

STATE OF FLORIDA
DEPARTMENT OF PROFESSIONAL REGULATION
BOARD OF MEDICINE

DEPARTMENT OF PROFESSIONAL
REGULATION,

Petitioner,

CASE NO. 9004574

v.

EUGENE SHIPPEN, M.D.,

Respondent.

ADMINISTRATIVE COMPLAINT

COMES NOW, the Petitioner, Department of Professional Regulation, hereinafter referred to as "Petitioner," and files this Administrative Complaint before the Board of Medicine against Eugene Shippen, M.D., hereinafter referred to as "Respondent," and alleges:

1. Petitioner is the state agency charged with regulating the practice of medicine pursuant to Section 20.30, Florida Statutes, Chapter 455, Florida Statutes, and Chapter 456, Florida Statutes.

2. Respondent is and has been at all times material hereto a licensed physician in the State of Florida, having been issued license number ME 0005517. Respondent's last known address is 615 East Princeton Street, #545, Orlando, Florida 32803-1471.

3. Pursuant to Section 455.213(5), Florida Statutes, as a condition of renewal of a license, the Board of Medical Examiners (Board of Medicine) shall require licensees which it regulates to periodically demonstrate their professional competency by

completing at least forty (40) hours of continuing education every two (2) years, of which at least five (5) hours shall concern risk management. Criteria for, and content of, continuing education courses shall be approved by the Board.

4. Pursuant to Rule 21M-28.002, Florida Administrative Code, every physician licensed pursuant to Chapter 458, Florida Statutes, shall be required to complete forty (40) hours of continuing medical education approved by the Board in the twenty-four (24) months preceding each biennial renewal period as established by the Department. At least five (5) of such continuing medical education hours required for renewal shall concern risk management.

5. Pursuant to Rule 21M-28.002(2)(a), Florida Administrative Code, risk management means the identification, investigation, analysis, and evaluation of risks and the selection of the most advantageous method of correcting, reducing, or eliminating, identifiable risks.

6. Pursuant to Rule 21M-28.002(3), Florida Administrative Code, part of the application for renewal shall include a form on which the licensee shall state that he has completed the required continuing education. Additionally, the licensee must retain such receipts, vouchers, certificates, or other papers, such as physician recognition awards issued by the American Medical Association, as may be necessary to document completion of the continuing medical education listed on the renewal form for a period of not less than four years from the date the course was taken. The Board will randomly audit such numbers of licensees

as is necessary to assure that the continuing education requirements are met.

7. Pursuant to Rule 21M-28.002(5), Florida Administrative Code, the following courses have been approved by the Board of Medicine for continuing education:

a. Organized courses approved for American Medical Association Category I Continuing Medical Education credits or accepted for the American Medical Association physician recognition award.

b. Any postgraduate training program accredited by the Accreditation Council for Graduate Medical Education.

c. The following specialty training: American College of Emergency Physicians, Category I; American Academy of Family Physicians prescribed credit; and American College of Obstetricians and Gynecologists cognates.

8. On or about January 2, 1988, Respondent signed the following statement which was thereafter submitted as part of the request to renew his license to practice medicine:

I hereby certify that during the period January 1, 1985, through December 31, 1987, I have obtained no fewer than forty (40) hours of continuing medical education courses which meets the requirement of Chapter 455.213(5), Florida Statutes, and Rule 21M-28.002(6) Florida Administrative Code. I further certify that at least five (5) of the forty (40) hours concern risk management pursuant to Rule 21M-28.002(2) Florida Administrative Code. I understand that I must maintain such receipts, vouchers, certificates, or other papers to document completion of the CME requirements for a period of not less than four (4) years from the date the course was taken.

I affirm that these statements are true and correct and recognize that providing false information may result in a fine, suspension or revocation of my license as provided in Florida Statutes 455.2275, 775.082, or 775.084.

9. The aforementioned statement was required as part of the renewal process for the licensing period from January 1, 1986, through December 31, 1989. Without this statement, Respondent could not have renewed his license to practice medicine in Florida.

10. Thereafter, Respondent successfully renewed his license to practice medicine in Florida. That renewal was based, in part, on the aforementioned statement regarding completion of Continuing Medical Education.

11. Thereafter, Respondent was selected randomly for audit purposes to verify his continuing medical education for the period covered in his statement (January 1, 1986 through December 31, 1987). By letter dated November 30, 1988, from the Executive Director for the Board of Medicine, Respondent was asked to provide such verification.

12. On or about December 27, 1988, an attorney for Respondent submitted, in response to the audit, a letter stating, in part, the following:

[Respondent] applied for and received an exemption from continuing medical education. He believed that that exemption was in effect until 1988. He is therefore unable to document any continuing medical education requirements from the period of January 1, 1986 to December 31, 1987. He asserts that his exemption was in effect during that time, and that he has always been in full compliance with all licensing requirements pursuant to Florida Statutes, Chapters 455 and 458.

13. Respondent failed to maintain such receipts, vouchers, certificates, or other papers to document completion of the CME requirements for the relevant time period, and thereby failed to submit the required documentation for the Board's random audit.

COUNT ONE

14. Petitioner realleges and incorporates paragraphs one (1) through thirteen (13) as if fully set forth herein this Count One.

15. Respondent violated a rule of the Board, in that Respondent failed to maintain and submit documentation verifying his continuing medical education for the period from January 1, 1986, through December 31, 1987, in response to the Board's random audit, and thereby failed to comply with Rule 21M-25.002, Florida Administrative Code.

16. Based on the preceding allegations, Respondent violated Section 458.331(1)(x), Florida Statutes, by violating any provision of this chapter, a rule of the board or department, or a lawful order of the board or department previously entered in a disciplinary hearing or failing to comply with a lawfully issued subpoena of the department.

COUNT TWO

17. Petitioner realleges and incorporates paragraphs one (1) through thirteen (13) and fifteen (15) as if fully set forth herein this Count Two.

18. Respondent renewed his license by fraudulent misrepresentation, in that Respondent falsely certified that he completed the continuing medical education requirements for the period from January 1, 1986, through December 31, 1987.

19. Based on the preceding allegations, Respondent violated Section 458.331(1)(a), Florida Statutes, attempting to obtain, obtaining, or renewing a license to practice medicine by bribery, by fraudulent misrepresentations, or through an error of the department or the board.

WHEREFORE, Petitioner respectfully requests the Board of Medicine enter an Order imposing one or more of the following penalties: revocation or suspension of the Respondent's license, restriction of the Respondent's practice, imposition of an administrative fine, issuance of a reprimand, placement of the Respondent on probation, and/or any other relief that the Board deems appropriate.

SIGNED this 4th day of September, 1990.

Larry Gonzalez, Secretary


Daniel
Chief Medical Attorney

FILED
Department of Professional Regulation
AGENCY CLERK

CLERK

DATE

000010

COUNSEL FOR DEPARTMENT

Larry G. McPherson

Attorney

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CJR/EG/acs

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DEPARTMENT OF PROFESSIONAL
BOARD OF MEDICINE

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Department of Professional Regulation
REGULATORY CLERK

DEPARTMENT OF PROFESSIONAL
REGULATION,

J. Wilson

CLERK

Petitioner,

DATE

2-15-91

-vs-

DPR CASE NUMBER: 90-04574
LICENSE NUMBER: ME 0005517

CELLE SHIPPEN, M.D.,

Respondent.

FINAL ORDER

THIS CAUSE came before the Board of Medicine (Board) pursuant to Section 120.57(2), Florida Statutes, on February 1, 1991, in Tampa, Florida, for consideration of the Administrative Complaint (attached hereto as Exhibit A) in the above-styled cause. At the hearing, Petitioner was represented by Stephanie A. Daniel, Attorney at Law; Respondent was present and represented by Irby G. Pugh, Attorney at Law. The facts are not in dispute.

Upon consideration, it is ORDERED:

1. The allegations of fact set forth in the Administrative Complaint relating to Count I only are approved and adopted and incorporated herein by reference as the findings of fact by the Board.
2. The conclusion of law alleged and set forth in Count I of the Administrative Complaint is approved and adopted and incorporated herein by reference as the conclusions of law by the Board. The conclusion of law alleged and set forth in Count II of the Administrative Complaint is rejected.

3. The violations set forth warrant disciplinary action by the Board. THEREFORE,

IT IS HEREBY ORDERED AND ADJUDGED:

1. Respondent shall be issued a Letter of Concern.

2. Within six months of the filing of the Final Order,

Respondent shall submit documentation to demonstrate his compliance with all of the continuing education requirements for the 1987-1988 licensing bienniums. Such documentation shall consist of certified copies of the receipts, vouchers, certificates, or other papers, such as the physician's recognition awards issued by the American Medical Association, as may be necessary to document completion of the continuing education. In the event that respondent fails to timely document compliance with all of the continuing education requirements for the relevant time periods, Respondent's license to practice medicine shall be suspended until such time as documentation of compliance is received by the Board.

3. Prior to renewing the license at the end of the 1990-1991 biennium, Respondent shall be required to document compliance with the continuing education requirements for that period. Such documentation shall consist of certified copies of the receipts, vouchers, certificates, or other papers, such as the physician's recognition awards issued by the American Medical Association, as may be necessary to document completion of the continuing education.

This order takes effect upon filing with the Clerk of the Department of Professional Regulation.

DONE AND ORDERED this 10th day of February, 1991.

BOARD OF MEDICINE


ZACHARIAH P. ZACHARIAH, M.D.
CHAIRMAN

NOTICE OF RIGHT TO JUDICIAL REVIEW

A PARTY WHO IS ADVERSELY AFFECTED BY THIS FINAL ORDER IS ENTITLED TO JUDICIAL REVIEW PURSUANT TO SECTION 120.60, 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 PROFESSIONAL REGULATION 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 RE rendition OF THE ORDER TO BE REVIEWED.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Order has been provided by certified mail to Eugene Rodman Shippen, Jr., M.D., 615 East Princeton Street, Orlando, Florida 32803-1471 and Irby G. Pugh, Attorney at Law, 128 Annie Street, Orlando, Florida 32806, and by interoffice delivery to Larry G. McPherson, Jr., Attorney at Law, Department of Professional Regulation, 1940 North Monroe Street, Tallahassee, Florida 32399-0792, at or before 5:00 P.M. this 10th day of February, 1991.

WITNESSED



Orders/Skipper 2/1/91