

By: Theresa McKinn  
Deputy Agency Clerk

STATE OF FLORIDA  
BOARD OF OSTEOPATHIC MEDICINE

DEPARTMENT OF HEALTH,

Petitioner,

vs.

DOH CASE NO.: 2004-504  
DOAH CASE NO.: 05-0860PE  
LICENSE NO.: OS0005378

06 JAN 11 AM 11:38

DIVISION OF  
ADMINISTRATIVE  
HEARINGS

FILED

SHELLEY O. WOLLAND, D.O.,

Respondent.

FINAL ORDER

THIS CAUSE came before the BOARD OF OSTEOPATHIC MEDICINE (Board) pursuant to Sections 120.569 and 120.57(1), Florida Statutes, on November 19, 2005, in Orlando, 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 Joseph S. Pagliano, 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 the Exceptions filed in this matter and rejected the Exceptions.

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 disposition 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 one year from the date this Final Order is filed.

2. Respondent shall document the completion of 4 hours of continuing medical education (CME) in the area of medical ethics 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 said continuing education courses shall consist of a formal live lecture format.

3. Respondent's license shall be placed on probation for a period of three years, subject to the following terms and conditions:

a. Respondent shall appear before the Board 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 Board. **Quarterly appearances** shall be required for the **first year** of the probationary period. During the **second and third year** of the probationary period, Respondent shall be required to make **semiannual appearances** before the Board. Respondent shall be noticed by Board staff of the date, time and place of the Board meeting 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.

b. For the **first year** of the probationary period, Respondent shall not practice except under the **direct supervision** of an osteopathic physician fully licensed under Chapter 459 who has been approved by the Board. Absent provision for and compliance with the terms regarding temporary approval of a

supervising physician set forth below, Respondent shall cease practice and not practice until the Board approves a supervising physician. Respondent shall have the supervising physician appear at the first probation appearance before the Board. Prior to approval of the supervising physician by the committee, the Respondent shall provide to the supervising physician a copy of the Administrative Complaint and Final Order filed in this case. A failure of the Respondent or the supervising physician to appear at the scheduled probation meeting shall constitute a violation of the Board's Final Order. Prior to the approval of the supervising physician by the Board, Respondent shall submit to the Board a current curriculum vitae and description of the current practice of the proposed supervising 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 supervising physician is incorporated herein. The responsibilities of a supervising physician shall include:

- (1) Submit reports, in affidavit form, which shall include:
  - A. Brief statement of why physician is on probation.
  - B. Description of probationer's practice.
  - C. Brief statement of probationer's compliance with terms of probation.

D. Brief description of probationer's relationship with supervising physician.

E. Detail any problems which may have arisen with probationer.

(2) Review 25 percent of Respondent's patient records selected on a random basis at least once every month.

(3) Report to the Board any violation by the probationer of Chapter 456 and 459, Florida Statutes, and the rules promulgated pursuant thereto.

c. For the second and third year of the probationary period, Respondent shall not practice except under the indirect supervision of an osteopathic physician fully licensed under Chapter 459 to be approved by the Board. 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 Board approves a monitoring physician. The required reports from the monitoring physician during the second and third year of the probationary period shall continue to be submitted on a quarterly basis as set forth in sub-paragraphs (1) through (3) above.

d. TOLLING PROVISIONS. In the event the Respondent leaves the State of Florida for a period of 30 days or more or otherwise does not or may not engage in the active practice of osteopathic medicine in the State of Florida, then certain provisions of the

requirements in the Final Order shall be tolled and shall remain in a tolled status until Respondent returns to the active practice of osteopathic medicine in the State of Florida.

Respondent shall notify the Compliance Officer 10 days prior to his/her return to practice in the State of Florida. Unless otherwise set forth in the Final Order, the following

requirements and only the following requirements shall be tolled until the Respondent returns to active practice:

(1) The time period of probation shall be tolled.

(2) The provisions regarding supervision whether direct or indirect by the monitor/supervisor, and required reports from the monitor/supervisor shall be tolled.

e. ACTIVE PRACTICE. In the event that Respondent leaves the active practice of medicine for a period of one year or more, the Respondent may be required to appear before the Board and demonstrate the ability to practice medicine with reasonable skill and safety to patients prior to resuming the practice of medicine in the State of Florida.

#### RULING ON MOTION TO ASSESS COSTS

The Board reviewed the Petitioner's Motion to Assess Costs and imposes the costs associated with this case in the amount of \$30,986.63. Said costs are to be paid as follows: 1/3 of the

costs (\$10,328.88) are due within 12 months from the date the Final Order is filed; 1/3 of the costs (\$10,328.88) are due within 24 months from the date the Final Order is filed; the final 1/3 of the costs (\$10,328.87) are due within 36 months 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 6 day of January, 2006.

BOARD OF OSTEOPATHIC MEDICINE



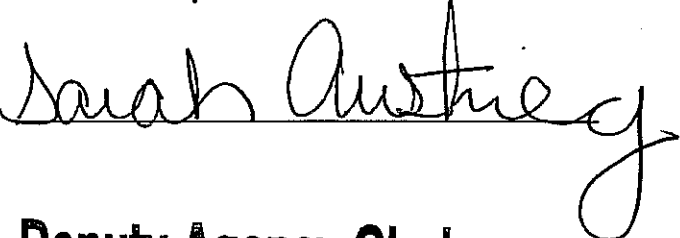
PAMELA KING, EXECUTIVE DIRECTOR

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 SHELLEY O. WOLLAND, D.O., 1500 SW 145 Avenue, Davie, Florida 33325; to Joseph S. Pagliano, Esquire, 12865 West Dixie Highway, 2<sup>nd</sup> Floor, North Miami, Florida 33161; 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 Joy Tootle, Department of Health, 4052 Bald Cypress Way, Bin #C-65, Tallahassee, Florida 32399-3265 this 9<sup>th</sup> day of January, 2006.



**Deputy Agency Clerk**