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2-4-02

STATE OF FLORIDA
BOARD OF MEDICINE

Final Order No. DOH-03-0213- FF-MQA
FILED DATE - 3/11/03
Department of Health

By: Wicki R. Kenard
Deputy Agency Clerk

AT

FILED
MAR 12 PM 1:39
DIVISION OF
ADMINISTRATIVE
HEARINGS

DEPARTMENT OF HEALTH,
Petitioner,

vs.

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

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

LPS-CLUS

_____ /

FINAL ORDER

THIS CAUSE came before the Board of Medicine (Board) on February 8, 2003, in Orlando, Florida, upon Petitioner's Motion to Vacate the previous Final Order filed in this matter on May 6, 2003. Upon review of the Department's Motion, and being otherwise advised in the premises, the Board hereby VACATES the Final Order filed in this matter on May 6, 2002, and substitutes the following as its Final Order.

THIS CAUSE originally came before the Board of Medicine 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.

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 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.

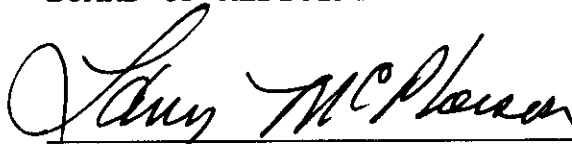
3. Respondent shall receive a REPRIMAND from the Board.

(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 *nunc pro tunc* to May 6, 2002, this 10TH day of MAY, 2003.

BOARD OF MEDICINE



Larry McPherson, Jr., Executive Director
for Raghavendra Vijayanagar, M.D., Chair

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 and by interoffice delivery to Ephraim Livingston and Pamela Page, Department of Health, 4052 Bald Cypress Way, Bin #C-65, Tallahassee, Florida 32399-3265 this 11th day of March, 2003.

Susan K. Hunt