

VIRGINIA:

BEFORE THE BOARD OF MEDICINE

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

ORDER

In accordance with Sections 54.1-2400(10), 2.2-4019 and 2.2-4021 of the Code of Virginia (1950), as amended ("Code"), an informal conference was held with Mugabala Byrappa Aswath, M.D., on November 15, 2006, in Richmond, Virginia. Members of the Virginia Board of Medicine ("Board") serving on the Special Conference Committee ("Committee") were: Sandra A. Bell, M.D., Chairperson; Gopinath Jadhav, M.D.; and Ellen C. Shapiro, D.P.M.

Dr. Aswath appeared personally and was represented by legal counsel, Stephen D. Rosenthal, Esquire. Julia K. Bennett, Adjudication Specialist, was present as a representative for the Administrative Proceedings Division of the Department of Health Professions.

The purpose of the informal conference was to receive and act upon Dr. Aswath's petition for the reinstatement of his license to practice medicine in the Commonwealth of Virginia, which was surrendered for suspension by Consent Order entered April 20, 2004. These matters are set forth in the Board's Notice of Informal Conference dated September 22, 2006.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Now, having properly considered the evidence and statements presented, the Committee makes the following Findings of Fact and Conclusions of Law:

1. Mugabala Aswath, M.D., was issued license number 0101-058334 to practice medicine and surgery in the Commonwealth of Virginia on August 4, 1998. Said license was suspended by Consent Order entered April 20, 2004 ("Consent Order").

2. In July 2006, Dr. Aswath underwent a psychiatric evaluation by a psychiatrist approved by the Board. The psychiatrist was of the opinion that there was no pathology present and felt that Dr. Aswath could safely return to practice. Further, the evaluating psychiatrist recommended that Dr. Aswath continue with individual psychotherapy.

3. Dr. Aswath expressed remorse and a sense of admitted guilt to the Committee for his past actions. Further, he displayed insight to the issues leading to the suspension of his license, which he has attempted to address through counseling and education.

CONCLUSIONS OF LAW

The Committee concludes that this matter is properly before it for consideration and that it has the authority to reinstate Dr. Aswath's license to practice medicine in the Commonwealth of Virginia.

ORDER

WHEREFORE, based on the above Findings of Facts and Conclusions of Law, it is hereby ORDERED that the PETITION to REINSTATE the license of Mugabala Byrappa Aswath, M.D., to practice medicine in the Commonwealth of Virginia be GRANTED.

It is further ORDERED that Dr. Aswath's license is placed on INDEFINITE PROBATION subject to the following terms and conditions:

1. Dr. Aswath shall continue in individual therapy with his current treating practitioner or other practitioner approved by the Board, on at least a monthly basis or more often as required by the treating practitioner. Dr. Aswath shall ensure that his treating practitioner submits written reports directly to the Board on a calendar quarterly basis beginning January 2007. The initial report shall include a statement of the diagnosis, treatment plan and prognosis.

Thereafter, each quarterly report shall contain a detailed statement on the current condition, prognosis and any change in the treatment plan or diagnosis.

2. Dr. Aswath shall continue in therapy for at least 12 months from entry of this Order. At the time of termination of therapy, Dr. Aswath shall ensure that a final summary therapy report is submitted by his treating practitioner to the Board.

3. Should Dr. Aswath wish to change treating practitioners, he shall submit the name and curriculum vitae of a practitioner for approval by the Board. Upon approval, Dr. Aswath shall advise the Board when he has made an appointment and shall await authorization from the Board before seeing the practitioner. The Board will provide a copy of any materials deemed necessary to assist the practitioner.

4. Within forty (40) days of entry of this Order, Dr. Aswath shall sign an authorization form providing for unrestricted communication between and among the Board and his current or former treating or evaluating practitioners.

5. Prior to treating female patients, Dr. Aswath shall engage a Board-approved chaperone. Dr. Aswath shall submit the name, identification, and contact information of the chaperone for approval by the Executive Director of the Board. Dr. Aswath may not utilize family members as chaperones. Dr. Aswath shall provide a copy of this Order to the chaperone.

6. Dr. Aswath's chaperone shall:

- a. be present at all times during any examination or treatment of a female patient;
- b. attest to his/her presence by initialing and dating any notes or physical findings made by Dr. Aswath at each patient visit; and
- c. immediately report to the Board any inappropriate behavior displayed by

Dr. Aswath, including conduct of a sexual nature.

7. Dr. Aswath shall ensure that the chaperone provides written reports directly to the Board documenting compliance with Term 6 of this Order on a calendar quarterly basis beginning January 2007.

8. Dr. Aswath shall be responsible for all costs associated with his therapy, the engagement of a chaperone, and all reports required pursuant to this Order.

9. Within approximately 12 months from entry of this Order, Dr. Aswath shall be noticed to appear before a Special Conference Committee of the Board for review of his compliance with this Order. Said committee shall provide the ongoing monitoring of Dr. Aswath's Order, determine the frequency of further appearances by Dr. Aswath before it, and shall serve as the instrument of the Board responsible for reviewing and approving all information relative to the terms and conditions of this Order, including any modification thereto.

10. Dr. Aswath shall maintain a course of conduct in his practice of medicine commensurate with the requirements of Title 54.1, Chapter 29 of the Code and all laws of the Commonwealth.

11. Dr. Aswath shall cooperate with the Board and the Department of Health Professions in the investigation or inspection of his practice to verify that he is in compliance with this Order.

12. Dr. Aswath shall notify the Executive Director of the Board by certified mail of any change of address within ten days of such occurrence.

13. Dr. Aswath shall notify the Board immediately in writing should he intend to change the location of his practice.

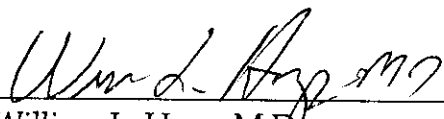
Violation of this Order constitutes grounds for the revocation of the license of Dr. Aswath. In the event Dr. Aswath violates the terms of this Order, an administrative proceeding will be convened to determine whether the license of Dr. Aswath should be revoked.

Pursuant to Section 54.1-2400.2(F) 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.

Pursuant to Section 54.1-2400(10) of the Code, Dr. Aswath may, not later than 5:00 p.m., on December 29, 2006, notify William L. Harp, M.D., Executive Director, Board of Medicine, 6603 West Broad Street, Richmond, Virginia 23230, in writing that he desires a formal administrative hearing before the Board. Upon the filing with the Executive Director of a request for the hearing, this Order shall be vacated.

Therefore, this Order shall become final on December 29, 2006, unless a request for a formal administrative hearing is received as described above.

FOR THE BOARD



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

ENTERED: 11/20/06