

AA

STATE OF FLORIDA  
BOARD OF MEDICINE

By: Rachel [Signature]  
Deputy Agency Clerk

DEPARTMENT OF HEALTH,

Petitioner,

vs.

DOH CASE NO.: 2005-03467

DOAH CASE NO.: 06-1918PL

LICENSE NO.: ME0084360

NIMA HESHMATI, M.D.,

Respondent.

FILED  
07 FEB 20 PM 2:01  
DIVISION OF  
ADMINISTRATIVE  
HEARINGS

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 Don Freeman, Assistant General Counsel. Respondent was represented by Gregory Eisenmenger, 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 and the Petitioner's Response to Respondent's

Exceptions and denies the Exceptions for the reasons set forth in the Petitioner's written and oral Response to Respondent's 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 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 SUSPENDED for a period of one year. Respondent shall be given credit for the time already served under the current suspension.

RULING ON MOTION TO ASSESS COSTS

The Board reviewed the Petitioner's Motion to Assess Costs. Finding that the Respondent prevailed in a number of the charges set forth in the Amended Administrative Complaint, the Board determined that imposition of full costs in this matter is inappropriate. The Board imposes the costs associated with this case in the amount of \$14,187.65. The aforementioned cost figure was imposed because the Petitioner prevailed only on three (3) of the thirteen (13) charges set forth in the administrative complaint. Said costs are to be paid within 30 days from the date this Final Order is filed.

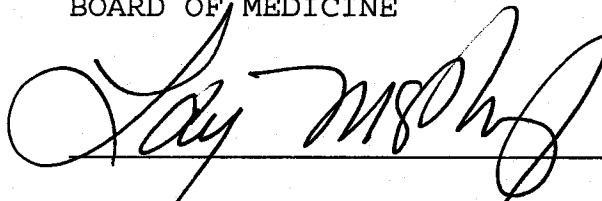
RULING ON REQUEST TO STAY PENALTY AND PAYMENT OF COSTS

At the hearing, counsel for Respondent requested a stay of the penalty and payment of costs in this matter pending appeal. The Board grants the stay of penalty and payment of costs.

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 NIMA HESHMATI, M.D., 101 Lansing Island Drive, Indian Harbor Beach, Florida 32937; to Gregory Eisenmenger, Esquire, Eisenmenger, Berry & Peters, P.A., 5450 Village Drive, Viera, Florida 32955; 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 19 day of February, 2007.

Kellie Dawson