

11-17-00

Final Order No. DOH-01-1049- FOF-MQA
FILED DATE - 6/29/01
Department of Health

**STATE OF FLORIDA
BOARD OF PHARMACY**

By: Orlinda R. Kenner
Deputy Agency Clerk

DEPARTMENT OF HEALTH,
BOARD OF PHARMACY,
Petitioner,

vs.

ROBERT MCLESTER, R.P.H.,
Respondent.

AP

Division of Administrative Hearings
DOAH CASE NO. 00-2211
DOH CASE NO. 98-21280
FILED
Date 7/6/04

FINAL ORDER

FSR-1105

THIS MATTER came before the Board of Pharmacy (hereinafter referred to as the "Board") pursuant to Section 120.57(1)(b)(9), Florida Statutes, on June 12, 2001, in Tampa, Florida, for consideration of the Recommended Order (a copy of which is attached hereto and incorporated herein by reference) entered by the Honorable Florence Snyder Rivas, Administrative Law Judge. The Petitioner was represented by Lawrence F. Kranert, Jr., Senior Attorney, Agency for Health Care Administration. Respondent was not present.

Upon consideration of the Administrative Law Judge's Recommended Order, the arguments of the parties and after a review of the complete record in this matter, the Board rules as follows:

FINDINGS OF FACT

1. The Administrative Law Judge's Findings of Fact are hereby approved and adopted in toto, with the exception of those portions of findings of fact 24 and 29 which allude to pharmacy technicians being licensed by the state. The Board takes Judicial Notice of the absence of any state statute requiring or providing for the licensure of pharmacy technicians.
2. There is competent, substantial evidence to support the Findings of Fact.

CONCLUSIONS OF LAW

1. The Board has jurisdiction of this matter pursuant to the provisions of Section 120.57(1), and Chapter 465, Florida Statutes.
2. The Administrative Law Judge's Conclusions of Law are hereby approved and

adopted in toto.

3. The disposition of this cause recommended by the Administrative Law Judge is hereby approved and adopted in toto.

4. There is competent, substantial evidence to support the Board's findings and conclusions.

THEREFORE, IT IS HEREBY ORDERED AND ADJUDGED:

That the Administrative Complaint against Respondent be and the same is hereby DISMISSED.

Pursuant to Section 120.59, Florida Statutes, the Parties are hereby notified that they may appeal this Final Order by filing one copy of a Notice of Appeal with the Clerk of the Department of Health and by filing the filing fee and one copy of the Notice of Appeal with the District Court of Appeal within thirty (30) days of the effective date of this Order.

This Order shall become effective upon filing with the clerk of the Department of Health.

DONE AND ORDERED this 20th day of June, 2001 by the
Florida Board of Pharmacy.



JOHN D. TAYLOR, R.Ph.
EXECUTIVE DIRECTOR

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Final Order has been provided by United States Mail to Robert McLester, R.Ph., 446 34th Court S.W., Vero Beach, Florida 32968; to Kevin S. Doty, Esq., 1701 Highway A1A, Suite 220, Vero Beach, Florida 32963; to the Honorable Florence Snyder Rivas, Administrative Law Judge, Division of Administrative Hearings, The DeSoto Building, 1230 Apalachee Parkway, Tallahassee, Florida 32399-3060, and by hand delivery/interoffice mail to Department of Health and its counsel, Lawrence F. Kranert, Jr., Senior Attorney, Agency for Health Care Administration, this _____ day of _____, 2001.
