

STATE OF FLORIDA  
DEPARTMENT OF PROFESSIONAL REGULATION  
BOARD OF MEDICINE

DEPARTMENT OF PROFESSIONAL  
REGULATION,

PETITIONER,

vs.

CASE NO. 91-03824

ERNEST O. HERREID, M.D.

RESPONDENT.

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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 ERNEST O. HERREID, 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 458, 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 0007054. Respondent's last known address is 1350 South Powerline Road, Pompano Beach, Florida 33069-4330.

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 (CME) 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 CME hours required for renewal shall concern risk management.

5. Pursuant to Section 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 Section 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 AMA, as may be necessary to document completion of the CME listed on the renewal form for a period of not less than four (4) 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 CME 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. Pursuant to Section 455.2226(2), Florida Statutes, the board shall require each person licensed or certified under Chapter 458 to complete a board approved educational course on human immunodeficiency virus (HIV) and acquired immune deficiency syndrome (AIDS).

9. Section 455.2226(7), Florida Statutes, gives the board the authority to adopt rules to carry out the provisions of Section 455.2226(2), Florida Statutes.

10. Pursuant to Rule 21M-28.005, Florida Administrative Code, promulgated by the board, all Category I, American Medical Association continuing medical education courses which are at least three (3) hours and which include the topics of HIV/AIDS: the

disease at its spectrum of clinical manifestation; epidemiology, treatment, counseling and prevention; legal issues related to the disease, shall satisfy the requirements of Section 455.2226(2), Florida Statutes.

11. On or about November 27, 1989, 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, 1988, through December 31, 1989, 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(CME) (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 requirement for a period of not less than four (4) years from the date the course was taken.

I hereby certify that during the period January 1, 1988, through December 31, 1989, I have completed a maximum of three (3) hours Category I, American Medical Association continuing medical education, which consists of education on the clinical manifestations, epidemiology, transmission, control, treatment and prevention of HIV and AIDS, with emphasis on appropriate behavior and an attitude change and legal issues related to the disease, pursuant to Section 455.2226, Florida Statutes, and Rule 21M-28.005, Florida Administrative Code. I understand that I must maintain such receipts, vouchers, certificates or other papers to document completion of this requirement for a period of not less than four (4) years from the date the course was completed.

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, 458.327, 458.331, 775.082, 775.083, or 775.084, Florida Statutes.

12. The aforementioned statement was required as part of the renewal process for the licensing period from January 1, 1990, through December 31, 1991. Without this statement, Respondent could not have renewed his license to practice medicine in Florida.

13. Respondent successfully renewed his license to practice medicine in Florida. That renewal was based, in part, on the aforementioned statement regarding completion of CME.

14. Respondent was selected randomly for audit purposes to verify his CME for the period covered in his statement (January 1, 1988, through December 28, 1990). Respondent was asked to provide such documentation.

15. On or about February 4, 1991, Respondent submitted documentation of the required HIV/AIDS credit, the required risk management credit, and twelve (12) hours of the required CME credits.

16. 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.

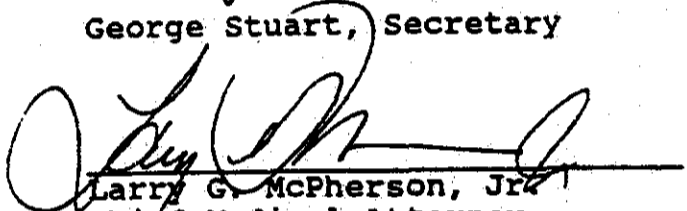
17. Respondent violated a rule of the Board, in that Respondent failed to maintain and submit documentation verifying risk management credits of his CME for the period from January 1, 1988, through December 31, 1989, in response to the Board's random audit, and thereby failed to comply with Rule 21M-28.002, Florida Administrative Code.

18. 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.

WHEREFORE, the 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 26 day of August, 1991.


George Stuart, Secretary

  
Larry G. McPherson, Jr.  
Chief Medical Attorney

COUNSEL FOR DEPARTMENT:

Larry G. McPherson, Jr.  
Chief Medical Attorney  
Department of Professional Regulation  
1940 North Monroe Street  
Tallahassee, Florida 32399-0750  
Florida Bar #788643  
LAQP/BG/tb  
PCP: August 14, 1991  
Burt, Campbell, and Basisht

**FILED**  
Department of Professional Regulation  
AGENCY CLERK

  
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Department of Professional Regulation  
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DEPARTMENT OF PROFESSIONAL REGULATION  
BOARD OF MEDICINE

CLERK

DATE

1-8-92

DEPARTMENT OF PROFESSIONAL  
REGULATION,

Petitioner,

-vs-

DPR CASE NUMBER: 91-03824  
LICENSE NUMBER: ME 0007054

ERNEST O. HERREID, M.D.,

Respondent.

FINAL ORDER

THIS CAUSE came before the Board of Medicine (Board) pursuant to Section 120.57(2), Florida Statutes, on December 8, 1991, in Miami, Florida, for consideration of the Administrative Complaint (attached hereto as Exhibit A) in the above-styled cause. At the hearing, Petitioner was represented by Larry G. McPherson, Jr., Attorney at Law; Respondent was present and testified at the hearing. The facts are not in dispute.

Upon consideration, it is ORDERED:

1. The allegations of fact set forth in the Administrative Complaint are approved and adopted and incorporated herein by reference as the findings of fact by the Board.
2. The conclusions of law alleged and set forth in the Administrative Complaint are approved and adopted and incorporated herein by reference as the conclusions of law by the Board.
3. The violations set forth warrant disciplinary action by the Board. THEREFORE,

IT IS HEREBY ORDERED AND ADJUDGED:

1. Respondent shall pay an administrative fine in the amount of \$500 to the Board of Medicine, Department of Professional Regulation, within 30 days of the date this Final Order is filed.

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 1988-89 licensing biennium. 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 19<sup>th</sup> day of December, 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 120.68, 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 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 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 Ernest O. Herreid, M.D., 1350 South Powerline Road, Pompano Beach, Florida 33069-4330, and by interoffice delivery to Larry G. McPherson, Jr., Chief Medical Attorney, Department of Professional Regulation, 1940 North Monroe Street, Tallahassee, Florida 32399-0792, at or before 5:00 P.M., this \_\_\_\_\_ day of \_\_\_\_\_, 1991.

DecOrders/Herreid