

STATE OF FLORIDA
BOARD OF MEDICINE

Final Order No. DOH-17-1559-~~FOF~~ -MQA

FILED DATE - 8-24-17
Department of Health

By: Amy L. Camarosa
Deputy Agency Clerk

DEPARTMENT OF HEALTH,

Petitioner,

vs.

FILED

2017 AUG 29 AM 11:27

DIVISION OF
ADMINISTRATIVE HEARINGS

DOH CASE NO.: 2014-09496
2014-13996
2014-09948
2014-09775
DOAH CASE NO.: 16-6488PL
LICENSE NO.: ME0017784

SAMY F. BISHAI, 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 June 9, 2017, 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 Corynn Alberto, Assistant General Counsel. Respondent was present and represented by Michael L. Smith, 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.

RULING ON EXCEPTIONS

The Board reviewed and considered the Respondent's Exceptions to the Recommended Order and ruled as follows:

1. The Board reviewed and considered the Respondent's exceptions to Paragraphs 5 through 7 of the Recommended Order and denied the exceptions because the findings set forth therein were supported by competent substantial evidence and for the reasons sets forth in the Petitioner's Response to Respondent's Exceptions to the Recommended Order.

2. The Board reviewed and considered the Respondent's exceptions to Paragraph 15 of the Recommended Order and denied the exceptions because the findings set forth therein were supported by competent substantial evidence and for the reasons sets forth in the Petitioner's Response to Respondent's Exceptions to the Recommended Order.

3. The Board reviewed and considered the Respondent's exceptions to Paragraphs 18 through 26 of the Recommended Order and denied the exceptions because the findings set forth therein were supported by competent substantial evidence and for the reasons sets forth in the Petitioner's Response to Respondent's Exceptions to the Recommended Order.

4. The Board reviewed and considered the Respondent's exceptions to Paragraph 30 of the Recommended Order and denied the exceptions because the findings set forth therein were

supported by competent substantial evidence and based on the reasons sets forth in the Petitioner's Response to Respondent's Exceptions to the Recommended Order.

5. The Board reviewed and considered the Respondent's exceptions to Paragraph 31 of the Recommended Order and denied the exceptions because the findings set forth therein were supported by competent substantial evidence and for the reasons sets forth in the Petitioner's Response to Respondent's Exceptions to the Recommended Order.

6. The Board reviewed and considered the Respondent's exceptions to Paragraph 32 of the Recommended Order and denied the exceptions because the findings set forth therein were supported by competent substantial evidence and for the reasons sets forth in the Petitioner's Response to Respondent's Exceptions to the Recommended Order.

7. The Board reviewed and considered the Respondent's exceptions to Paragraphs 34 through 38 of the Recommended Order and denied the exceptions because the findings set forth therein were supported by competent substantial evidence and for the reasons sets forth in the Petitioner's Response to Respondent's Exceptions to the Recommended Order.

8. The Board reviewed and considered the Respondent's exception to Paragraph 39 of the Recommended Order and denied the exceptions because the findings set forth therein were

supported by competent substantial evidence and for the reasons sets forth in the Petitioner's Response to Respondent's Exceptions to the Recommended Order.

9. The Board reviewed and considered the Respondent's exception to Paragraph 40 of the Recommended Order and denied the exceptions because the findings set forth therein were supported by competent substantial evidence and for the reasons sets forth in the Petitioner's Response to Respondent's Exceptions to the Recommended Order.

10. The Board reviewed and considered the Respondent's exception to Paragraph 41 of the Recommended Order and denied the exception based on competent substantial evidence in the record and the Petitioner's response.

11. The Board reviewed and considered the Respondent's exceptions to Paragraphs 43 through 44 of the Recommended Order and denied the exceptions because the findings set forth therein were supported by competent substantial evidence and for the reasons sets forth in the Petitioner's Response to Respondent's Exceptions to the Recommended Order.

12. The Board reviewed and considered the Respondent's exception to Paragraph 45 of the Recommended Order and denied the exceptions because the findings set forth therein were supported by competent substantial evidence and for the reasons

sets forth in the Petitioner's Response to Respondent's Exceptions to the Recommended Order.

13. The Board reviewed and considered the Respondent's exception to Paragraph 47 of the Recommended Order and denied the exceptions because the findings set forth therein were supported by competent substantial evidence and for the reasons sets forth in the Petitioner's Response to Respondent's Exceptions to the Recommended Order.

14. The Board reviewed and considered the Respondent's exception to Paragraph 48 of the Recommended Order and denied the exceptions because the findings set forth therein were supported by competent substantial evidence and for the reasons sets forth in the Petitioner's Response to Respondent's Exceptions to the Recommended Order.

15. The Board reviewed and considered the Respondent's exception to Paragraph 49 of the Recommended Order and denied the exceptions because the findings set forth therein were supported by competent substantial evidence and for the reasons sets forth in the Petitioner's Response to Respondent's Exceptions to the Recommended Order.

16. The Board reviewed and considered the Respondent's exception to Paragraph 51 of the Recommended Order and denied the exceptions because the findings set forth therein were supported by competent substantial evidence and for the reasons

sets forth in the Petitioner's Response to Respondent's Exceptions to the Recommended Order.

17. The Board reviewed and considered the Respondent's exception to Paragraph 55 of the Recommended Order and denied the exceptions because the findings set forth therein were supported by competent substantial evidence and for the reasons sets forth in the Petitioner's Response to Respondent's Exceptions to the Recommended Order.

18. The Board reviewed and considered the Respondent's exception to Paragraph 56 of the Recommended Order and denied the exceptions because the findings set forth therein were supported by competent substantial evidence and for the reasons sets forth in the Petitioner's Response to Respondent's Exceptions to the Recommended Order.

19. The Board reviewed and considered the Respondent's exception to Paragraph 60 of the Recommended Order and denied the exceptions because the findings set forth therein were supported by competent substantial evidence and for the reasons sets forth in the Petitioner's Response to Respondent's Exceptions to the Recommended Order.

20. The Board reviewed and considered the Respondent's exception to the recommended penalty found by the Administrative Law Judge and denied the exceptions for the reasons sets forth

in the Petitioner's Response to Respondent's Exceptions to the Recommended Order.

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's license to practice medicine in the State of Florida is hereby **REVOKED**.

2. Respondent shall pay an administrative fine in the amount of \$40,000.00 to the Board within 30 days from the date

the Final Order is filed. Said fine shall be paid by money order or cashier's check.

RULING ON MOTION TO ASSESS COSTS

At the hearing in this matter the Board voted to bifurcate the costs.

(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.)

ONE AND ORDERED this 23rd day of August,
2017.

BOARD OF MEDICINE

Claudia Kemp
Claudia Kemp, J.D., Executive Director
For Sarvam TerKonda, M.D., Acting 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 SAMY F. BISHAI, M.D.; to Michael L. Smith, Esquire, The Health Law Firm, 1101 Douglas Avenue, Altamonte Springs, Florida 32714; to Linzie F. Bogan, Administrative Law Judge, Division of Administrative Hearings, The DeSoto Building, 1230 Apalachee Parkway, Tallahassee, Florida 32399-3060; by email to Louise Wilhite-St. Laurent, Deputy General Counsel, Department of Health, at Louise.Stlaurent@flhealth.gov; and by email to Edward A. Tellechea, Chief Assistant Attorney General, at Ed.Tellechea@myfloridalegal.com this 24th day of August, 2017.

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Samy F. Bishai, M.D.
Michael L. Smith, Esq, The Health Law Firm
1101 Douglas Ave.
Altamonte Springs, FL 32714

Amy J. Canaway
Deputy Agency Clerk

Certified Article Number

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SENDERS RECORD