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STATE OF FLORIDA
BOARD OF MEDICINE

Final Order No. DOH-07-0186-FCF-MQA
FILED DATE - 2/16/07
Department of Health
By: Rachmeber
Deputy Agency Clerk

DEPARTMENT OF HEALTH,

Petitioner,

vs.

DOH CASE NO.: 2002-31182

DOAH CASE NO.: 06-0014PL

LICENSE NO.: ME0035800

SCOTT LEE GELLER, M.D.,

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 February 2, 2007, in Orlando, Florida, for the purpose of considering the Administrative Law Judge's Recommended Order, Exceptions to the Recommended Order, and Response to Exceptions to the Recommended Order (copies of which are attached hereto as Exhibits A, B, and C, respectively) in the above-styled cause. Petitioner was represented by Irving Levine, Assistant General Counsel. Respondent was present and represented by Bruce D. Lamb, 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.

RULINGS ON EXCEPTIONS

The Board reviewed and considered the Respondent's Exceptions to the Recommended Order and denied the exceptions for

reasons stated by the Petitioner in the Response to Respondent's Exceptions and for the reasons stated orally at the hearing.

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 REJECTED. The Board bases its rejection on mitigating factors in this case. Specifically, Respondent is a board-certified physician; the fact that the incident underlying this case took place in 1998 and there has been no further disciplinary action taken against the Respondent since then; this is the Respondent's first appearance before the Board.

WHEREFORE, IT IS HEREBY ORDERED AND ADJUDGED that:

1. Respondent shall be issued a letter of concern.

2. Respondent shall pay an administrative fine in the amount of \$3,000 to the Board within 30 days from the date this Final Order is filed.

3. Respondent shall document the completion of 5 hours of continuing medical education (CME) in the area of medical ethics and 5 hours CME in medical records 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.

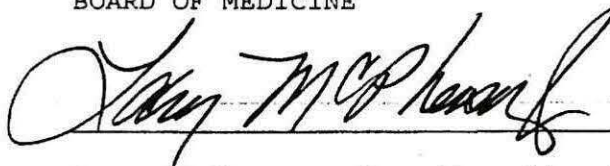
RULING ON MOTION TO ASSESS COSTS

The Board reviewed the Petitioner's Motion to Assess Costs and imposes the costs associated with this case in the amount of \$6,558.15. Said costs are to 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 15 day of FEBRUARY, 2007.

BOARD OF MEDICINE



Larry McPherson, Jr., Executive Director
for H. FRANK FARMER, JR., 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 SCOTT LEE GELLER, M.D., 29 Barkley Circle, Fort Myers, Florida 33907; to Bruce D. Lamb, Esquire, Ruden, McCloskey, et al., 401 East Jackson Street, 27th Floor, Tampa, Florida 33602; to Susan B. Harrell, Administrative Law Judge, Division of Administrative Hearings, The DeSoto Building, 1230 Apalachee Parkway, Tallahassee, Florida 32399-3060; and by interoffice delivery to John Terrel, Department of Health, 4052 Bald Cypress Way, Bin #C-65, Tallahassee, Florida 32399-3265 this 16 day of February, 2007.

Kelle Davidson

Deputy Agency Clerk