

4-4-02

Final Order No. DOH-02-1022- FOF-MQA
FILED DATE - 6/28/02
Department of Health

STATE OF FLORIDA
BOARD OF MEDICINE

By: W. J. R. K...
Deputy Agency Clerk

DEPARTMENT OF HEALTH,
Petitioner,

AT

WFO-CWS

2002 JUL - 1 PM 3:20
DEPARTMENT OF HEALTH
STATE OF FLORIDA

vs.

DOH CASE NO.: 1999-50697
DOAH CASE NO.: 01-3211PL
LICENSE NO.: ME0034599

REMO G. GAUDIEL, M.D.,
Respondent.

_____ /

FINAL ORDER

THIS CAUSE came before the Board of Medicine (Board) pursuant to Sections 120.569 and 120.57(1), Florida Statutes, on June 7, 2002, in Tampa, Florida, for the purpose of considering the Administrative Law Judge's Recommended Order, Exceptions to the Recommended Order, and Response to Exceptions (copies of which are attached hereto as Exhibits A, B, and C, respectively) in the above-styled cause. Petitioner was represented by Ephraim Livingston, Senior Attorney. Respondent was represented by Ross L. Fogleman, III, 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.

RULINGS ON EXCEPTIONS

The Board reviewed and considered the Respondent's exceptions and the Petitioner's response to the exceptions filed in this cause and rejected the exceptions for the reasons stated in the Petitioner's response.

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 ACCEPTED. However, the Board determines that a reprimand is not appropriate in this case. 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 completion of the medical records course sponsored by the Florida Medical Association (FMA) within six (6) months from the date this Final Order is filed.

3. Respondent shall receive a letter of concern 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.)

RULING ON THE MOTION TO ASSESS COSTS

Upon motion by Petitioner and pursuant to §456.072(4), Florida Statutes, the Board assesses the costs in this matter in the amount of \$27,542.41. Respondent shall have three (3) years from the date this Final Order is filed to pay the costs assessed in this case.

RULING ON MOTION FOR STAY

On the record at the hearing, counsel for Respondent requested a stay of the penalty pending appeal of this case. The Board granted the Motion for Stay.

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

DONE AND ORDERED this 27 day of JUNE, 2002.

BOARD OF MEDICINE



LARRY G. MCPHERSON, JR., BOARD DIRECTOR
For
RAGHAVENDRA R. VIJAYANAGAR, M.D.
VICE-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 Remo G. Gaudiel, M.D., 329 Nokomis Avenue South, Sarasota, Florida 34285-2417; to Ross L. Fogleman, III, Esquire, Fogleman & Rosenkoetter, P.A., 3400 S. Tamiami Trail, Suite 302, Sarasota, Florida 34239; to William F. Quattlebaum, 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 25th day of July, 2002.

Frank R.