

Final Order No. DOH-05-2052-FDF-MOA  
FILED DATE - 12-01-05  
Department of Health  
By: Theresa McKinnon  
Deputy Agency Clerk

**STATE OF FLORIDA  
BOARD OF DENTISTRY**

**DEPARTMENT OF HEALTH,  
Petitioner,**

**DOAH Case No.: 04-1096PL  
DOH Case Nos.: 2002-24250  
License No.: DN 6720**

**v.  
ROBERT H. BARR, D.M.D.,  
Respondent.**

**FINAL ORDER**

**THIS MATTER** came before the Board of Dentistry pursuant to Sections 120.569 and 120.57(1), Florida Statutes on November 4, 2005, at the duly noticed meeting in Jacksonville, Florida, for the purpose of considering the Administrative Law Judge's Recommended Order of September 8, 2005 (attached). Respondent was present and represented by Fred M. Johnson, Esquire. The Department of Health was represented by Wayne Mitchell, Esquire, Assistant General Counsel, Department of Health.

**Preliminary Findings of Fact**

1. The record indicates that the Recommended Order of the Administrative Law Judge was entered on September 8, 2005.
2. The record does not indicate that Petitioner's exceptions, although part of the record, were filed with the agency clerk for the Department of Health within 15 days of the date the Recommended Order was issued.

**Preliminary Conclusion of Law**

3. The Board finds that the Respondent's exceptions were not timely or properly filed, and declines to consider the exceptions, consistent with Section 120.57(1)(k), Florida Statutes and consistent with Section 28-106.103; 28-106.104; 28-106. 217 Florida Administrative Code.

**Findings of Fact**

4. The findings of fact set forth in the Recommended Order are approved, adopted, and incorporated herein by reference.

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5. Petitioner, by motion and affidavit presented evidence of costs in the amount of \$5,947.16. The Board finds the costs are appropriate.

**Conclusions of Law**

6. The Board has jurisdiction over this matter pursuant to the provisions of Sections 120.57(1), 120.569 and Chapters 456, 466, Florida Statutes.

7. The conclusions or law set forth in the Recommended Order are consistent with the findings of fact and are approved, adopted, and incorporated herein by reference as the findings of fact made by the Board:

8. Respondent is found guilty of violating Section 466.028 (1) (x) Florida Statutes.

9. Pursuant to Section 456.072 (4), Florida Statutes, costs associated with the investigation and prosecution of this matter must be collected. Petitioner's Amended Motion to Assess Costs is GRANTED.

**Penalty**

10. The Administrative Law Judge's recommended penalty includes, among other things, the imposition of a Reprimand. The Respondent is hereby Reprimanded.

11. The Administrative Law Judge recommended a \$2,500.00 fine as part of the penalty. Therefore, the Board imposes a \$2,500.00 fine upon Respondent, to be paid within thirty days of the date of this order, in the manner set forth in paragraph 13. below.

12. The Recommended Order recommends the Respondent be required to complete appropriate continuing education requirements. Therefore, within one year of the date of this order the Respondent shall obtain the following additional continuing education from an American Dental Association accredited dental school and provide proof of completion of same to the Department of Health, Board of Dentistry compliance officer:

- a. three hours in endodontics;
- b. three hours in risk management; and
- c. three hours in diagnosis and treatment planning.

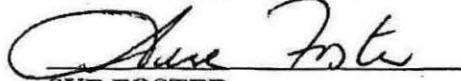
The continuing education required by this paragraph is in addition to the normal requirements for continuing education placed on Respondent for biennial licensure renewal requirements.

13. The Respondent shall pay costs of investigation and prosecution in the amount of \$ 5, 947.16 within thirty days of the date of this order. All fines and costs shall be paid to the Department of Health, Board of Dentistry Compliance Officer at P.O. Box 6320, Tallahassee Florida 32314-6320.

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

DONE and ORDERED this 30<sup>th</sup> day of November, 2005.

BOARD OF DENTISTRY



SUE FOSTER,

Executive Director


For CARL MELZER,, D.D.S., Board Chair

#### NOTICE OF RIGHT TO APPEAL

THIS ORDER CONSTITUTES FINAL AGENCY ACTION AND MAY BE APPEALED BY ANY PARTY PURSUANT TO SECTION 120.68, FLORIDA STATUTES, AND RULES 9.110 AND 9.190, FLORIDA RULES OF APPELLATE PROCEDURE, BY FILING A NOTICE OF APPEAL CONFORMING TO THE REQUIREMENTS OF RULE 9.110(D), FLORIDA RULES OF APPELLATE PROCEDURE, BOTH WITH THE APPROPRIATE DISTRICT COURT OF APPEAL, ACCOMPANIED BY THE APPROPRIATE FILING FEE, AND WITH THE DEPARTMENT OF HEALTH AGENCY CLERK, WITHIN THIRTY (30) DAYS OF RENDITION OF THIS ORDER.

#### 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: Fred M. Johnson, Esquire at Fuller, Johnson and Farrell, P.A., P.O. Box 1739 Tallahassee, Florida 32302-1739 and by hand delivery/ interoffice delivery to Wayne Mitchell, 4052 Bald Cypress Way, Bin C-65, Tallahassee, FL 32399-3265, and Gary L. Asbell, Assistant Attorney General, PL-01, The Capitol, Tallahassee, Florida 32399-1050, this 1 day of December 2005.



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**Deputy Agency Clerk**