

VIRGINIA:

BEFORE THE BOARD OF MEDICINE

**IN RE: ABHAY VIVEK AGGROIA, M.D.
License No.: 0101-055856**

ORDER

In accordance with the provisions of Sections 54.1-105, 54.1-110, 2.2-4020 and 2.2-4021 of the Code of Virginia (1950), as amended ("Code"), a formal administrative hearing was convened before the Virginia Board of Medicine ("Board"), on October 19, 2007, in Richmond, Virginia, to consider the reinstatement of Dr. Aggroia's license to practice medicine in the Commonwealth of Virginia, which was mandatorily suspended by Order of the Department of Health Professions, entered November 18, 2005, in accordance with Section 54.1-2409 of the Code. These matters are set forth in the Board's Notice of Hearing and Statement of Particulars dated September 13, 2007.

Pursuant to Sections 2.2-4024.F and 54.1-2400(11) of the Code, the hearing was held before a panel of the Board with a member of the Board presiding. Amy Marschean, Senior Assistant Attorney General, was present as legal counsel for the Board. The proceedings were recorded by a certified court reporter. The case was prosecuted by William Clay Garrett, Assistant Attorney General, assisted by Michelle Wilson, Adjudication Specialist. Dr. Aggroia appeared at the formal administrative hearing and was represented by legal counsel, James E. Moore, Esquire and Jonathan Joseph, Esquire.

FINDINGS OF FACT

Now, having properly considered the evidence and testimony presented, the Board makes the following findings of fact by clear and convincing evidence:

1. Abhay Vivek Aggroia, M.D., was issued license number 0101-055856 by the Board to practice medicine and surgery in the Commonwealth of Virginia on July 1, 1997. Said license was mandatorily suspended by Order of the Department of Health Professions on November 18, 2005.

2. On or about November 2, 2005, Dr. Aggroia was convicted of one (1) felony charge of Dispensing Through a Prescription a Detectable Amount of Oxycodone, Schedule II, in violation of 21 USC §841(a)(1) in the United States District Court for the Eastern District of Virginia, Alexandria Division.

3. Dr. Aggroia, by his own admission to the Virginia State Police, engaged in a relationship of a sexual nature with Patient A between on or about June 25, 2004, and on or about January 14, 2005, that was concurrent with and by virtue of the practitioner-patient relationship. Additionally, he engaged in conduct of a sexual nature that a reasonable patient would consider lewd and offensive.

4. On multiple occasions, from on or about June 25, 2004, to on or about January 14, 2005, Dr. Aggroia:

- a. prescribed controlled substances to Patient A without a proper evaluation or diagnosis of a medical condition justifying such prescriptions;
- b. failed to implement a comprehensive treatment plan and/or to review and monitor the efficacy of treatment for Patient A, including obtaining subjective pain ratings from her;
- c. failed to appropriately monitor and manage Patient A's usage of narcotic medications, and did not have a pain management or similar contract in place;
- d. prescribed controlled substances that included early refills and increased

dosages of medication to Patient A after she exhibited drug-seeking behavior; and

e. failed to ensure compliance with referrals to other physicians with regard to Patient A's treatment and continued to prescribe controlled substances.

5. In a plea agreement signed by Dr. Aggroia and dated October 31, 2005, Dr. Aggroia admitted to prescribing forty (40) dosage units of Percocet tablets on or about December 21, 2004 to Patient A, "outside the bounds of medicine and for no legitimate medical purpose."

6. Dr. Aggroia has not practiced medicine since his Virginia license was suspended on November 18, 2005, pursuant to Section 54.1-2409 of the Code.

7. Dr. Aggroia's former colleague and character witness said that Dr. Aggroia had not discussed or made any arrangements with him to act as a practice monitor or supervisor, if required by the Board.

8. The Board determined that Dr. Aggroia lacked credibility, in that he failed to provide consistent responses to the Board's questions.

9. The Board determined that Dr. Aggroia failed to provide evidence to support his claim that he had corrected or addressed the above referenced issues. Specifically, he has not engaged in therapy, completed any courses in professional boundaries, or developed a plan for his return to practice. Moreover, he was not forthcoming to the Behavior Medicine Institute of America or the Board concerning the details of his sexual misconduct.

CONCLUSIONS OF LAW

1. Finding of Fact 2 constitutes a violation of Section 54.1-2915.A(20) of the Code.
2. Finding of Fact 3 constitutes a violation of Sections 54.1-2915.A(13), (16), (18),

and (19)¹, and 18 VAC 85-20-100 of the Board's Regulations Governing the Practice of Medicine.

3. Findings of Fact 4 and 5 constitute a violation of Sections 54.1-2915.A(8), (13), (16), and (17)², and 54.1-3408.A of the Code.

ORDER

WHEREFORE, based on the foregoing Findings of Fact and Conclusions of Law, it is hereby ORDERED that the petition to reinstate the license of Abhay Vivek Aggroia, M.D., is DENIED. Further, it is hereby ORDERED that the license of Dr. Aggroia be CONTINUED on INDEFINITE SUSPENSION and that Dr. Aggroia may not petition for the reinstatement of his license for a period of at least one year from the entry of this Order.

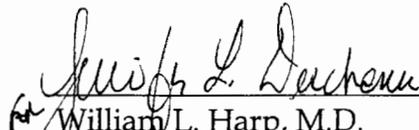
As provided by Rule 2A:2 of the Supreme Court of Virginia, Dr. Aggroia has thirty (30) days from the date of service (the date he actually received this decision or the date it was mailed to him, whichever occurred first) within which to appeal this decision by filing a Notice of Appeal with William L. Harp, M.D., Executive Director, Board of Medicine, at 9960 Mayland Drive, Suite 300, Richmond, Virginia, 23233. In the event that this decision is served by mail, three (3) days are added to that period.

Pursuant to Section 54.1-2400.2 of the Code, the signed original of this Order shall remain in the custody of the Department of Health Professions as a public record, and shall be made available for public inspection and copying upon request.

¹ Codified July 1, 2005, from former Sections 54.1-2914.A(8), (11), (13), and (14) of the Code.

² Codified July 1, 2005, from former Sections 54.1-2914.A(3), (8), (11), and (12) of the Code.

FOR THE BOARD



William L. Harp, M.D.
Executive Director
Virginia Board of Medicine

ENTERED: 11/8/2007

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