

STATE OF FLORIDA
BOARD OF MEDICINE

By: Kelli Michael
Deputy Agency Clerk

DEPARTMENT OF HEALTH,

Petitioner,

vs.

DOH CASE NO.: 2005-52558

DOAH CASE NO.: 06-3954PL

LICENSE NO.: ME0054617

RAMESHBHAI PATEL, M.D.,

Respondent.

DIVISION OF
ADMINISTRATIVE
HEARINGS

07 OCT 22 AM 10:17

FILED

CORRECTED FINAL ORDER

THIS CAUSE came before the BOARD OF MEDICINE (Board) pursuant to Sections 120.569 and 120.57(1), Florida Statutes, on August 10, 2007, in Ft. Lauderdale, 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 Gregory Chaires, 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 Exceptions filed by the Respondent and the Petitioner's Response to the Respondent's Exceptions and denied the Respondent's exceptions numbered 1 through 7 for the reasons set forth in Petitioner's Response to Respondent's Exceptions.

The Board denied Respondent's exception numbered 8 wherein the Respondent objected to the manner in which the transcript for the evidentiary hearing below was created because the Board lacked the substantive jurisdiction to rule on the matter.

Respondent's exceptions numbered 9 through 14 were withdrawn on the record by Respondent's counsel, and therefore, were not addressed by the Board.

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:

1. Respondent shall pay an administrative fine in the amount of \$1,000 to the Board within 30 days from the date this Final Order is filed.

2. Respondent shall document the completion of 5 hours of continuing medical education (CME) in the area of risk management 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. Respondent shall first submit a written request to the Probation Committee for approval prior to performance of said CME course(s). Unless otherwise approved by the Board or the Chairperson of the Probation Committee, said continuing education courses shall consist of a formal live lecture format.

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

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

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.

b. Respondent shall not practice except under the **indirect supervision** of a physician fully licensed under Chapter 458 to be approved by the Board's Probationer's Committee. 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 Probationer's Committee approves a monitoring physician. Respondent shall have the monitoring physician present at the first probation appearance before the Probationer's Committee. Prior to approval of the monitoring physician by the committee, the Respondent shall provide to the monitoring physician a copy of the Administrative Complaint and Final Order filed in this case. A failure of the Respondent or the monitoring physician to appear at the scheduled probation meeting shall constitute a violation of the Board's Final Order. Prior to the approval of the monitoring physician by the committee, Respondent shall submit to the committee a current curriculum vitae and description of the current practice of the proposed monitoring 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 monitoring physician is incorporated herein. The responsibilities of a monitoring 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 monitoring physician.
 - (E) Detail any problems which may have arisen with probationer.
- (2) Be available for consultation with Respondent whenever necessary, at a frequency of at least once per month.
 - (3) Review percent of Respondent's patient records selected on a random basis at least once every month. In order to comply with this responsibility of random review, the monitoring physician shall go to Respondent's office once every month. At that time, the monitoring physician shall be responsible for making the random selection of the records to be reviewed by the monitoring physician.
 - (4) Report to the Board any violations by the probationer of Chapter 456 and 458, Florida Statutes, and the rules promulgated pursuant thereto. c. ALTERNATE MONITOR/SUPERVISOR. 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 indirect supervision of the alternate monitoring physician or 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. TEMPORARY APPROVAL. The Board confers authority on the Chair of the Probation Committee to temporarily approve Respondent's monitor/supervisor. To obtain this temporary approval, Respondent shall submit to the Compliance Officer the name and curriculum vitae of the proposed monitor/supervisor. This information shall be furnished to the Chair of the Probation Committee by way of the Compliance Officer, within 48 hours after Respondent receives the Final Order in this matter. This information may be faxed to the Compliance Officer at (850) 414-0864, or may be sent by overnight mail to the Compliance Officer. In order to provide time for Respondent's proposed supervisory/monitoring physician to be approved or disapproved by the Chair of the Probation Committee, Respondent shall be allowed to practice medicine while approval is being sought, but only for a period of five working days after Respondent receives the Final Order. If Respondent's supervising/monitoring physician has not been approved during that

time frame, then Respondent shall cease practicing until such time as the supervising/monitoring physician is temporarily approved. In the event that the proposed monitoring/supervising physician is not approved, then Respondent shall cease practicing immediately. Should Respondent's monitoring/supervising physician be approved, said approval shall only remain in effect until the next meeting of the Probationer's Committee. Absent said approval, Respondent shall not practice medicine until a monitoring/supervising physician is approved. Temporary approval shall only remain in effect until the next meeting of the Probation Committee

e. 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 of 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 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.

(2) 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.

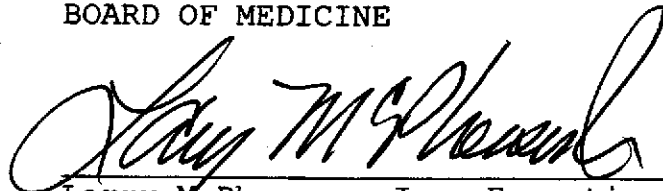
RULING ON MOTION TO ASSESS COSTS

The Board reviewed the Petitioner's Motion to Assess Costs in the amount of \$26,648.31. Upon agreement of the parties, said costs have been reduced by \$1,330. The corrected costs in this matter are \$25,318.31. 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 17 day of OCTOBER, 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 RAMESHBHAI PATEL, M.D., 1901 Jess Parish Court, Titusville, Florida 32796; to Gregory Chaires, Esquire, Chaires, Hammond, P.L., 283 Cranes Roost Boulevard, Suite 165, Altamonte Springs, Florida 32701; 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 Ephraim Livingston, Department of Health, 4052 Bald Cypress Way, Bin #C-65, Tallahassee, Florida 32399-3265 this 19 day of October, 2007.

Kellie Davidson

Deputy Agency Clerk