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Final Order No. DOH-07-0190-~~FOK~~-MOA
FILED DATE - 2/11/07
Department of Health
By: Rachael Ber
Deputy Agency Clerk

STATE OF FLORIDA
BOARD OF MEDICINE

DEPARTMENT OF HEALTH,

Petitioner,

vs.

DOH CASE NO.: 2001-10714
DOAH CASE NO.: 06-1946PL
LICENSE NO.: ME0060819

GEORGE A. FIGUEROA, 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 3, 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 Ephraim Livingston, Assistant General Counsel. Respondent was present and represented by Bruce D. Lamb, 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 denies all exceptions for the reasons stated by

the Petitioner in its written Response to Respondent's Exceptions. However, the Board does accept the Respondent's Exception to Paragraph 42 of the Recommended Order based upon the Exceptions set forth by the Respondent in his written and oral exceptions and because the Rule 64B8-9.003, Florida Administrative Code, no longer requires physicians to explain in their medical records why an apparently indicated course of treatment was not undertaken.

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 with the amendments set forth in the Exceptions.

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. Since the Board found no violation of Section 458.331(1)(m), Florida Statutes, the Board finds that the

following penalty is appropriate. In addition, the Board found the following mitigating factors: The Respondent has been practicing without disciplinary action since the incident underlying this case took place in 2000 and Respondent has no prior discipline against his license.

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 30 days from the date this Final Order is filed.

2. Respondent's license to practice medicine in the State of Florida is SUSPENDED with said suspension being stayed provided Respondent submits to the Florida CARES evaluation and complies with the recommendation of said Florida CARES evaluation.

3. The Board shall impose probationary terms following review of the recommendations of the Florida CARES evaluation.

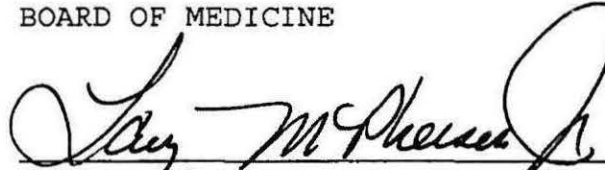
RULING ON MOTION TO ASSESS COSTS

The Board reviewed the Petitioner's Motion to Assess Costs and imposes the costs associated with this case in the amount of \$9,512.30. 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 GEORGE A. FIGUEROA, M.D., 1201 5th Avenue North, Suite 300, St. Petersburg, Florida 33705; 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.

Kelley Davidson

Deputy Agency Clerk