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24-02

Final Order No. DOH-02-0643-~~FF~~-MQA
FILED DATE - 5/6/2
Department of Health

STATE OF FLORIDA
BOARD OF MEDICINE

By: Vicki R Kenen
Deputy Agency Clerk

DEPARTMENT OF HEALTH,
Petitioner,

vs.

DANIEL T. MCGUIRE, M.D.,
Respondent.

AT

DOH CASE NO.: 1999-53358
DOAH CASE NO.: 01-3030PL
LICENSE NO.: ME0071241

FILED
02 MAY 13 PM 2:34
DEPARTMENT OF HEALTH

LPS CLOS

FINAL ORDER

THIS CAUSE came before the Board of Medicine (Board) pursuant to Sections 120.569 and 120.57(1), Florida Statutes, on April 5, 2002, in Ft. Lauderdale, Florida, for the purpose of considering the Administrative Law Judge's Recommended Order, (a copy of which is attached hereto as Exhibit A) in the above-styled cause. Petitioner was represented by Ephraim Livingston, Senior Attorney. Respondent was not present but was represented by Bruce M. Stanley, Esquire.

Upon review of the Recommended Order, the argument of the parties, and after a review of the complete record in this case, the Board makes the following findings and conclusions.

FINDINGS OF FACT

1. The findings of fact set forth in the Recommended Order are approved and adopted and incorporated herein by reference.
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 Section 120.57(1), Florida Statutes, and Chapter 458, Florida Statutes.
2. The conclusions of law set forth in the Recommended Order are approved and adopted and incorporated herein by reference.
3. There is competent substantial evidence to support the conclusions of law.

PENALTY

Upon a complete review of the record in this case, the Board determines that the penalty recommended by the Administrative Law Judge be REJECTED. The Board bases its rejection on the fact that the administrative law judge failed to impose the Board's minimum penalty for a violation of Section 458.331(1)(t), Florida Statutes, as set forth in Rule 64B8-8.001(2)(t), Florida Administrative Code. In addition, the Board will impose the costs associated with this case pursuant to its statutory mandate as required by Section 456.072(4), Florida Statutes. WHEREFORE,

IT IS HEREBY ORDERED AND ADJUDGED that

1. Respondent shall pay an administrative fine in the amount of \$1,000 to the Board within 30 days from the date this Final Order is filed.
2. Respondent shall pay the costs associated with this case in the amount of \$8,490.14. Said costs shall be paid within 30 days from the date this Final Order is filed.
3. Respondent shall document the completion of 10 hours of

continuing medical education (CME) in the area of orthopedic medicine within one year from the date this Final Order is filed. These hours shall be in addition to those hours required for biennial renewal of licensure. Unless otherwise approved by the Board or the Chairperson of the Probationer's Committee, said continuing education courses shall consist of a formal live lecture format.

4. Respondent shall receive a REPRIMAND from the Board.

(NOTE: SEE "ATTACHMENT A" FOR STANDARD TERMS APPLICABLE TO ALL FINAL ORDERS. UNLESS OTHERWISE SPECIFIED BY FINAL ORDER, THE STANDARD TERMS SET FORTH THE REQUIREMENTS FOR PERFORMANCE OF ALL PENALTIES CONTAINED IN THE FINAL ORDER.)

This Final Order shall take effect upon being filed with the Clerk of the Department of Health.

DONE AND ORDERED this 1 day of MAY, 2002.

BOARD OF MEDICINE



LARRY G. MCPHERSON, JR., BOARD DIRECTOR

For

ZACHARIAH P. ZACHARIAH, M.D.
CHAIRMAN

NOTICE OF RIGHT TO JUDICIAL REVIEW

A PARTY WHO IS ADVERSELY AFFECTED BY THIS FINAL ORDER IS ENTITLED TO JUDICIAL REVIEW PURSUANT TO SECTION 120.68, FLORIDA STATUTES. REVIEW PROCEEDINGS ARE GOVERNED BY THE FLORIDA RULES OF APPELLATE PROCEDURE.

SUCH PROCEEDINGS ARE COMMENCED BY FILING ONE COPY OF A NOTICE OF APPEAL WITH THE AGENCY CLERK OF THE DEPARTMENT OF HEALTH AND A SECOND COPY, ACCOMPANIED BY FILING FEES PRESCRIBED BY LAW, WITH THE DISTRICT COURT OF APPEAL, FIRST DISTRICT, OR WITH THE DISTRICT COURT OF APPEAL IN THE APPELLATE DISTRICT WHERE THE PARTY RESIDES. THE NOTICE OF APPEAL MUST BE FILED WITHIN THIRTY (30) DAYS OF RENDITION OF THE ORDER TO BE REVIEWED.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Final Order has been provided by U.S. Mail to Daniel Thompson McGuire, M.D., Penn State Sports Medicine, 1850 E. Park Avenue, State College, Pennsylvania 16803; to Bruce M. Stanley, Esquire, Henderson, Franklin, et al., Post Office Box 280, Ft. Myers, Florida 33902; to Lawrence P. Stevenson, Administrative Law Judge, Division of Administrative Hearings, The DeSoto Building, 1230 Apalachee Parkway, Tallahassee, Florida 32399-3060; and by interoffice delivery to Nancy M. Snurkowski, Chief Medical Attorney, and Lisa Pease, Senior Attorney - Appeals, Agency for Health Care Administration, 2727 Mahan Drive, Tallahassee, Florida 32308-5403, on or before 5:00 p.m., this 6th day of May, 2002.

Kim Webb