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4-15-04

Final Order No. DOH-04-0928-FOF-MOA  
FILED DATE - 8-17-04  
Department of Health

STATE OF FLORIDA  
BOARD OF MEDICINE

By: Neetha Coleman  
Deputy Agency Clerk

DEPARTMENT OF HEALTH,

Petitioner,

AP

vs.

DOH CASE NO.: 2001-16808  
DOAH CASE NO.: 03-0056PL  
LICENSE NO.: ME0025019

JOSE ANIBAL CRUZ, M.D.,

LJS - Cruz

Respondent.

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FINAL ORDER

THIS CAUSE came before the BOARD OF MEDICINE (Board) pursuant to Sections 120.569 and 120.57(1), Florida Statutes, on August 6, 2004, in Tallahassee, Florida, for the purpose of considering the Administrative Law Judge's Recommended Order and Exceptions to the Recommended Order, and (copies of which are attached hereto as Exhibits A and B, respectively) in the above-styled cause. Petitioner was represented by Joy Tootle, Assistant General Counsel. Respondent was represented by Jon Pellett, 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 the Respondent's Exceptions and the Petitioner's Response to Respondent's Exceptions and denied the Exceptions. However the Board accepts the Exception in Paragraph

9 of the Recommended Order. The Board determines that Paragraph 9 of the Recommended Order shall read as follows:

"Dr. Cruz treated M.R. for manic-depression from January 1994 until August 2001. During the time that M.R. was under Dr. Cruz's direct care, Dr. Cruz saw her at least once a month for pharmacological management and brief reality-oriented therapy sessions."

#### FINDINGS OF FACT

1. The findings of fact set forth in the Recommended Order are approved and adopted and incorporated herein by reference with the modification set forth above.

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

#### 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,

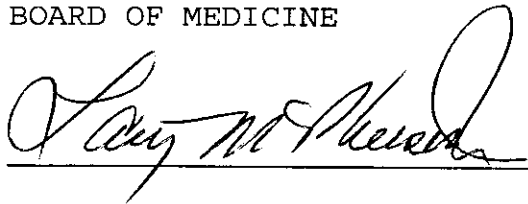
IT IS HEREBY ORDERED AND ADJUDGED that Respondent's license to practice medicine in the State of Florida is hereby REVOKED.

(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.)

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

DONE AND ORDERED this 16 day of AUGUST, 2004.

BOARD OF MEDICINE



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Larry McPherson, Jr., Executive Director  
for Elisabeth Tucker, 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 JOSE ANIBAL CRUZ, M.D., 1540 Washington Avenue, Miami Beach, Florida 33139; to Jon Pellett, Esquire, Barr, Murman, et al., 201 E. Kennedy Boulevard, Suite 1700, Tampa, Florida 33602; to Larry J. Sartin, Administrative Law Judge, Division of Administrative Hearings, The DeSoto Building, 1230 Apalachee Parkway, Tallahassee, Florida 32399-3060; 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 17 day of August, 2004.

Erica Prial

**Deputy Agency Clerk**