

7-3-03

Final Order No. DOH-03-1244-~~POF~~-MOA
FILED DATE - 10/27/03
Department of Health

By: Heather Coleman
Deputy Agency Clerk

STATE OF FLORIDA
BOARD OF MEDICINE

DEPARTMENT OF HEALTH,

Petitioner,

vs.

DOH Case No.: 2001-03063
DOAH Case No.: 02-4285PL
License No.: ME0028139

TEODULO REYES MATIONG, JR., M.D.,

Respondent.

FINAL ORDER

03 OCT 28 AM 11:18
DIVISION OF
ADMINISTRATIVE
HEARINGS

THIS CAUSE came before the BOARD OF MEDICINE (Board) pursuant to Sections 120.569 and 120.57(1), Florida Statutes, on October 4, 2003, 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 Denise O'Brien, Assistant General Counsel. Respondent was represented by A. S. Weekley, Jr., Esquire, 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.

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. WHEREFORE,

IT IS HEREBY ORDERED AND ADJUDGED that

1. Respondent shall pay an administrative fine in the amount of \$5,000 to the Board within 30 days from the date this Final Order is filed.

2. Respondent shall document the completion of 14 hours of continuing medical education (CME) as follows: 10 hours in the diagnosis and treatment of strokes; and 4 hours in risk management 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 be placed on PROBATION for a period of two (2) years subject to the following terms and conditions:

a. Respondent shall appear before the Probationer's Committee at the first meeting after said probation commences, at the last meeting of the Probationer's Committee preceding termination of probation, quarterly, and at such other times requested by the committee. Respondent shall be noticed by Board staff of the date, time and place of the Board's Probationer's Committee whereat Respondent's appearance is required. Failure of the Respondent to appear as requested or directed shall be considered a violation of the terms of probation, and shall subject the Respondent to disciplinary action. Unless otherwise provided in the Final Order, appearances at the Probationer's Committee shall be made quarterly.

b. Respondent shall not practice except under the indirect supervision of a physician fully licensed under Chapter 458 to be approved by the Board's Probationer's Committee. Absent provision for and compliance with the terms regarding temporary approval of a monitoring physician set forth below, Respondent shall cease practice and not practice until the Probationer's Committee approves a monitoring physician. Respondent shall have the monitoring physician present at the first probation appearance before the Probationer's Committee. Prior to approval of the monitoring physician by the committee, the Respondent shall provide to the monitoring physician a copy of the Administrative Complaint and Final Order filed in this case. A failure of the Respondent or the monitoring physician to appear at the scheduled probation meeting shall constitute a violation of the Board's Final Order. Prior to the approval of the monitoring physician by the committee, Respondent shall submit to the committee a

current curriculum vitae and description of the current practice of the proposed monitoring physician. Said materials shall be received in the Board office no later than fourteen days before the Respondent's first scheduled probation appearance. The attached definition of a monitoring physician is incorporated herein. The responsibilities of a monitoring physician shall include:

- (A) Submit quarterly reports, in affidavit form, which shall include:
 - (1) Brief statement of why physician is on probation.
 - (2) Description of probationer's practice.
 - (3) Brief statement of probationer's compliance with terms of probation.
 - (4) Brief description of probationer's relationship with monitoring physician.
 - (5) Detail any problems which may have arisen with probationer.
- (B) Be available for consultation with Respondent whenever necessary, at a frequency of at least once per month.
- (C) Report to the Board any violations by the probationer of Chapter 456 and 458, Florida Statutes, and the rules promulgated pursuant thereto.

(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 THIS FINAL ORDER.)

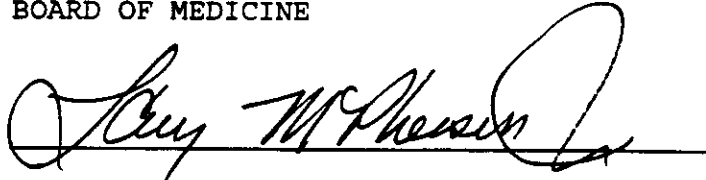
RULING ON THE MOTION TO ASSESS COSTS

The Board reviewed the Petitioner's Motion to Assess Costs and pursuant to Section 457.072(4), Florida Statutes, imposes the costs in this case in the amount of \$16,189.94. Said costs shall be paid within 30 days from the date this Final Order is filed.

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

DONE AND ORDERED this 17 day of OCTOBER, 2003.

BOARD OF MEDICINE

A handwritten signature in black ink, appearing to read "Larry McPherson, Jr.", is written over a horizontal line.

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 TEODULO REYES MATIONG, JR., M.D., 10201 State Road Number 52, Hudson, Florida 34669; to A. S. Weekley, Jr., Esquire, Holland & Knight, LLP, 400 North Ashley Drive, Suite 2300, Tampa, Florida 33602; to Susan B. Kirkland, Administrative Law Judge, Division of Administrative Hearings, The DeSoto Building,

1230 Apalachee Parkway, Tallahassee, Florida 32399-3060; and by
interoffice delivery to Denise O'Brien, and Pamela Page, Department of
Health, 4052 Bald Cypress Way, Bin #C-65, Tallahassee, Florida 32399-
3265 this 27 day of October, 2003.

Shawn Dykes

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