

**VIRGINIA:**

**BEFORE THE BOARD OF MEDICINE**

**IN RE: MUGABALA BYRAPPA ASWATH, M.D.**  
**License No.: 0101-058334**

**CONSENT ORDER**

Pursuant to a letter dated August 14, 2003, Mugabala Byrappa Aswath, M.D., was noticed to appear before an Informal Conference Committee ("Committee") of the Virginia Board of Medicine ("Board") on November 12, 2003. This Notice set forth allegations indicating that he may have violated certain laws and regulations governing the practice of medicine in Virginia. On November 12, 2003, the Committee convened and found that Dr. Aswath was in violation of certain laws and regulations. Based on these findings, the Committee determined that suspension or revocation of Dr. Aswath's license may be justified, and pursuant to Section 54.1-2919 of the Code of Virginia (1950) ("Code") as amended, voted unanimously to present its findings to the Board. On November 18, 2003, the Board's President approved the Committee's recommendation that this matter proceed to a formal hearing.

In lieu of proceeding to this formal administrative hearing, the Board and Dr. Aswath, as evidenced by their signatures affixed below, agree to enter into this Consent Order affecting the license of Dr. Aswath to practice medicine in Virginia.

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

The Board adopts the following findings of fact and conclusions of law in this matter:

1. Mugabala Aswath, M.D. was granted license number 0101-058334 to practice medicine and surgery in the Commonwealth of Virginia on August 4, 1998. Said license is currently active and will expire on November 30, 2004, unless renewed or otherwise restricted.

2. Dr. Aswath violated Sections 54.1-2915.A(3) of the Code, as further defined in Sections 54.1-2914.A(8), (13) and (14) of the Code, and 18 VAC 85-20-100 of the Regulations of the Board of Medicine, in that on or about January 8, 2001, Patient A presented to Dr. Aswath's office for treatment of migraine headaches. During subsequent appointments Dr. Aswath offered to help Patient A with her college studies, which he began to do in his office after business hours. Dr. Aswath subsequently began a sexually intimate relationship with Patient A, which lasted until approximately May 6, 2002. Dr. Aswath's last documented date of treatment for Patient A is May 28, 2002.

3. Dr. Aswath violated Section 54.1-2915.A(3), as further defined in Sections 54.1-2914.A(3), (11) and (12) of the Code, in that on or about May 6, 2002, Dr. Aswath wrote a prescription for Aldara, which is indicated for treatment of external genital and perianal warts, in Patient A's name and asked her to pick it up for him. Upon delivering the medication to Dr. Aswath, Patient A inquired as to his need for Aldara, to which he replied that the prescription was for another one of his patients.

4. Dr. Aswath violated Sections 54.1-2915.A(3) of the Code, as further defined in Sections 54.1-2914.A(8), (13) and (14) of the Code, and 18 VAC 85-20-100 of the Regulations of the Board of Medicine, in that between 1999 and 2001, Dr. Aswath treated Patient B for migraine headaches and epilepsy. In November 2000, Dr. Aswath asked Patient B to his office after business hours to discuss a job offer, at which time Dr. Aswath gave Patient B an alcoholic drink, and then proceeded to engage in sexual intercourse with Patient B. Patient B began a full time job in Dr. Aswath's office in January 2001 and continued a sexual relationship with Dr. Aswath until on or about August 14, 2001 at which time she quit her job and ended her

physician-patient relationship with Dr. Aswath.

5. Dr. Aswath violated Section 54.1-2915.A(3) as further defined, in Sections 54.1-2914.A(8) and (11) of the Code, in that on occasions when Patient B rebuffed Dr. Aswath's sexual advances by saying that she had a headache, Dr. Aswath gave her injections of Imitrex, which is used for acute treatment of migraine and cluster headaches. Additionally, Dr. Aswath failed to record said injections in Patient B's record.

6. Dr. Aswath violated Sections 54.1-2915.A(4) and (3) of the Code, as further defined in Sections 54.1-2914.A(8), (13) and (14) of the Code, and 18 VAC 85-20-100 of the Regulations of the Board of Medicine, in that on or about January 13, 2001, Patient C presented to Dr. Aswath for treatment of migraine headaches. During said appointment, Patient C told Dr. Aswath that she had previously suffered a brain injury, which had affected her ability to exercise proper control of her sexual impulses. Dr. Aswath then asked Patient C detailed information about her sexual history and behavior, to which she responded. On two occasions subsequent to Dr. Aswath's appointment with Patient C, he called her home and engaged in conversations of a sexual nature with her and requested that she meet him at his office to engage in sexual acts. Upon Patient C's refusal, Dr. Aswath became angry and verbally abusive toward her. Dr. Aswath continued to contact Patient C by phone until she resorted to the use of call-blocking for calls from Dr. Aswath's phone numbers.

7. Dr. Aswath violated Section 54.1-2915.A(3) of the Code, as further defined in Sections 54.1-2914.A(13) and (14) of the Code, and 18 VAC 85-20-100 of the Regulations of the Board of Medicine, in that on or about January 8, 2001, Patient D presented to Dr. Aswath for treatment of mood swings, nausea and vomiting and to be weaned off of Xanax. Dr. Aswath

called Patient D at home that night and engaged in a conversation of a sexual nature, and requested that she meet him at his office on January 9, 2001, at 7:00 PM. She agreed and took a tape recorder to the office on January 9. Dr. Aswath wrote Patient D a prescription for Xanax and ordered an MRI, and then engaged in conversation of a sexual nature with her. When Patient D told Dr. Aswath that he was not supposed to have sexual relationships with patients, Dr. Aswath stated that he knew that and that he was only kidding.

### CONSENT

I, Mugabala Byrappa Aswath, M.D., by affixing my signature hereto, acknowledge that:

1. I have been advised specifically to seek the advice of counsel prior to signing this document, and I am represented by Kevin Blair, Esquire, and Stephen D. Rosenthal, Esquire;
2. I am fully aware that without my consent, no legal action can be taken against me, except pursuant to the Virginia Administrative Process Act, § 2.2-4000.A et seq. of the Code of Virginia;
3. I have the following rights, among others:
  - a. the right to a formal hearing before the Board;
  - b. the right to representation by counsel; and
  - c. the right to cross-examine witnesses against me.
4. I waive all rights to a formal hearing;
5. I neither admit nor deny the truth of the above Findings of Fact, but I agree not to contest them at any future proceeding of the Board; and
6. I consent to the following Order affecting my license to practice medicine in the Commonwealth of Virginia.

ORDER

WHEREFORE, based on the foregoing Findings of Fact and Conclusions of Law, and with the consent of the licensee, it is hereby ORDERED that the Board accepts the SURRENDER FOR SUSPENSION of the license of Mugabala Byrappa Aswath, M.D., for a period of at least twelve (12) months from the date of entry of this Order. Should Dr. Aswath seek reinstatement of his license, he shall be noticed to appear before the Board, in accordance with the Administrative Process Act. As petitioner, Dr. Aswath has the burden of proving his competency and fitness to practice medicine in the Commonwealth of Virginia.

Pursuant to Section 54.1-2920 of the Code, upon entry of this Consent Order, Dr. Aswath shall forthwith give notice, by certified mail, of the suspension of his license to practice medicine to all patients to whom he is currently providing services. A copy of this notice shall be provided to the Board when sent to patients. Dr. Aswath shall cooperate with other practitioners to ensure continuation of treatment in conformity with the wishes of the patient. Dr. Aswath shall also notify any hospitals or other facilities where he is currently granted privileges, and any health insurance companies, health insurance administrators or health maintenance organizations currently reimbursing him for any of the healing arts.

Further, within five (5) days of entry of this Consent Order, Dr. Aswath shall:

1. Return his current license to the Board office;
2. Update his Virginia Practitioner Profile regarding his primary practice address and any other appropriate section, with the exception of the Virginia Notices and Orders section;
3. Surrender his Drug Enforcement Administration ("DEA") certificate and DEA

222 Schedule II order forms to the DEA and provide a copy of this surrender notification to the Board;

4. Submit written notification to any and all drug wholesalers or pharmacies that he has ordered from, or had an account with for the past five (5) years, that he has surrendered his DEA license and request that the account be closed, a copy of which shall be provided to the Board; and

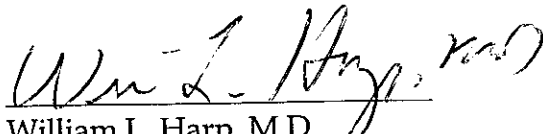
5. Properly dispose of all Schedule II-VI controlled substances, including physician's samples, remaining in the practice.

Upon entry of this Consent Order, the license of Mugabala Aswath, M.D., will be recorded as suspended and no longer current.

Violation of this Consent Order shall constitute grounds for the revocation of the license of Dr. Aswath. In the event Dr. Aswath violates any of the terms and conditions of this Consent Order, an administrative proceeding shall be convened to determine whether his license shall be revoked.

Pursuant to Section 54.1-2400.2(D) of the Code, the signed original of this Consent 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.

FOR THE BOARD:

  
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William L. Harp, M.D.

Executive Director  
Virginia Board of Medicine

4/20/24  
ENTERED

SEEN AND AGREED TO:

Mugabala B. Aswath  
Mugabala Byrappa Aswath, M.D.

COMMONWEALTH OF VIRGINIA  
COUNTY/CITY OF Danville, TO WIT:

Subscribed and sworn to before me, the undersigned Notary Public, in and for the Commonwealth of Virginia, at large, this 15 day of April, 2004, by. Mugabala Byrappa Aswath, M.D.

Melisa M. Hudson  
Notary Public

My commission expires: 4-30-2004

