

5-23-02

Final Order No. DOH-02-1064- FOF-MQA

FILED DATE - 7/11/02

Department of Health

By: Vicki R. Kena
Deputy Agency Clerk

STATE OF FLORIDA
BOARD OF MEDICINE

AARON B. ROUSH, M.D.,

Petitioner,

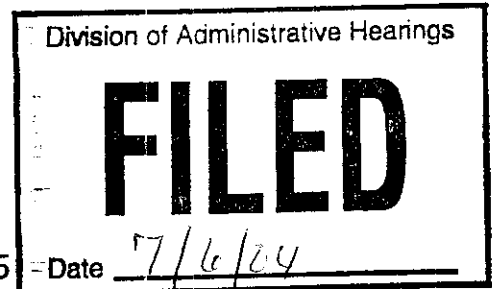
vs.

DEPARTMENT OF HEALTH

Respondent,

AT

DOAH CASE NO.: 02-0145
LICENSE NO.: ME 83992



DM-6105

FINAL ORDER

THIS CAUSE came before the Board of Medicine (Board) pursuant to Sections 120.569 and 120.57(1), Florida Statutes, on June 8, 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 present and represented by J. Davis Conner. Respondent was represented by Lee Ann Gustafson, 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 has reviewed and considered the Respondent's Exceptions to the Recommended Order ("Respondent's exceptions") and grants those exceptions for the particular reasons stated therein.

FINDINGS OF FACT

1. After a review of the entire record, the Board rejects and modifies the findings of fact set forth in paragraphs 13, 15, 20, 21, 26, 52, 57, 59, 60, 61, and 63 of the Recommended Order because these findings are not supported by competent substantial evidence. The Board's rejection and modification of these findings is in accordance with, and for the reasons stated with particularity in, the Respondent's exceptions, which are attached and incorporated herein by reference.

2. After a review of the entire record, the Board also rejects and modifies the findings of fact set forth in paragraphs 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, and 39 of the Recommended Order because the proceedings on which these findings were based did not comply with essential requirements of law. The Board's rejection and modification of these findings is in accordance with, and for the reasons stated with particularity in, the Respondent's exceptions, which are attached and incorporated herein by reference.

3. The findings of fact set forth in the Recommended Order, as modified by Respondent's exceptions, are approved and adopted and incorporated herein by reference.

4. There is competent substantial evidence to support the findings of fact, as modified.

CONCLUSIONS OF LAW

1. The Board has substantive jurisdiction of this matter pursuant to Section 120.57(1), Florida Statutes, and Chapter 458, Florida Statutes.

2. The Board rejects and modifies the conclusions of law set forth in paragraphs 72 and 73 of the Recommended Order in accordance with, and for the reasons stated in, the Respondent's exceptions, which are attached and incorporated herein by reference.

3. The Board's substituted conclusions of law are as or more reasonable than those it rejected.

4. The conclusions of law set forth in the Recommended Order, as modified by the Respondent's exceptions, are approved and adopted and incorporated herein by reference.

5. There is competent substantial evidence to support the conclusions of law, as modified.

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's

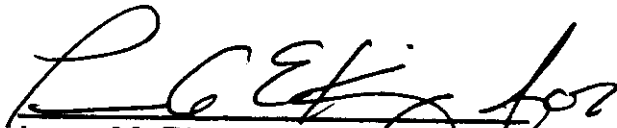
decision to increase the penalty is based upon the reasons given in the Respondent's exceptions, which are attached and incorporated herein by reference.

WHEREFORE, IT IS HEREBY ORDERED AND ADJUDGED that The Board of Medicine enters a final order conditioning Petitioner's license on continued compliance with his PRN contract.

DONE AND ORDERED this 9 day of July, 2002.

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

BOARD OF MEDICINE



Larry McPherson, Board Director
for Zachariah P. Zachariah, MD,
Chair

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the
foregoing has been provided by U.S. Mail to AARON B. ROUSH, MD,
Aaron Roush, M.D., 635 First Street North, Winter Haven, Florida
33881 and J. Davis Connor, Esq., Peterson and Myers, PA, P.O.
Drawer 7608, Winter Haven, FL 33883-7608 and by interoffice mail to
Nancy Murphy, Research Assistant, Department of Legal Affairs, PL-
01 The Capitol, Tallahassee FL 32399-1050 this 11 day of July
, 2002.

