

STATE OF FLORIDA
BOARD OF MEDICINE

Final Order No. DOH-11-069-^{FD}MQA
FILED DATE - 1-6-2011
Department of Health
By: Ornel Sarden
Deputy Agency Clerk

DEPARTMENT OF HEALTH, 2011 JAN -7 A 11:45

Petitioner,

DIVISION OF
ADMINISTRATIVE
HEARINGS

vs.

DOH CASE NO.: 2009-14928
DOAH CASE NO.: 10-3101PL
LICENSE NO.: ME0075788

CARLOS A. COHEN, 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 4, 2010, 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 Diane K. Kiesling, Assistant General Counsel. Respondent was present and represented by Rose Marie Antonacci-Pollock, 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 Respondent's Exceptions to the Recommended Order and the Petitioner's Response to Respondent's Exceptions to the Recommended Order and rules as follows:

1. Respondent's Exceptions numbers 1 and 2, to Paragraph 15 of the Recommended Order is rejected based upon competent substantial evidence in the record and for the reasons stated in the Petitioner's written and oral response.
2. Respondent's Exception number 3, to Paragraph 16 of the Recommended Order is rejected based upon competent substantial evidence in the record and for the reasons stated in the Petitioner's written and oral response.
3. Respondent's Exceptions numbers 4 and 5, to Paragraphs 14 - 17 of the Recommended Order and the findings of the administrative law judge are rejected based upon competent substantial evidence in the record and rejected for the reasons stated in the Petitioner's written and oral response.
4. Respondent's Exception numbers 6 and 7, to administrative law judge's reliance on the Lortz case as cited in Paragraphs 31, 32, and 33 of the Recommended Order is rejected based upon the reasons stated in the Petitioner's written and oral response.

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

The Board reviewed Respondent's Exception number 8 to the penalty recommended by the administrative law judge in this matter and rejected the exception to the penalty for the reasons stated in Petitioner's written and oral response.

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 \$5,000.00 to the Board within 6 months of reinstatement of his license to practice medicine.

2. Within one (1) year from the date this Final Order is filed, Respondent shall document the completion of 100 hours of community service. Community service shall be provided without fee or cost to the person or entity benefiting from the service, for the good of the people of the State of Florida. A community service plan must be pre-approved by the Board's Probation Committee. Affidavits detailing the completion of community service requirements shall be filed with the Board's Probation Committee.

3. 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.

4. Respondent's license to practice medicine in the State of Florida is hereby SUSPENDED for a period of one (1) year.

5. Following the suspension period, Respondent shall be placed on probation for a period of two (2) years with the terms

and conditions of said probation to be set at the time of reinstatement of licensure.

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

RULING ON MOTION TO STAY PENALTY

The Respondent made an ore tenus Motion to Stay the Penalty in this matter and the Board denied the Motion to Stay the Penalty.

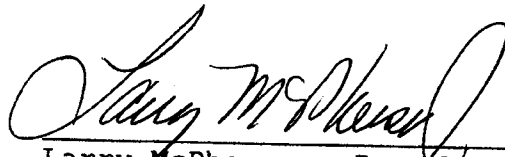
RULING ON MOTION TO ASSESS COSTS

The Board reviewed the Petitioner's Motion to Assess Costs and imposes the costs associated with this case in the amount of \$24,422.11. Said costs are to be paid within one (1) year of reinstatement of Respondent's license to practice medicine.

(NOTE: SEE RULE 64B8-8.0011, FLORIDA ADMINISTRATIVE CODE. UNLESS OTHERWISE SPECIFIED BY FINAL ORDER, THE RULE SETS FORTH THE REQUIREMENTS FOR PERFORMANCE OF ALL PENALTIES CONTAINED IN THIS FINAL ORDER.)

DONE AND ORDERED this 5 day of JANUARY,
2011.

BOARD OF MEDICINE



Larry McPherson, Jr., Executive Director
For Onelia Lage, 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 **Certified Mail** to CARLOS A. COHEN, M.D., 16244 S. Military Trail, Suite 750, Delray Beach, Florida 33484; to Rose Marie Antonacci-Pollock, Esquire, Michaud, Mittlemark, et al., 621 NW 53rd Street, Suite 420, Boca Raton, Florida 33487; to John G. Van Laningham, Administrative Law Judge, Division of Administrative Hearings, The DeSoto Building, 1230 Apalachee Parkway, Tallahassee, Florida 32399-3060; and by interoffice delivery to Veronica Donnelly, Department of Health, 4052 Bald Cypress Way, Bin #C-65, Tallahassee, Florida 32399-3253 this 6th day of January, 2011.

Angie Sanders

Deputy Agency Clerk

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