monitoring. At the time of execution of this Consent Order, Respondent shall designate an acceptable primary care ("monitoring") physician experienced in addictionology, and provide a copy of this Consent Order to such physician. The monitoring physician shall sign a statement to be submitted to the Board as evidence of the fact that he or she has read and understood the terms of the Consent Order and agrees to act as Respondent's monitoring physician. As a condition of resuming the practice of medicine, Respondent shall designate an acceptable supervising ("workplace") physician and provide a copy of this Consent Order to such physician. The supervising physician shall sign a statement to be submitted to the Board as evidence of the fact that he or she has read and understood the terms of the Consent Order and agrees to act as Respondent's supervising physician.

(g) Quarterly Reports. The Respondent shall submit or cause to be submitted quarterly reports from her supervising and monitoring physicians regarding her performance and

mental/physical condition by March 31, June 30, September 30 and December 31, including a report on any medication being prescribed to the Respondent. Failure to submit or have such reports submitted in a timely manner shall be considered a violation of this Consent Order. Provided, however, that no quarterly reports shall be required from Respondent's supervising physician until Respondent returns to practice. It is expected that said supervising and monitoring physicians shall be in communication with each other and will immediately report any change in Respondent's condition which would render Respondent unable to practice with reasonable skill and safety to patients. By executing this Consent Order, Respondent specifically consents to such supervising and monitoring physicians or any other facility where Respondent obtains medical treatment reporting upon Respondent's condition, notwithstanding any privilege provided by state or federal law. Respondent shall obtain prior Board approval through the medical coordinator or executive director for any change in supervising or monitoring physicians.

(h) DEA Registration. The Respondent shall not possess a DEA permit or any triplicate prescription forms or Federal order forms. Until further order of the Board, the Respondent hereby relinquishes her right to prescribe, administer, dispense, order or possess (except as prescribed, administered or dispensed to the Respondent by another person authorized by law to do so) any controlled substances as defined by the federal Controlled Substances Act or the Georgia Controlled Substances Act.

(i) Use of Physician's Assistant. If Respondent employs a physician's assistant in her practice, Respondent shall not utilize the physician's assistant to perform tasks which are otherwise prohibited by the terms of this Consent Order, or otherwise utilize the services of the physician's assistant in such a way as to circumvent any restriction, term or condition outlined herein.

(j) Periods of Residency Outside Georgia. In the event the Respondent should leave Georgia to reside or practice outside of Georgia for periods longer than thirty (30) consecutive days, the Respondent shall notify the Board in writing of the dates of departure and return. Periods of residency or practice outside of Georgia as well as periods when Respondent is not actively engaged in the practice of medicine or is on inactive licensure status will not apply to the reduction of the Respondent's probationary period, except as authorized by the Board. The Respondent shall advise the Board of any change in address of record or employment status.

(k) Abide By Laws, Rules and Terms. 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, and the terms of this Consent Order and probation. If the Respondent shall fail to abide by such laws, rules or terms, 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. Respondent further agrees that any violation of this Consent Order shall be deemed to be sufficient to authorize the Board to order summary suspension of the Respondent's license, pending further proceedings, pursuant to the provisions of the Georgia Administrative Procedure Act, O.C.G.A. § 50-13-18(c)(1), or any other statute authorizing emergency action, but Respondent understands that she shall be entitled to an expedited hearing to substantiate such violation(s), if the Board exercises such right.

(1) Termination of Probation. Respondent shall not be eligible to petition for termination of probation until she has maintained her sobriety for a period of five years. At such time, Respondent may petition for termination of probation by certifying under oath before a notary public that the Respondent has complied with all conditions of probation and by providing documentation supporting discharge from probation. Respondent shall also certify under oath that she has been continuously sober for a period of at least five (5) years. The Composite State Board of Medical Examiners shall 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 the 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 probationary status, the Board shall notify Respondent of its intent to extend the probationary period, and Respondent may respond to such notice in writing or request an appearance before the Board 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.

3.

This Consent Order shall constitute a public order of the Board.

4.

Respondent, Marcia Virginia Byrd, M.D. acknowledges that she is represented by counsel in this matter that she has read this Consent Order and has discussed it with counsel. She understands that she has the right to a hearing in this matter, and freely, knowingly and voluntarily waives such right by entering into this Consent Order. She 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. She 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. She further understands that this Consent Order, once approved and docketed, shall constitute a public order of the Board, which may be disseminated in the same manner as a disciplinary action of the Board. 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 5th day of December, 1993.

COMPOSITE STATE BOARD OF MEDICAL EXAMINERS

BY: Ellis B. Keener M.D.
ELLIS B. KEENER, M.D.
President

(BOARD SEAL)

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

CONSENTED TO:

Witness of Respondent's
Signature:
Sworn to and subscribed
before me this 1st day
of December, 1993.

Marcia Virginia Byrd
MARCIA VIRGINIA BYRD, M.D.
Respondent

Eugene A. Medori, Jr.
NOTARY PUBLIC
My commission expires:

Eugene A. Medori, Jr.
EUGENE A. MEDORI, JR.
Attorney for Respondent

MONITORING PHYSICIAN STATEMENT

The undersigned monitoring physician acknowledges that he or she has read the attached Consent Order and agrees to serve as Respondent's monitoring physician.

Sworn to and subscribed before me this 8th day of December, 1993.

Angela S. Felton
NOTARY PUBLIC
My commission expires:

(Signed) [Signature]
Name: _____
Monitoring Physician
Program: Child Support
Address: 200 Peachtree St. N.W.
Telephone: 404.525.5889

ANGELA FELTON
Notary Public, Fulton County, Georgia
My Commission Expires June 1, 1997

SUPERVISING PHYSICIAN STATEMENT

The undersigned supervising physician acknowledges that he or she has read the attached Consent Order and agrees to serve as Respondant's supervising physician.

Sworn to and subscribed
before me this 2 day
of December, 1993

Margaret A. Smith

NOTARY PUBLIC
My commission expires:

Notary Public, DeKalb County Georgia
My Commission Expires July 16, 1994

Cynthia S. Rudert, MD
(Signed)
Name:
Supervising (Workplace) Physician
Address: 1295 Hembree Rd Suite 10
Roswell, Georgia 30076
Telephone: 475-0903

BEFORE THE COMPOSITE STATE BOARD OF MEDICAL EXAMINERS

STATE OF GEORGIA

IN THE MATTER OF:

MARCIA VIRGINIA BYRD, M.D.,
License No. 023141,

Respondent.

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DOCKET NO. 93-701

FILED IN OFFICE
Joint Secretary
State Examining Boards

MAR 4 1994

DOCKET # 93-701

93-701

AMENDED CONSENT ORDER

By agreement of the Composite State Board of Medical Examiners and Marcia Virginia Byrd, 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).

FINDINGS OF FACT

1.

The findings of fact contained in the Interim Consent Order docketed on December 20, 1993 are incorporated herein by reference.

Respondent has provided the Board with satisfactory evidence that she has complied with all the requirements set forth in paragraph 1 (pages 2-4) of the Interim Consent Order, and has satisfactorily demonstrated to the Board that she is ready to return to practice.

CONCLUSIONS OF LAW

The conclusions of law contained in the Interim Consent Order docketed on December 20, 1993 are incorporated herein by reference.

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 conditions and restrictions:

1.

Effective February 2, 1994, Respondent shall be authorized to return to the practice of medicine; provided that Respondent shall continue to be on probation, subject to the terms and conditions set forth in paragraph 2 (pages 4-10) of the Interim Consent Order docketed on December 20, 1994. The terms and conditions of paragraph 2 of the Interim Consent Order are incorporated herein by reference in their entirety. Provided, however, that Respondent shall not be eligible to petition for any restoration of her DEA privileges until at least one year from the effective date of this Consent Order. A copy of the December 20, 1993 Interim Consent Order is attached hereto as Exhibit "A".

2.

The Respondent shall supply a copy of this Amended Consent Order, once approved and docketed, and within ten (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 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, or employment as a physician in the State of Georgia 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.

3.

This Consent Order shall constitute a public order of the Board. Respondent shall provide a copy of this Amended Consent Order to her monitoring and supervising physicians within ten (10) days from the date it is docketed.

4.

Respondent, Marcia Virginia Byrd, M.D., acknowledges that she is represented by counsel in this matter, that she has read this Consent Order and has discussed it with counsel. She understands that she has the right to a hearing in this matter, and freely, knowingly and voluntarily waives such right by entering into this Consent Order. She 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. She 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 and docketed, shall constitute a public order of the Board, which may be disseminated in the same manner as a disciplinary action of the Board. 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 March, 1994.

COMPOSITE STATE BOARD OF MEDICAL EXAMINERS

BY:

James Funk, Jr.
F. JAMES FUNK, JR., M.D.
President

(BOARD SEAL)

ATTEST:

William G. Mella
Joint Secretary
State Examining Boards

Consented to:

Witness of Respondent's
Signature:

Sworn to and subscribed
before me this 25th day
of February, 1994.

Carriedon, J.
NOTARY PUBLIC

My commission expires:
Notary Public, Colquhoun County, Ga.
My Commission Expires Nov. 7, 1994

Marcia Virginia Byrd
MARCIA VIRGINIA BYRD, M.D.
Respondent

Eugene A. Medori, Jr.
EUGENE A. MEDORI, JR.
Attorney for Respondent