

STATE OF FLORIDA
BOARD OF MEDICINE

DEPARTMENT OF HEALTH,

Petitioner,

vs.

DOH CASE NO.: 2003-29108
DOAH CASE NO.: 06-4638PL
LICENSE NO.: ME0066312

MICHAEL FOX, M.D.,

Respondent.

FINAL ORDER

THIS CAUSE came before the BOARD OF MEDICINE (Board) pursuant to Sections 120.569 and 120.57(1), Florida Statutes, on December 1, 2007, in Orlando, Florida, for the purpose of considering the Administrative Law Judge's Recommended Order, Respondent's Exceptions to the Recommended Order, and Petitioner's Response to Respondent's Exceptions (copies of which are attached hereto as Exhibits A, B, and C, respectively) in the above-styled cause. Petitioner was represented by Jennifer Forshay, Assistant General Counsel. Respondent was present and represented by Mary Bland Love, 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.

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RULINGS ON EXCEPTIONS

The Board reviewed the Respondent's Exceptions to the Recommended Order and the Petitioner's Response to Respondent's Exceptions and rules as follows:

1. Exception 1 (paragraph 1 of the exceptions, excepting to paragraph 43, pp. 15-16 of the recommended order): The Board denied Respondent's this exceptions for the reasons sets forth in Petitioner's Response to Respondent's Exceptions.¹
2. Exception 2 (paragraphs 2 and 3 of the exceptions, excepting to paragraph 66, p. 22 of the recommended order): The Board denied Respondent's exception for the reasons sets forth in Petitioner's Response to Respondent's Exceptions.
3. Exception 3 (paragraph 4 of the exceptions, excepting to endnote 3, paragraph 76 of the recommended order): The Board denied Respondent's exception for the reasons sets forth in Petitioner's Response to Respondent's Exceptions.

¹ When considering all the exceptions, in some instances the Board voted to deny specific exceptions based on Petitioner's written responses to the exceptions and the prosecutor's oral argument presented during the hearing before the Board. In such instances, the prosecutor's oral arguments were summaries of Petitioners written responses to the exceptions, and therefore, are not restated in this order.

4. Exception 4 (paragraph 5 of the exceptions, excepting to endnote 1, paragraph 27, p. 37 of the recommended order): The Board denied Respondent's exception for the reasons sets forth in Petitioner's Response to Respondent's Exceptions.

5. Exception 5 (paragraph 23 of the exceptions, excepting to paragraph 89, p. 31 of the recommended order): The Board denied Respondent's exception for the reasons sets forth 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:

1. Respondent shall pay an administrative fine in the amount of \$10,000.00 to the Board within 30 days from the date this Final Order is filed.

2. Respondent shall document the completion of five (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 and hereby is REPRIMANDED by the Board.

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 \$36,370.33. Said costs are to be paid within 30 days from the date this Final Order is filed.

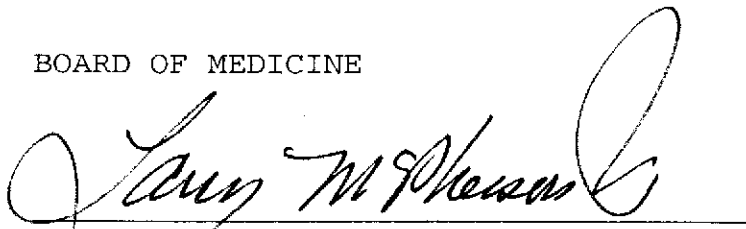
RULING ON ORAL MOTION FOR STAY OF PENALTY

At the hearing in this matter, the Respondent requested a stay of the penalty pending the appeal of this matter. The Board granted stay of the penalty pending the outcome of the appeal in this matter.

This Final Order shall take effect upon being filed with the Clerk of the Department of Health.

DONE AND ORDERED this 20 day of DECEMBER,
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 MICHAEL FOX, M.D., 3627 University Boulevard S., #200, Jacksonville, Florida 32216-4256; to Mary Bland Love, Esquire, Gobelman, Love, et al., 815 South Main Street, Suite 300, Jacksonville, Florida 32207; to Charles C. Adams, 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 21 day of December, 2007.

Kooloo Davidson