

J/K

By: Rachael Brooks

Deputy Agency Clerk

STATE OF FLORIDA
BOARD OF MEDICINE

DEPARTMENT OF HEALTH,

Petitioner,

vs.

DOH CASE NO.: 2002-16502

DOAH CASE NO.: 06-2094PL

LICENSE NO.: PA 9100713

ARNALDO CARMOUZE, P.A.,

Respondent.

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 Matthew Casey, Assistant General Counsel. Respondent was present and represented by Julie Gallagher, 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

At the hearing on this matter, the Respondent withdrew the Exceptions set forth in Paragraphs 1, 3, 4, and 5, of the

Respondent's Exceptions to the Recommended Order. The remaining exceptions set forth Respondent's Exceptions were denied by Board for the reasons set forth by the Department in Petitioner's 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

1. Respondent's license to practice as a physician assistant in the State of Florida is hereby SUSPENDED for a period of six (6) months. However, the suspension shall be

stayed provided the Respondent complies with the terms of this Final Order.

2. 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.

3. Respondent shall document the completion of 5 hours of continuing medical education (CME) by documenting completion of the Laws and Rules Course sponsored by the Florida Medical Association 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.

4. Respondent shall be placed on probation for a period of one (1) year subject to the following terms and conditions:¹

a. Respondent shall appear before the Probationer's Committee at the first meeting after said probation commences, at the last meeting of the Probationer's Committee preceding

¹ The ALJ recommended that the Respondent be placed on a term of probation but failed to specify whether the probation was to be under indirect or direct supervision. Because the Respondent's violation involved his practicing without proper supervision and because under normal circumstances physician assistants practice under indirect supervision, the Board believes that the Respondent's violation merits placement under the more heightened level of supervision of direct supervision.

termination of probation, quarterly, and at such other times requested by the committee. Respondent shall be noticed by Board staff of the date, time and place of the Board's Probationer's Committee 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. Unless otherwise provided in the Final Order, appearances at the Probationer's Committee shall be made quarterly.

b. Respondent shall not practice except under the direct supervision of a board-certified emergency physician, a board-certified family practice physician, or a board-certified internal medicine physician, fully licensed under Chapter 458 who has been approved by the Probationer's Committee. The supervisory physician shall share offices with Respondent. 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 Probationer's Committee approves a supervising physician. Respondent shall have the supervising physician appear at the first probation appearance before the Probationer's Committee. 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 committee, Respondent shall submit to the committee 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 quarterly reports, in affidavit form, which shall include:
 - A. Brief statement of why physician assistant 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.
- (2) Review 100 percent of Respondent's patient records.
- (3) Detail any problems which may have arisen with probationer.

- (4) Report to the Board any violation by the probationer of Chapter 456 and 458, Florida Statutes, and the rules promulgated pursuant thereto.

c. In view of the need for ongoing and continuous monitoring or supervision, Respondent shall also submit the curriculum vitae and name of an alternate supervising/monitoring physician who shall be approved by Probationer's Committee. Such physician shall be licensed pursuant to Chapter 458, Florida Statutes, and shall have the same duties and responsibilities as specified for Respondent's monitoring/supervising physician during those periods of time which Respondent's monitoring/supervising physician is temporarily unable to provide supervision. Prior to practicing under the direct supervision of the alternate supervising physician, Respondent shall so advise the Board in writing. Respondent shall further advise the Board in writing of the period of time during which Respondent shall practice under the supervision of the alternate monitoring/supervising physician. Respondent shall not practice unless Respondent is under the supervision of either the approved supervising/monitoring physician or the approved alternate.

d. CONTINUITY OF PRACTICE.

(1) 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 as a physician

assistant 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 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:

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

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

(C) Any provisions regarding community service shall be tolled.

(2) ACTIVE PRACTICE. In the event that Respondent leaves the active practice as a physician assistant 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 as a physician assistant in the State of Florida.

5. Respondent shall be and hereby is REPRIMANDED by the Board.

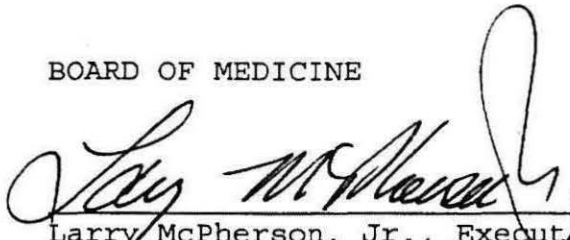
RULING ON MOTION TO ASSESS COSTS

The Board reviewed the Petitioner's Motion to Assess Costs and originally imposed the costs associated with this case in the amount of \$7,829.63. Upon the Board's own Motion for Reconsideration, the Board voted to decrease the costs in this matter to \$3,914.82. 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 ARNALDO CARMOUZE, P.A., 9600 SW 8th Street, #16, Miami, Florida 33173; to Julie Gallagher, Esquire, Greenberg Traurig, P.A., P.O. Drawer 1838, Tallahassee, Florida 32302; 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 John Terrel, Department of Health, 4052 Bald Cypress Way, Bin #C-65, Tallahassee, Florida 32399-3265 this 16 day of February, 2007.

Kellee Davidson

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Deputy Agency Clerk