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Final Order No. DOH-11-353-~~FD~~-MQA

FILED DATE - 2-16-11

Department of Health

By: Angelo Sanders
Deputy Agency Clerk

STATE OF FLORIDA
BOARD OF MEDICINE

2011 FEB 17 A 11:29

DIVISION OF
ADMINISTRATIVE
HEARINGS

DEPARTMENT OF HEALTH,

Petitioner,

vs.

DOH CASE NO.: 2009-06449

DOAH CASE NO.: 10-7289PL

LICENSE NO.: ME0098868

ROBERT NORMAN BURNS, 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 4, 2011, in Orlando, Florida, for the purpose of considering the Administrative Law Judge's Recommended Order (a copy of which is attached hereto as Exhibit A) in the above-styled cause. Petitioner was represented by Diane K. Kiesling, Assistant General Counsel. Respondent was not present and was not represented by counsel.

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.

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 \$2,500.00 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 (1) 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. Within one (1) year from the date this Final Order is filed, Respondent shall document the completion of 50 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.

4. Within one (1) year from the date this Final Order is filed, Respondent shall present a one hour lecture to the entire medical staff of the hospital at which the Respondent maintains staff privileges. The lecture shall address the subject of wrong site surgery. Respondent shall submit a written plan to the Board's Probation Committee for approval prior to the performance of said lecture. Documentation of completion of said lecture shall be provided to the Board's Probation Committee.

5. Respondent shall be and is hereby issued a letter of concern by the Board.

RULING ON MOTION TO ASSESS COSTS

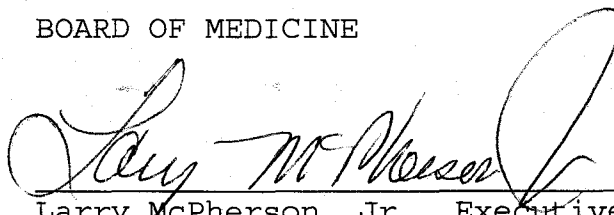
The Board reviewed the Petitioner's Motion to Assess Costs and imposes the costs associated with this case in the amount of \$7,116.57. Said costs are to be paid within 30 days from the date this Final Order is filed.

(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 14 day of FEBRUARY,

2011.

BOARD OF MEDICINE



Larry McPherson, Jr., Executive Director
For Michael Chizner, 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 ROBERT NORMAN BURNS, M.D., 3032 Bidhurst Court, Tallahassee, Florida 32317; to Lisa Shearer Nelson, 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 16 day of February, 2011.

Angel Sanders

Deputy Agency Clerk